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An interrogation room at S-21

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EDITORIAL:

TUOL SLENG: EVIDENCE OF THE CAMBODIAN GENOCIDE

In the past five years, tourism has become one of the major income-earning sectors in Cambodia. For example, about a quarter million people now come each year to the magnificent temples of Angkor Wat. But the tourists who visit Phnom Penh see two places that are very disturbing: the Tuol Sleng Genocide Museum and what is known as the "killing fields."

In the heart of Phnom Penh is Tuol Sleng, whose official name was S-21. The Khmer Rouge used this 240,000 square meter high school as a central-level prison and interrogation center for ferreting out enemies of the state. Only about 12 of the 14,000 people held at Tuol Sleng walked out of the prison when Democratic Kampuchea fell. Many of those who died were executed at the killing fields in the village of Cheung Ek; it is about 12 km. from Phnom Penh.

Today, Tuol Sleng has become a tourist destination. Many of those who visit it are dazed by what they see; others cry when they view the thousands of photographs the Khmer Rouge took of their victims when they were admitted and often after their deaths, various implements of torture, and the cell floors and walls, which are still stained with blood. Although it is of course not an enjoyable place to visit, it is one that we all must see in order to learn and understand why this unthinkable atrocity took place in the gentle land of Cambodia and to ask why Cambodians could do such things to their own countrymen.

I once took one of my friends from Burma to see this museum. She told me that she was so shocked she could not walk through the rest of Tuol Sleng, saying she could hardly breathe. After we left the building, she was better after a while. With tears still in her eyes, she told me that although this place was too horrible for her to finish seeing, she must return to Tuol Sleng on her next trip to Cambodia.

The museum has been open to the public since

1980, soon after the Khmer Rouge regime collapsed. Recently, some of the buildings were painted a light gray, instead of the yellow traditionally used for schools. There was opposition to this action from the public, who prefer preserving the building so that visitors can see the prison as it was thirty years ago and not nicely painted a different color. The buildings should not be renovated, although the road to the museum and its drainage system should be restored.

Now that the Khmer Rouge tribunal is about to occur, there is considerable optimism among the Cambodian people. The country's judiciary can gain invaluable experiences from the tribunal's international staff, and the legal system will hopefully improve. The influx of reporters, UN staff, and others will allow local people to earn additional income.

Also important is the flow of tourists into Cambodia. More visitors are expected to come and visit S-21 when the tribunal starts. Many people around the globe will be attracted by articles in the media and will come and see what really happened here nearly three decades ago, and to look at the faces of those accused of committing atrocities when they are standing in the courtroom.

Tourists are not the only ones who will pay more visits to this location; experts will come too. They will want to see, learn, and analyze the evidence against the prison's former boss – Kaing Guek Eav (aka Duch) – who has been imprisoned and awaiting trial since 1999, and several other leaders of the regime. Thousands of documents and other materials were found at Tuol Sleng after the regime collapsed, and they are expected to be used as evidence against its former leaders.

Simala Pan is the English co-editor-in-chief of the special English edition of Searching for the Truth.

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LETTERS FROM YOUNG CHHANG:

HOW THE CAMBODIAN GOVERNMENT AND ASEAN CAN HELP BREAK THE LOGJAM OVER THE KHMER ROUGE TRIBUNAL

The United Nations will begin to set up its office in Phnom Penh in February 2006, in preparation for the three-year tribunal of the senior leaders of Democratic Kampuchea (most people know the regime as the "Khmer Rouge"; King Sihanouk originally coined this term to refer to Cambodian communists and other leftists). A judicial institution (the Extraordinary Chambers, or EC) will soon be formed to investigate and prosecute crimes committed by members of the former regime.

The Cambodian people have waited over 25 years to see justice done: during the reign of the Khmer Rouge; our country lost between a quarter and a third of its population – the largest death toll, in percentage terms, of all the genocides in modern history. Since 1979, not a single credible trial of the regime's leaders has been held.

Some of the Khmer Rouge leaders have died. "Brother Number One" Pol Pot died in the jungle in 1998 and Central Committee member Ke Pauk died in his sleep in 2002. Only two former cadres are languishing in jail. One is Duch (age 59), the former head of the notorious Tuol Sleng Prison (S-21), where an estimated 14,000 enemies of the state died and only about 12 inmates survived. The other is Southwest Zone commander and Central Committee member Ta Mok (age 78), who was jailed when he refused to join Prime Minister Hun Sen's government in the early 1990s. Both have now been charged with war crimes, genocide, and



H.E. Mr. Sean Visoth

crimes against humanity during Democratic Kampuchea. The regime's remaining leaders have enjoyed lives of relative ease, but are ageing rapidly. Most are now in their 70s.

Many now wonder whether the Cambodian people must continue to wait to see justice done because the Royal Government of Cambodia (RGC) cannot – or will not – meet its financial obligations for the tribunal. If it does not, will the UN try to



Ms. Michelle Lee

make up the shortfall or will it withdraw from the process? It is too early to know the answer, but before the "deal is done," a number of solutions can be explored.

In 2003 the RGC and UN agreed to share legal and financial responsibility for the EC trials. The international community has raised enough money to cover the UN's share for at least the first year of the tribunal. Australia, Austria, Belgium, Canada, Denmark, the European Commission, France, Germany, India, Japan, Luxemburg, the Netherlands, Norway, Republic of Korea, Sweden, and the United Kingdom have made contributions. The RCG agreed to provide \$13 million in cash and services as its contribution.

The government never indicated that money was a problem until last summer, when its representatives said the RGC could afford to contribute only \$1.5 million, and that it was seeking donors' help in funding its portion of the costs. The response of the international community has not been heartening: the only country that has helped so far is India,

which donated \$1 million in October 2005.

On December 9, the UN appealed to donors around the world – and Japan in particular – to help the government cover its \$10.5 million shortfall. And the government has also stated that it will accept donations from wealthy individuals and from the private sector, both in the country and abroad. These statements lead to more questions than they answer. How will the money be raised? Will the process be transparent? Should the government itself pay more than \$1.5 million? And should the RGC officially approach its neighbors in ASEAN for funds?

Steps the Royal Government of Cambodia Can Take

To date, the government has spurned Japan's offer to help cover its share of the budget. Although no official reason has been given for its refusal, perhaps the government is afraid that Japan will try to unduly influence, or even monopolize, the EC process. This would be difficult given the oversight by the international community as represented by the UN. Japan is willing to help and the government should accept its offer so Cambodia can move on and see the Extraordinary Chambers begin their work.

If the government truly wants Cambodians to donate funds, making appeals through the press is not enough. It should instead make a sincere and formal request and disseminate it widely, both within the country and abroad. Many impoverished victims of the Khmer Rouge want to make small donations, but few have access to newspapers and would not know how they might contribute. Allowing them to support the tribunal gives them a stake in their justice system.

But in accepting contributions, the government also takes on an obligation to ensure a transparent process. *“People must know where their money is going and what it will fund.”* The government should be prepared to have the funds’ use audited and to publish the audit report. This will help the government, too, because if people have their good will

reciprocated, they will also have confidence in their elected officials.

The government should make another good-faith effort to locate funding from its own budgetary resources for the tribunal. The RCG has a contractual obligation with the UN to ante up its share of funding for the EC trials; if it does not, it will violate its contract with the UN. This would give the UN the right to stop providing further assistance.

After nearly ten years at the negotiating table, the government cannot claim that it did not know what its share would be. \$13 million is a considerable sum for a poor country, but not insurmountable in light of its annual budget and the intangible returns it could realize.

UN Deputy Coordinator Michelle Lee said in a news conference in Phnom Penh on December 13 that the UN is looking into whether the approximately \$6.9 million left in a trust fund for the Cambodian elections in the early 1990s could be used to help cover the shortfall. She cautioned, however, that the countries that gave the money – Japan, Denmark and Australia, for example – would have to agree to use this, and there are no guarantees that they would do so.

Contributing more from its own resources would have a number of benefits for the government. It would help dispel the nagging impression that the RGC is trying to stall the tribunal, and it would give Cambodia real ownership in the tribunal in the eyes of people around the world. *“Increased government funding would also demonstrate the RGC’s true commitment to justice, which might encourage more countries to help Cambodia.”*

Many nations have expressed concern that their contributions might be wasted because Cambodia's judicial system is seriously flawed. To alleviate such concerns, "*donors might consider contributing on a year-by-year basis.*" They need not contribute the full amount up front; they could merely agree to release future installments provided the proceedings prove to be fair and transparent.

DOCUMENTATION CENTER OF CAMBODIA WELCOMES THE KHMER ROUGE TRIBUNAL STAFF

The Documentation Center of Cambodia (DC-Cam) wishes to express its gratitude to both the Royal Government of Cambodia and United Nations on making the long-awaited trials of senior Khmer Rouge leaders a reality. As the final administrative arrangements for the tribunal will begin in January, DC-Cam would like to take this opportunity to voice three concerns.

First, we encourage both the Royal Government and UN to take steps to ensure that the Cambodian people are kept fully informed on all aspects of the tribunal. The RGC has taken a good first step with its publication of a brochure about the trials last year. The survivors of the Democratic Kampuchea regime have waited over 25 years for the trials to begin and deserve to see justice done. Thus, the RGC and UN should both publicize the proceedings on the radio, television, and print, and find ways to help average citizens participate in the tribunals through attending trials, public meetings, and other means. We also urge the RGC and UN to support the work

of local and international NGOs in educating and involving the Cambodian people about the tribunal. Without the involvement of the Cambodian people, the trials will lose value and meaning.

Second, given the importance of informing and educating the average Cambodian citizen about the workings of the tribunal, it is extremely important that all of the tribunal's Public Affairs Office staff be fluent in Khmer, be intimately familiar with Cambodia and its culture, and ideally are also Cambodian or of Cambodian heritage.

Third, it is not possible to emphasize how important it is that all aspects of the trial proceedings be transparent. Transparency should begin with the selection of judges and those who will head various offices and departments for the tribunal. If the Cambodian judicial system is to advance and public confidence in it is to grow, the UN and Royal Government must demonstrate that these personnel are selected in a fair and open way, and one that is free from political influence.

On June 30, 2005 the United Nations approved the newly constructed headquarters of the Royal Cambodian Armed Forces on the outskirt of Phnom Penh as the location for the Khmer Rouge Tribunal



RESEARCH AND HEALING

People often ask me why, after living through Democratic Kampuchea, I would want to return to Cambodia and document the Khmer Rouge regime. To be honest, at first, I was driven by anger and a desire to seek revenge on those who killed so many members of my family.

A few years after I began my research, I visited the village chief who was responsible for the death of my sister. He didn't remember me because I was a young boy during the regime. But I remembered him. Although he was older, his life was much the same. He still lived in a stilt house in a small village, and tended two scrawny cows. He really wasn't any better off than he was before the revolution, which the Khmer Rouge staged in order to "liberate" the peasants of Cambodia.

I visited him several times and to my surprise, found that he was actually not a bad man; he was simply a man who did bad things because the revolution had promised him a better life and society. And it also helped me to learn that revenge was not the answer, as it would not bring back what I or anyone else had lost.

Today, the challenges of doing research and seeking answers make me happy and give me strength. Research sets me free when I suddenly discover a piece of truth, no matter how small. *For some people, only time and love can heal them, but research and documentation helped heal my anger by moving me toward an understanding of how Cambodians could commit so many atrocities.*

You have to understand Cambodian culture to understand why people acted as they did during Democratic Kampuchea. Generally, Cambodians



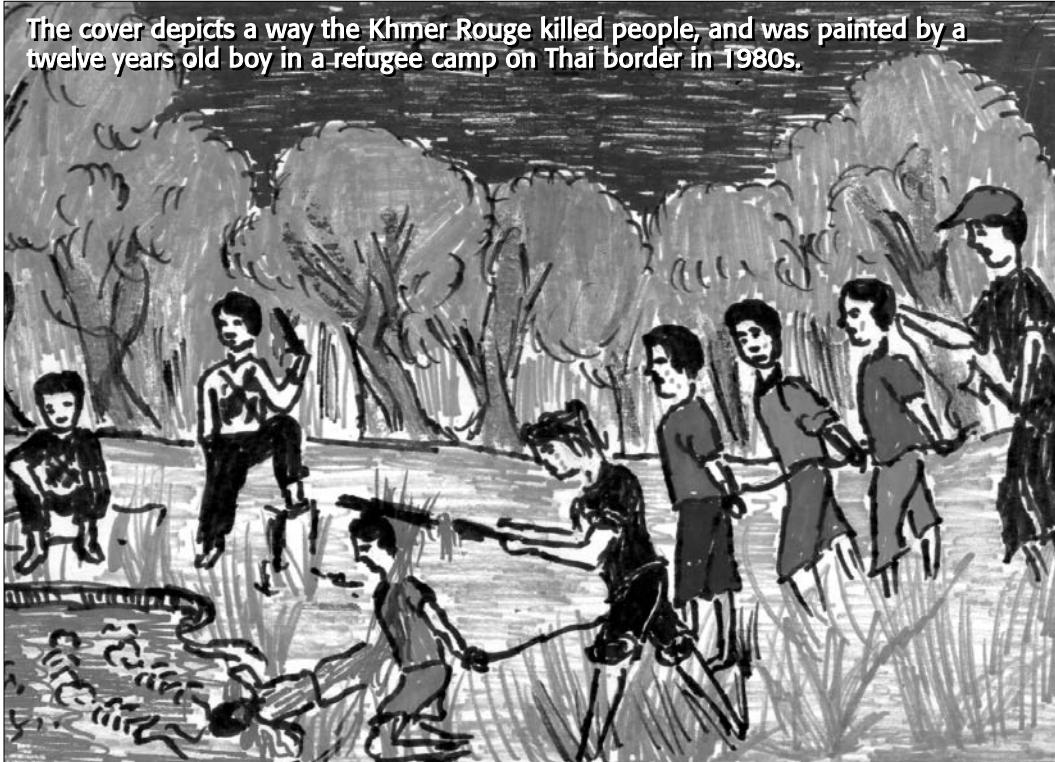
US Secretary of Department of Health and Human Services
and DC-Cam's Director

don't do things for personal reasons – that would be viewed as arrogance. They act for their *nation*. The result is that individuals don't understand their own value, their own worth in life. They tend to think that if the government beats them, it is acceptable; it is for the sake of the nation. But the nation is formed by individuals.

And research has also led me to the desire to share what I have learned through teaching. Many rural Cambodians don't yet understand the rights and responsibilities individuals have. So I want them to know that each one of us is important. It doesn't matter what or who we are: we are all part of society and our rights have to be protected. And that no one has the right to take away your life. I want Cambodia to protect and defend these basic rights for all of its peoples.

So I have been approaching my work with a personal attitude that is much different from the one I had at the beginning: to conduct research that helps all of us see the truth, but also to help Cambodians begin to see themselves as individuals who share similar experiences. We have to become a family first and then we can become a nation. But

The cover depicts a way the Khmer Rouge killed people, and was painted by a twelve years old boy in a refugee camp on Thai border in 1980s.



we must start with the individual.

Taking down the testimonies of those who survived the regime is one of the most important aspects of my research. It serves three important purposes: it promotes understanding and healing for the individual, it contributes to justice for the Cambodian people, and it preserves our history.

For the individual, memory can be tricky and even personal stories change over time. I don't remember everything that happened to me 30 years ago. Some things are in shadow. And for many of us, there are things that took place during Democratic Kampuchea that we would rather not remember. Thus, while memory can be useful, it can be harmful as well. But when people can reconstruct memories so they become clearer, more than a shadow, they can put them in context and begin to understand things.

Helping people remember more clearly puts them on the path toward coming to terms with their sorrow and trauma, and toward realizing that their experiences are shared by many others. And most important, they can perhaps begin to

understand that what happened to them during the regime is something that defines them as individuals. In doing so, I am also helping myself.

I've interviewed many perpetrators and victims of indescribable crimes in the past and have concluded that no one can *fully* understand how it felt to live under Democratic Kampuchea. Because genocide cannot be described in words, most of the

victims are very frustrated when they try to explain it. Some scholars see survivors' testimonies as exaggerations – when they testify about how people were torn to pieces, how children were burned or killed by bayonets, how this or that was done to thousands of people, millions of people. I think that sometimes these stories almost take on the quality of myth, which is not constructive and can cause others to doubt the survivors.

So, in terms of seeking justice, I think that if survivors' testimony is to be constructive, the victim has to appear strong. If you are weak, it allows the perpetrator to grow stronger. If the victim cries on such occasions, it is a sign that he or she is still living in the past. But when a victim has discovered a way to find closure and freedom, he or she can contribute a lot when testifying before a court of law.

Last, *if I only have fragments of memory, I can't convey my experiences to my children and others, and if I don't pass them on, how will they ever believe what happened?* So, it is necessary to preserve the stories of survivors for future generations.

At the Documentation Center of Cambodia, we transcribe survivors' interviews and enter them into a database we call Promoting Accountability. We're also training young Cambodians to write their country's history so that the next generation will become the guardians of that history.

It gives me great heart to know that justice and reconciliation are still important to so many people. Some might ask why we should still be focusing on Cambodia when its genocide occurred a quarter of a century ago. Shouldn't we just forget about the atrocities and move on? But we have people who are willing to face issues that are still very much a part of the reality in Cambodia. Many of the Khmer Rouge leaders are still alive and living freely in Cambodia. And they have not been judged by any court of law. Once they are, our society can begin to find real closure on a regime that is responsible for the deaths of a quarter of our country's people.

As the Royal Cambodian Government and United Nations move closer to trials of the Khmer Rouge leaders, Cambodia could hold some valuable lessons for other nations and the broader international community as well. As history has taught us, crimes against humanity like genocide can happen anywhere. One needs only to look at Rwanda, East Timor, Bosnia, Sudan and other places around the world to realize that we haven't come very far. But we also know that without the support of the international community and activism on the part of people, it is impossible to prevent genocide. Without a global perspective, there's a risk of remaining narrow-minded, which may lead to taking an extreme view; and extremism can lead to more violence.

I'm often struck by how little we have learned from the experiences of others. For example, most Cambodians know little or nothing about the Holocaust. But it is common for people who have survived genocide to be surprised when they learn that they are not alone, that others have suffered as they

have. So simply knowing that one's country was not the only one to have committed atrocities can sometimes be ironically comforting. In this way, research lets us share our experiences and bring them to others, helping survivors share a sense that they are not alone and giving impetus to those in the international community to work toward preventing genocide. And the next step, of course, is to piece together the truth about why genocide occurred and to learn from it so it doesn't happen again.

And these lessons also apply to people who conduct genocide and human rights abuse research and documentation in the field. Their work can be emotionally draining and they can sometimes feel alone. Knowing that they are connected to many others on this global issue helps lend them new inspiration. For this reason, we have initiated an "Affinity Group" with the International Centre for Transitional Justice (ICTJ) where researchers from documentation centers around the world come together and share their thoughts, knowledge, and techniques. Our members include centers working in the former Yugoslavia, Guatemala, Burma, Iraq, and Afghanistan that work together to find solutions to the constraints our members face. Each of us can bring something different based on the cultures and politics in our countries.

All of us who lived through genocide know that nobody and nothing can compensate for what has happened, and that genocide devastates a country in many, many ways. The road to healing has been a long one for Cambodia. After a quarter of a century, it is still one of the world's poorest countries, and many of the indicators of its people's well-being are sliding backwards. We need to heal before we can move on, and documenting and understanding our shared experiences is a small step in that direction.

Youk Chhang
Editor-in-Chief and Publisher

PETITION TO SUPPORT THE RESOLUTION OF THE NATIONAL ASSEMBLY OF THE PEOPLES REPUBLIC OF KAMPUCHEA AND AN OPEN LETTER FROM CAMBODIAN SCHOLARS AND CLERGY ON THE CRIMES COMMITTED BY THE POL POT, IENG SARY, AND KHIEU SAMPHAN CLIQUE

Nhean San

Having learned about the resolution made by the assembly in the 5th session, 1st legislature, and a letter written by Cambodian scholars and clergy, we – the residents of Svay Thom village, subdistrict number 2 in the center of Kampot Town – would like to declare our approval of the accounts of crimes committed during 1975-1978 by Pol Pot, Ieng Sary and Khieu Samphan. In accordance with our knowledge, we the citizens know exactly that during this brutal regime, 3,147,768 innocent people were executed, leaving 141,848 disabled people, over 200,000 orphans, and hundreds of thousands of widows. Aside from killing thousands of innocent people, the regime destroyed 5,857 schools, 796 hospitals, and 1,968 pagodas. What is more, every activity relating to education, religion, culture, art, social affairs, commerce, finance, and markets was banned. Scholars and clergymen were atrociously tortured. There were 25,168 Buddhist monks, 594 medical doctors and dentists, 18,000 teachers and 10,550 students, 975 lawyers, 191 journalists, and 1,120 artists murdered in many cruel ways.

Furthermore, the cliques deceitfully propagandized and persuaded the highly educated students who were studying overseas to return to their motherland. To make it more convincing, they promised to give a position to each of those students. In contrast, 1,000 of those well-educated people were killed and severely tortured at Tuol Sleng prison; only 84 of them still survive. The Pol Pot, Ieng Sary and Khieu Samphan clique of the genocidal regime not

only physically exterminated Cambodian people, but also psychologically obliterated humans' interactions, consciousness, conscientiousness, and perceptions. The relations between husband and wife, parents and children, siblings, relatives and friends were broken up. We simply lived as animals.

Having not yet fulfilled their desire, they destroyed the social structure, economic foundation, national culture and tradition, and unforgettable fame of the architecture of Angkor Wat. In addition, basic equipment, technical apparatus and many resources in Cambodia's territory were damaged. Actually, they annihilated not only things that existed in the past, but also in the future. As obvious evidence, they eliminated the fertility of more than three million people.

We had never had such dreadful lives as in the genocidal regime led by Pol Pot, Ieng Sary and Khieu Samphan from 1975 to 1978. The assembly of the Peoples Republic of Cambodia has recorded these atrocities. The whole assembly has agreed in virtual unanimity that the compatriots should remember this event as a sad history and pass this knowledge onto the next generation. Cambodian people and their assembly regard May 20 as a day of hatred against the genocidal regime of Pol Pot.

The national assembly decided to let the Cambodian people build a stone stupa and memorial in which to place the bones of the victims. This commemorative work has to be well-prepared and requires involvement from the subdistrict to the provincial level.

According to the aforementioned description,

we – the residents of Svay Thom village, subdistrict 2 – wholly agree with the resolution made by the Assembly of the Peoples Republic of Cambodia.

This agreement is for:

- ◆ The Council of the Peoples Republic of Cambodia
- ◆ The Assembly of the Peoples Republic of Cambodia
- ◆ The Council and United Front for the National Reconstruction of Kampuchea

As citizens, we will never forget the crimes committed during the Pol Pot regime. Our anger will never be dissolved. We are committed to fulfilling three objectives:

- ◆ to defeat all the enemies throughout the Cambodian territory
- ◆ to be hardworking in cultivation and to

accomplish the goals set by the party

- ◆ to strengthen the revolution.

Finally, we would like to engage in this activity and appeal to people who cherish peace and justice and all international organizations with common sense to observe the reality in Cambodia and intervene for the sake of solidarity and fraternity. We would like external assistance to dismiss the Pol Pot, Ieng Sary, and Khieu Samphan clique from their seat in the United Nations and return it to Cambodians. This act is to prevent world insecurity.

Svay Thom Village, September 10, 1983

Signature of the People's Representative

Nhean San

CONFSSION SUMMARY: TANN LIEKPHENG

Farina So

Tann Liekpheng was a Cambodian student who was given a scholarship to study agriculture in France in September 1972. He finished his studies there in 1976. Like other Khmer students overseas, he then returned home to apply his new skills for the development of his country. However, Angkar accused him of betraying the revolution, arrested Liekpheng on November 11, 1977, and sent him to S-21 for interrogation. The following is a summary of his confession.

Tann Liekpheng, age 32, was born in Phsar Chas village, Sa-Kous subdistrict, Samrong Torn district, Kampong Speu province. In 1969, he attended the Faculty of Agricultural Science. The head student of the refugee association in France, Pin Samkhon, told Liekpheng about the doctrine of the free world, and persuaded Liekpheng to work with him. Samkhon then introduced Liekpheng to four professors at the Phnom Penh Faculty of Science: Kiev Koma, Phann Buoyhak, Ms. Dy Phon, and Ly

Sorarith. Kiev Koma then sent Liekpheng to join the CIA and advised him to bring in more students from the Faculty of Science.

In 1969, Liekpheng successfully convinced two students at the Faculty of Science to join him: Chhun Bora and Ao Chhunhan. He also told them to continue recruiting other students to join their force.

Liekpheng and his friends went to Tuol Svayprey, Sisovat, Yukunthor, and Tuol Kok high schools to distribute magazines and other documents a Mr. Serey had given them so they could spread the free world culture to high school students.

In early 1970, Sa Song called Liekpheng and other agriculture students to a meeting held in a hall at the Faculty of Science where Phann Buoyhak worked. In the hall were 13 people. Sa Song declared that the ordinary people and students would soon take part in a demonstration against the Vietnamese Embassy and the Viet Kong who had invaded Cambodia. Sa Song asked the students to gather more support for

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100 100 100
Black
Magenta
Cyan
Yellow

the protest. Sa Song added that he would like the students to side with the new government if there was a change in power. I added the "Viet." I didn't know the original word ("Yiek").

A month after the coup d'état in 1970, Sa Song summoned Liekpheng and some other students to a meeting in Phann Buoyhak's hall. There were 12 other people in attendance who were spreading propaganda against the Vietnamese communists and Khmer Rouge.

In that same year, Liekpheng and his friends gained three more members. They trained them to act against the Khmer Rouge.

Liekpheng spurred the students to protest against the North Vietnam Embassy and Viet Kong. Moreover, he stimulated them to destroy the Hong Yu bookshop which was suspected of involvement with the Viet Kong. Liekpheng then propagandized at Monivong School in Battambang in order to make the students maintain their stance on the Lon Nol government.

In 1971, Sa Song called 13 students to a meeting at his office in the Ministry of Agriculture. He advised the students to be more cautious about the enemy because they had secretly put bombs in the National Theater and other meeting halls. Furthermore, he warned the students not to be confused while the country was confronting the enemy and distributing donations to the refugees in camps in Phnom Penh and the provinces. This was one strategy to gain people's support.

Early in 1972, Sa Song announced the names of the students who had won scholarships to study in France. They were Chhin Thun, Phit Phut, Heng Hamkheng, Hem Sorin, and Pheng Menglong. Liekpheng had to wait.

In the same year, he added another member: Lao Bunhak, a former student of agriculture. After some protesters were attacked, Liekpheng and other students warned students from Chamkar Daung and other schools not to hold demonstrations against

the government.

In September, Liekpheng got a scholarship to study in France. Before he departed, Sa Song called him to meet at Ministry of Agriculture and told him to keep in touch with Phann Buoyhak, who was responsible for the Khmer students studying in France.

In late 1972, Phann Buoyhak asked Liekpheng to meet him at the Cambodian Embassy in France. Buoyhank had arranged for Liekpheng to meet with other Khmer students, so that he could convince them to distribute leaflets to the foreigners, and learn about the Vietnamese invasion of Cambodia. He also wanted to appeal to the students to join the National United Front in France. Heng Hamkeng, a member of the Front, suggested that Liekpheng ask for a scholarship to study in China, which would give him an opportunity to spy on the Front there.

In 1973, Liekpheng propagandized and shared leaflets about the Khmer Rouge's invasion and their attacks, which caused several deaths in Phnom Penh.

With support from Phann Buoyhak, Liekpheng and other Khmer students in Paris celebrated a magnificent Khmer New Year. On that occasion, Pin Samkhun made a public speech about the Khmer Rouge's intention to eliminate national tradition, culture, civilization, and freedom in Cambodia. He suggested that all the Cambodians should be determined to act against Communism.

Early in 1974, Liekpheng and eight other students attended a meeting with Phann Buoyhak at the Cambodian Embassy in Paris. The aim of this meeting was to inform its members about a new plan for dealing with the students whose scholarships were provided by the Lon Nol government, but were supporting the United Front of Cambodia. Those who received any information about this had to promptly report it to the Embassy. Moreover, they had to convince the students in Paris not to support the United Front. At the end of this meeting, Pann Buoyhak declared that Heng Hamkheng had been

granted a scholarship to complete his education in China.

In the same year, Liekpheng and four students joined a seminar conducted by the French students against the Vietnamese communists' invasion into Cambodian and Laotian territory.

In 1975, the Lon Nol government summoned Phann Buoyhak to return to Cambodia. Then Tao Senghuor took over Buoyhak's position to issue work plans for the students. When the Lon Nol government was overthrown by the Khmer Rouge, Cambodia was under communism. Nevertheless, Senghuor still asked the students to keep calm and continue their propaganda. A month after the United Front of Cambodia liberated the whole country in April 1975, Liekpheng and his 11 members met at a hotel in France. Their new plan was to spread propaganda against the Khmer Rouge. At the meeting, students who had spied on the United Front were called back to Cambodia.

In August, Senghuor recommended Liekpheng for membership in the United Front in Paris, so that it would be easy for him to seek permission to enter Cambodian territory. In September, Liekpheng's membership was approved.

Early in 1976, Seng Huor's introduced Liekpheng to Chea Buncheng, a member of the United Front in Paris. At the meeting Seng Huor announced the names of six students who would soon go back to Cambodia.

Liekpheng was then appointed deputy secretary of the United Front in the outskirts of Paris. He was also made responsible for publishing the *Magazine of Kampuchea*, which was produced by the Association of Immigrants of Democratic Kampuchea. Liekpheng read several documents about criticism, self-criticism, social status in Cambodian society, creating cooperation, etc. He always sent those documents to Seng Huor.

The Association of Immigrants played an important role in convincing Khmer expatriates to return to Cambodia. In June 1976, Seng Huor suggested that

Liekpheng apply for permission to enter Cambodia. He was granted permission on December 24, 1976. Senghuor then assigned Liekpheng to contact other students and to make the Communist Party and the public trust him. He also introduced Liekpheng to Sarin aka Keut (a professor), Song aka Chhon (student), and Sireivuth (student).

In the late December, Liekpheng arrived at Cambodia and began to work in the K-15 Office (a former Khmer-Soviet Friendship School) where Tey Menghuot was deputy chief. Menghuot appointed him to work under Buncheng, chief of the mobile unit.

In the K-15 Office, Liekpheng met three friends who had arrived in Cambodia before him. His friends told him that some students who had repatriated to Cambodia were later arrested by Angkar and sent to farm in Kampong Cham province.

Late in January 1977, Liekpheng met Sarin aka Keut who was the chief of K-15 and the god-brother of Chea Buncheng. Liekpheng told Keut about the plan and aims of Seng Huor.

In early March, Keut and three other members met with Liekpheng in his room. Keut suggested selecting a chief and deputy chief who had the same beliefs. He also discussed a way to overcome Try Menghout, who had long been an obstacle to them. Keut asked that the members try to gather a force and build up trust with the public. Last, Keut introduced 16 new members to the group.

In February, Try Menghuot assigned Liekpheng to watch over the crops. Liekpheng produced a strong insecticide that badly destroyed all the gourds.

In June, while pulling a house down, Liekpheng and his mobile were not careful and broke a glass cupboard. Worse than that, they also damaged a wooden press.

In early July, Keut was moved out of K-15 and all his responsibilities fell to Try Menghuot. He was in charge of the chicken and duck farm, the worksite producing fertilizer, and a worksite that

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made sickles and earth-moving baskets.

In early August, having finished his daily duties, Liekpheng met with Chhun and other members of K-15 in the medicine man's house. Chhun noted that their work was obstructed by Try Menghuot. Trying to find a way to have Menghuot dismissed from K-15, they brought up his weaknesses, saying he was authoritarian and could bring harm to the public.

Menghuot met with Savan's unit chief later that month to determine the virtues and faults of the members. Menghuot then gave the results to the community and allowed people to make comments. Those from the Office were impressed and satisfied with Liekpheng and two other members. The community members agitated for reforming Menghuot's weaknesses. Then Savan stood up and defended Menghuot, saying that all the trouble was caused by the anxiety created by the enemy's spies. Without resolving the issue, Savan suddenly ended the meeting. Later, Chhun asked Liekpheng and other members to find a way to defeat Menghuot. He advised that Savan must also be defeated since he always protected Menghuot.

Chhun recommended that his members stir up the people at all the worksites. On September 9, Angkar's representative Sin organized a meeting to let people speak their minds. Liekpheng mentioned

that Savan was unable to solve problems. Other people then raised Menghuot's weak points. Sin concluded that all the troubles were tricks of the enemy, which wanted to cause internal conflicts in the community. He then asked all the members to join in solidarity, and appointed Hing Oun as a member of committee. This made Liekpheng and his members worried that their plan would not materialize because it would be hard to stir up the people.

Savan began investigating to find out who had caused troubles in the Office and the people's disappointment with its chief. He asked the members to point out the person who they believed to have provoked the internal conflicts until it was Liekpheng's turn. On November 12, 1977 Liekpheng was arrested and sent to S-21 security office. There he was forced by Phieng to write his confession between December 9, 1977 and January 1, 1978.

The 37-page confession of Tann Liekphen describes his activities relating to the Khmer students both in Cambodia and France, as well has his work in the K-15 Office. However, he did not discuss any acts against the revolution.

Farina So is a staff writer for Searching for the Truth and a radio broadcaster at DC-Cam.

KHMER ROUGE HISTORY AVAILABLE ON AIR

DC-Cam has produced a radio program focused on readings from its magazine *Searching for the Truth* and other books published by DC-Cam. Our program can be heard on:

- ◆ FM 102 MHz of the Women's Media Center, Phnom Penh, every Wednesday and Thursday from 7:30 to 7:45 p.m.
- ◆ FM 93.25 MHz, Kampot, daily from 7:00 to 7:30 a.m. and 7:00 to 7:30 p.m.
- ◆ FM 99 MHz, Preah Vihear, daily from 7:00 to 7:30 a.m. and 6:30 to 7:00 p.m.
- ◆ FM 103.25 MHz, Battambang, daily from 9:00 to 9:30 a.m. and 3:00 to 3:30 p.m.

Soon DC-Cam will also extend its radio program to Siem Reap. We anticipate that the program will contribute to the enlargement of people's understanding on Khmer Rouge history and the prevention of the repetition of such a regime.

For comments or questions on our programming, please contact Farina So (truthfarina@dccam.org) or Sophal Ly (truthsophal@dccam.org), or contact us at P.O. Box 1110, Phnom Penh or 023 211 875.

CONFESSTION SUMMARY: CHIN SUON

Kalyan Sann

Chin Suon, whose revolutionary name was San, was born in Svay Tong district, Kampuchea Krom (former territory of Cambodia) on January 15, 1928.

When Suon was 12, he came to Cambodia and studied in Kampong Speu and Kampot, living with his cousin, who was a deputy provincial chief. In 1944, he stayed at Botum pagoda in Phnom Penh and continued to study at a private school because he failed the public school entrance exam. After obtaining a certificate of primary knowledge in 1945, he enrolled in the school of pedagogy.

In 1949, Suon graduated and went to Montpellier, France for teacher's training. He continued to study at the faculty of literature there and returned to Cambodia in 1956 after he graduated. He was then given a professorship at a pedagogy school in Phnom Penh.

By the end of 1957, Suon was promoted to director of the Office of the Council of Ministers. In 1958, he was elected as a people's representative (a parliamentarian). His confession states that even if he was elected as a member of the assembly, he did not work at the National Assembly because he already had a role in the government. He was a state secretary of the Ministry of National Education in 1958. Two years later, he was appointed Minister of Information. From 1962 to 1964 he was Minister of Agriculture. And in 1967 Suon became director of the Office of the King and was made Senior Minister of Economics.

In early 1968, Suon left Cambodia for France to live with his wife and children. He continued to study there and completed a doctorate degree in pedagogy in 1970. While studying, he also took some time to teach at a faculty in Perpignan.

By the end of April 1970, Suon traveled to Peking to join the creation of the National United

Front of Kampuchea (NUFK) after the NUFK government was declared on May 5, 1970. He was assigned to be a special minister. From 1970-1975, he often traveled back and forth between Peking and Paris. In 1973, he was given the position of representative of the NUFK government in Europe.

Returning to Democratic Kampuchea

With some other embassy staff, Suon returned to Cambodia on December 19, 1975 in response to Angkar's appeal for educated persons living abroad to come back to help build Democratic Kampuchea. Angkar sent them all to be re-educated on the political line of the party for three months.

Angkar sent Suon to temper and build himself in the Eastern Zone from August 1976 to February 1977 by working at Office M-1. In February 1977, he began working at Office K-16 until Angkar arrested him in November of the same year.

Family

Suon had seven siblings. Two were studying in France. His mother died in 1953 and his father disappeared in 1973.

Suon married Moni Sengy in 1953 in France when they were students. They had four daughters. A year after Suon came back to Cambodia in 1956, his wife and children also returned to Cambodia to live. In 1968, they all returned to France. Suon returned to Cambodia for a second time in December 1975, but his wife and children stayed in France.

In February 1976, Suon received permission from Angkar to write to his wife in France. In July, he was allowed to write another letter. In the letter, he appealed to his wife and children to come to live in Cambodia. Later, he lost touch with them and did not know whether or not they came to Cambodia.

The Secret Organization Suon was Connected To

Suon admitted that before 1975, he worked

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for SDECE and the CIA by contacting some French people: Ris, Pariyo, Rop, Manakk, Kariyel, O Veton, and Ko Laut. While staying at the M-1 and K-16 offices, Suon said he became involved in traitorous activities with some embassy staff from abroad.

However, Suon's confession revealed no plans to destroy the Khmer Rouge revolution at any of the network meetings he attended in France. Instead, they focused on the local and foreign policies of Cambodia. And the meeting with the embassy staff was to discuss starvation, overwork, the loss of freedom, the stealing of collective goods, and the conditions of families living in foreign countries.

Arrest and Confession

Angkar arrested Chin Suon in November 1977 and interrogated him at least ten times. The documents were dated November 20, 22, and 23, 1977; December 8, 19, and 30, 1977; and January 2, 5, and 8, 1978. Seven additional undated documents were found pertaining to Chin Suon. The confession documents do not contain the name(s) of interrogator(s), but two documents were marked by interrogators, indicating that they were sent to the upper level and one other

contained markings of upper-level cadres of S-21.

Suon apologized for mistakes he had made and admired the great principles of the Communist Party of Kampuchea (CPK). In his confession dated January 8, 1978, Suon admitted that he didn't like the CIA, but he worked for it because he was convinced and given a car, a plot of land, and a sum of money by Sim Va and Samphear. He added "Working for the CIA as well as SDECE was a result of the environment of the former society, the faith of feudalism, and the traitorousness of the nation, people and revolution; however, I did not notice this mistake...Without the brightness of the Communist Party of Kampuchea, I myself still didn't realize these activities were traitorous. I would like to express my deep thanks to the party, and I would remember this until the end of my life. Bravo! The great leap forward by the Communist Party of Kampuchea!"

No sources or documents were found stating when Chin Suon was killed by Angkar.

Kalyan Sann is the team leader of the Khmer language edition of Searching for the Truth.

ANNOUNCEMENT

KHMER ROUGE HISTORY PRESERVATION FORUM ESSAY CONTEST

On April 2, 2004 DC-Cam and the Khmer Writers' Association (KWA) announced the four winners of an essay competition for survivors of Democratic Kampuchea. Contestants submitted narrative essays on their lives during the regime or their thoughts on issues related to the Khmer Rouge.

Because of the important role this contest can play in preserving the history of the Khmer Rouge period for future generations and in giving a voice to its survivors, DC-Cam and KWA are holding another essay contest. It is open to students, survivors of Democratic Kampuchea, and other Cambodians, both those living in Cambodia and abroad. The winning essays will be announced in April 2006. The winners will be given cash awards. The winning essays will be published in *Searching for the Truth*.

Those who are interested in submitting an essay are required to write at least ten pages. Your essays can talk about your own experiences during the regime, the stories you have heard about others, and/or your own thoughts about Democratic Kampuchea.

Please submit your narrative essays by mail to KWA's office at Botum Vatey Pagoda in Phnom Penh or to DC-Cam at P.O. Box 1110, Phnom Penh, Cambodia or email: dccam@online.com.kh. The deadline for submissions is February 28, 2005. For details please contact Mr. Sophearith Chuong at (855) 23 211 875 or by email: truthsophearith@dccam.org. Thanks!

THE LIVES OF FOUR 17-APRIL PEOPLE UNDER THE KHMER ROUGE

Pivoine Beang and Savina Sirik



Chey Phon in 1962

Chey Phon

A Former Teacher

Chey Phon was born in Prek Tameak village, Khsach Kandal district, Kandal province. He has kept five photographs of relatives who died during the Khmer Rouge regime; they were taken before

1975. He sent all of them to the Documentation Center of Cambodia to be kept as records. Below is the description of his life during the Khmer Rouge

Two of my brothers were ordained as monks and studied in the pagoda. I first lived with them at the pagoda when I was five years old because my family was desperately poor. My father died of old age during the Sangkum Reas Niyum regime, which was ruled by King Norodom Sihanouk. My mother was responsible for everything in the family. She sold mats to support our studies, but did not earn enough.

I was an outstanding student, and ranked first or second at all times. I was good at French and mathematics, and thus my classmates liked me.

My first elementary school was Prek Tameak. Then, I transferred to a school at Prek Eng. After passing the exam, I studied at the senior school of pedagogy in Phnom Penh, where Mr. Keng Vann Sakk was a general director and Mr. Son Sen was an academic director. Son Sen looked Chinese and was gentle. After I graduated, I became a school director in Srey Santhor district, Kampong Cham province. I taught many classes because the school was short of teachers.

I got married in 1962 to my cousin Pol Yem.



Pol Yem in 1960

She was born in Prek Dambang subdistrict, Muk Kampoul district, Kandal province. After 1979, she died of an illness at the age of 50.

In 1967 I taught at Prek Tameak Primary School. At that time, they were arresting teachers who propagandized against the Khmer Rouge. Chheng Vun, my teacher, propagandized in favor of the Khmer Rouge, but I didn't join the movement. My wife and I decided to move to Phnom Penh; due to the bombardment, the situation was tense. I took a job as a security guard at the Kandal provincial office. In 1974, I asked to teach at a kindergarten in Chroy Changva. There I bought a house, a weaving loom and other things for my wife to weave mosquito nets and mats to sell.

In 1975 when the Lon Nol regime was defeated, there was an announcement on the loudspeaker saying, "We won, we are at peace, and there is no longer a war." Then I felt I wanted to return to my hometown. Along the street, the Khmer Rouge soldiers gave my family a bushel of rice. I stayed at Bakk Kheng and fished to support the family. After that Angkar evacuated me to my hometown in Khsach Kandal district, Kandal province.

When I arrived home, the villagers knew I had been a teacher, and the cooperative chief asked me about my previous job. I told them honestly that I used to teach but that I could also fish. The chief assigned me to work in a fishing unit that had three members. Had I told him that I used to be a guard with a gun at Ta Khmau, I would have been killed. I

lived with the base people but they didn't approve of me because I was one of the 17-April people (city people). Angkar assigned illiterate people to teach reading. And because I worked really hard, doing such things as transplanting and pulling out rice seedlings, fishing, mending nets, giving injections and playing the *tro* (a traditional musical instrument), they seemed to favor me.

Every night the cooperative chief called me to play the *tro* with other musicians. The song I usually played was entitled "Male and Female Veterans Repairing Railways." It was the song I constantly heard on the loudspeaker during dinner. I then learn to play it with my *tro*. Every time I played, the militiamen gave me a cigarette.

My wife was assigned to work in a group responsible for transplanting and pulling out seedlings in the cooperative. Her work was extremely difficult and she did not have enough to eat. I sometimes stole some fish for her because I could not eat the fish I caught; Angkar would surely have killed me if they had known.

I had to row a boat in strong winds and waves in order to fish, although I didn't want to. Sometimes I heard people being pushed into the water from the bank. Ta Lun, who fished with me, said he sometimes saw bodies in the water. When I was eating nearby the shore, I often saw corpses floating. Militiamen took people away to be killed every night. I never slept well because I felt frightened and didn't know whose turn it was. Angkar wanted to take me to be reeducated, but fortunately the villagers begged Angkar not to take me because I never caused any trouble. I myself knew I would go

forever if I was taken for reeducation.

In 1979 when the Vietnamese army liberated Cambodia, the Khmer Rouge army forced me to ferry them across the river – they were on the run. I did not have enough courage to refuse because they were armed. However, I hid an axe just in case, and it was lucky that they didn't hurt me.

I had eight children; only five of them are alive today. Three daughters died, one of them died from severe burns at the age of five when my wife spilled a kerosene lamp she had lit. The house caught fire, but fortunately, it was put out immediately.

My siblings and I took a photo together for remembrance. The first one on the left was my second brother, Chey Phan, also a well-educated man. After his graduation in Muk Kampoul district, he served as a policeman at Dei Edth. Later, he worked at Preah Kettomealea hospital in Phnom Penh. In 1975, they evacuated him to his hometown for one year, and then sent him to Battambang. His

family members died one after another of starvation. The second, Chey Sbaong, a former layman of Sovatei Pagoda, died of overwork in 1997. The third, Chey Phan aka Sar Khorn, had worked at the Ministry of Agriculture; he died during the Khmer Rouge regime. The fourth in the picture was me.

In the Khmer Rouge time, I hid the photos in a rice sack. Although the Khmer Rouge militiamen searched for them, they did not find them. But they did find some books that I had hidden on Buddhist *dharma*.

This photograph was taken in Takhmau after my marriage. The other picture was my wife; it taken when she was a student.



(From the left) Chey Phan, Chey Sbaong, Chey Phann and Chey Phon

Chhun Yoeun

A Former Vendor

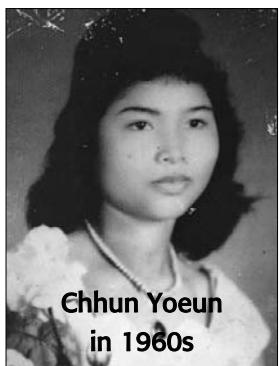
Chhun Yoeun was the daughter of a poor farmer living in Anlong Korng, Prey Sar subdistrict, Dangkor district, Phnom Penh with his two daughters and grandchildren. Her husband and other relatives died during the Khmer Rouge regime.

"I had two husbands. I was related to both of them, and both marriages were arranged. My first husband was a farmer who lived in my village. After we were married, he helped sell cakes at a shop near O Russey market, earning 1,300 *riels* a month, and I did the farming. However, he never gave me his salary. After nine months, I decided to divorce him because we didn't get along well.

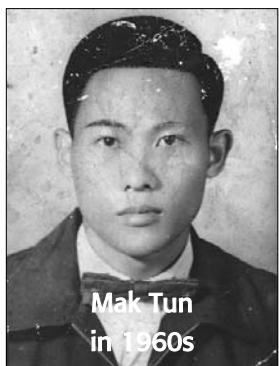
The following year, I married Mak Tun. He had been ordained and studied at Kak Khsach pagoda. He later left quit the clergy and worked on a farm. He was a kind, handsome man, but poorly educated. When he asked for my hand in marriage, it was a little different; this time I was entitled to decide whether or not I would marry him.

I was also poorly educated because my parents could not afford the school fees for their children. My mother died when I was child and my father then married another woman. By the age of 15, I joined a class designed for the illiterate in the village. I was the best of its 20 students. I had studied for a year before I got married. After my second marriage, I made cakes and sold them in Phnom Penh – palm cake and paste of fermented rice. My second husband became a taxi cycle driver. He had dinner at home sometimes, but usually he came home only once a week.

In the Lon Nol regime, the Khmer Rouge took over my village, which had suffered from the fighting between Khmer Rouge and Lon Nol



Chhun Yoeun
in 1960s



Mak Tun
in 1960s

soldiers. In such a bad situation, my family and other villagers were evacuated to Thnal Bot in Chamkar Daung, where my husband built a cottage that held one bed and where we lived for three years. He quit driving and helped me sell palm juice at home and farm nearby. We had a child.

When the Khmer Rouge drove people out of Phnom Penh, my second child was just a month old. Having night blindness, it was very difficult for me to walk and carry my child at the same time. My husband was put rice and some other things on a cow cart, and drove to the Kandal Stung district office. But the Khmer Rouge militiamen told us to go to Siem Reap subdistrict. When we arrived there,

my husband set up a plastic-roofed camp for us. Four or five months later, he managed to roof the cottage with palm leaves. It took us a year to have a proper house.

Angkar confiscated my rice for the commune. Because we did not have enough food, I searched for water grass, bananas, water lily, and papaya stumps to eat. Half a year later, Angkar set up collective dining system in the cooperative. I got a ladle of porridge at each meal.

Angkar assigned my family to clear forests for farming. My husband worked in a plowing unit and my job was to cook porridge for pigs and pull out seedlings. Sometimes, I transplanted rice seedlings night and day. On 10th, 20th and 30th of every month, Angkar called people to join a meeting about equality in work and to increase farming productivity. It took all day for a meeting and I could rest only at lunch time. I doubted that all the rice produced was kept in the granary. If people were starving, where did the rice go?

We lived with the base people in Siem Reap subdistrict, but because my family was new people, we were not allowed to talk. Even when I walked to

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farm and saw my husband along the street, I wasn't allowed to look at his face. Once when I had the flue and was treated at the Siem Reap subdistrict hospital, Angkar did not permit my husband to take care of me. The medical staff gave me a few rabbit dung-like medicines made of tree roots.

Those who were lazy at work would be reported to Angkar, and, as a result, would be taken away at night to be killed. I was never careless in my work because I feared death. A woman near my cottage with whom I had transplanted seedlings was brought by the militiamen to be smashed at night. Before she disappeared, she complained about the food shortage and where the rice was taken. Angkar then arrested her husband, and their children were put in children's units.

One day, I dug bamboo shoots to eat because I was hungry. Sadly, I got caught and warned not to dig communal bamboo shoots again as Angkar had already given us enough food.

My second husband was assigned to clear forest in 1977 and then disappeared. I was not with him at the time because we were working at different sites. When I arrived home that day, the neighbors told me that he had been taken away by Angkar.

Before this happened, Choeun, the unit chief of farming, wanted to exchange his cows with those of my husband. But he disagreed, and said they were the same cows. In fact, we took the cows from home when we moved away from Phnom Penh. Angkar accused him of being a colonel-general. A month later, Angkar called him and about 80 village youths to clear forest. At about 7 o'clock in the morning two militiamen took them out of the village. I was waiting for his return, and the village chief told me not to worry about him because he would come back in 9 months and 10 days. I wished the day would come very soon. However, he never returned. Someone whispered to me that 9 months and 10 days meant my husband was

killed and reincarnated. The woman whose husband was also called by Angkar told me that she saw a militiaman bring my husband to Sa-ang prison in Kandal province, and those sent there rarely survived. I have not had any information about him since then. Most of the women working with me were widows because their husbands were called by Angkar to clear forest, bamboos and leaves.

Angkar asked if anyone wanted to go back to their hometown. I wanted to return to my birthplace, but villagers told me to stay there because there was only one Angkar and it presided everywhere.

I had many pictures of my husband and me together, but relatives always came and asked for one or two photos. Now I have only two left: this one was taken when my husband had just left the monkshood and this one when I was joining the literacy class. While we were being evacuated from Phnom Penh, I hid them in my clothing bag. When I went to the work site, the militiamen often searched my house. When I returned from work, I saw that everything was messy, but they did not find them. After the collapse of the Khmer Rouge, I brought them back home. I miss my husband always. On every festival day, I bring food to the pagoda and dedicate it to him. I feel so much regret that I didn't meet him for the last time. I hope that the Khmer Rouge tribunal will seek justice for my husband.

Em Phal, A Typist

Em Phal and her husband Sa Son were arrested by the Khmer Rouge and killed at Tuol Sleng prison. Their biographies and confessions state that Son born in Svay Rieng district, Region 24, and had been a film engineer at the Ministry of Propaganda. He was detained on May 28, 1975 at Samrong Ty village and sent to House K-05, Room 9 and finally to Tuol Sleng on February 14, 1976.

His confession stated that he returned to Cambodia from France on December 15, 1972 and was arrested at Region 22. He added that he joined the CIA as a secret agent on March 1, 1974. He was interrogated for the last time on December 28, 1975.

Em Phal was a soldier who became a farmer after the liberation. She had a son, and was arrested on June 1, 1975 at Rokar Kaong (Region 22) and imprisoned in the Big Room 8, House K-06. "Ask for a physical description and current address for the arrest of a person on whom the spy put the blame," Duch wrote on her biography.

Em Phan, Em Phal's younger sister, told their story.

I have six siblings: four sisters and two brothers. My sister was very beautiful and the tallest woman amongst the four. She was the second daughter and my mother loved her the most. I was the only one who survived the Khmer Rouge regime.

When Phal was young, she studied at Rokar Kaong Primary School and was a volleyball player. She continued her studies at Vat Damrei Sar Secondary School, but failed the secondary diploma and then dropped out. In 1970 she moved to Phnom Penh, staying with her oldest brother Phuong. He gave her some money and got a job for her in the office as a French typist at DN military barracks.

While studying at Damrei Sar pagoda, she got to know Sa Son, who fell in love with her. The two later became lovers. He studied film technology in France for two years, and during that period, he regularly wrote letters and sent gifts to Phal.



(From the Left) Em Phal and her friend in 1972

Son graduated in 1972 and returned to Cambodia. Then their parents arranged a traditional marriage for them in Rokar Kaong district. They returned to work in Phnom Penh after their marriage. Phal resumed her job, while Son worked at the Ministry of Propaganda as a cameraman for a TV news program.

Son secretly contacted the Khmer Rouge in late 1974. He was arrested and jailed at a political prison (Prison T3) because he opposed Keo Sang Kim and Thach Chea. His detention was published in the newspapers. When he started to contact the Communists, Phal felt it was a problem. She and I often visited him in the prison and he didn't have enough food to eat or a proper place to sleep. He

was a barber in the prison.

When the Khmer Rouge evacuated the people from Phnom Penh, Son was released to see his wife, son, and siblings at Tik Laak. We had only one goal – returning to our home village. Along the streets from Phnom Penh to Prek Po, the Khmer Rouge continu-

ously asked questions about our biographies, and five of my siblings told them the truth. My husband and I knew that we had to lie to survive. Thus, my husband told them he had been a cyclo driver. Every night the militiamen came to interrogate me about my background, but I did not tell them the truth.

Three or four months later, Son was arrested. Before his arrest, the Khmer Rouge told him that Angkar wanted him to have the same position he had held in Phnom Penh. Not having realized it was a lie, Son told Phal to wait at home in Rokar Kaong.

He disappeared then. Later, Angkar also called Phal and her son to Phnom Penh. A militiaman told her he was bringing her to see her husband, but she never returned. Three siblings of mine, including their husbands, wives, and children, were arrested by Angkar in connection with Phal.

Em Phuong, the first sister, whose husband was a policeman, was killed with her family when they were evacuated to Peareang district, Prey Veng province. The second sister was Phal, and I was the third. Phalla, my fourth sister, and her family starved to death in Pursat province. Samut, my younger brother, was captured and killed at Koh Rokar in 1975 because he used to be a Khmer Rouge soldier but deserted and went to Phnom Penh. He had been forced to serve as a soldier since 1973 by the village chief Samon. My youngest brother was a former Lon Nol soldier and was also murdered by Angkar.

In Prek Po, one of my younger siblings told me not to stay there because it was a very dangerous place and a prison without walls. Angkar evacuated 20 families from the cooperative, including mine. I refused to go and told them that if I was to be sent to another place, please kill me here. Still, I was forced to move. At the time Angkar learned the facts about my family and dispatched us to Stong district, Kampong Thom province.

We lived in Preah Nangkoal cooperative in Stong district, where my husband planted rice, drove a cow cart and fished. The villagers there doubted he was a new (17 April) person because he knew how to farm. He was assigned to fish for the village coope-rative. I transplanted rice

seedlings and carried earth. At that time if my husband had worked at that site, he would have been killed, as most people knew that he used to be a soldier and goods controller at the DN barracks. I also used to sew military clothes there. My child and I lived together; only my husband lived separately from the family. One day he was told to lead buffalos to another place. The villagers whispered to me that if Angkar called you to work at another place, you should not go because they were really taking you away to be killed. Many people in my cooperative were brought to be killed, particularly by the end of 1978. I was also brought

to be killed, but, at that time, it was my luck that there was a circular to delay killing people. Although I didn't see it with my eyes, I heard villagers telling one another.

When the Khmer Rouge regime ended, I hardly believed that I could survive and come back home. The villagers told my mother about

my return, but she did not believe them because she thought all her children had been lost to the regime.

After 1979 I visited Tuol Sleng prison because the village authorities told me that they saw my sister's name there. I went there and saw her picture, although I did not see my brother-in-law's. My mother also went to this prison and when we returned home, she had insomnia and became ill. She died in 1983 because she missed Phal so much.

I had many photo-graphs. In the Pol Pot time, the Khmer Rouge militiamen also searched for these pictures, but did not find them because my mother hid them in her bed. I have an album of photos from when I was a solider. When the



militiamen were looking for my photos, I wrapped them around my child's neck with a *krama* (scarf). If the Khmer Rouge militiamen found them, all of my family would have been killed. The photos were scattered and lost, and there's now only a few of them left.

Neou Kim Ann

My Family and the Magic Monk under the Khmer Rouge

In 1986-1987 I saw a monk whose face was similar to that of Chaing Chaem. My memory of him encouraged me to look for Chaing Chaem's photographs. I asked my cousin, Pen An, for help in looking for them. Pen An got this picture from two



Chaing Chaem in 1960s

old women who were Buddhist followers and respected Monk Chaem when he was alive. It was a half-body picture of him in saffron robes.

I managed to find another photo taken in 1968-1969 of my aunt Et (on the right),

grandmother Chiro (second from the right), my cousin Voek (third from the right). This picture was given to me by my cousin Sieng. Actually I didn't know how they kept the photos or how they got them. I had searched for them in 1986 and 1987, and when these pictures were found, it gave me hope that I might find one of my father as well. But I could not. Then I realized that none of his photographs were left because they showed him in the uniform of a volunteer soldier in the Sangkum Reas Niyum.

The Magic Monk

Chaing Chaem headed the Tet Mountain monastery in Bos Khnaor village, Bos Khnaor

subdistrict, Chamkar Leu district, Kampong Cham province. He was famous for his black magic. My grandmother Voek was a Buddhist who believed in his magical powers. When I was young, she took me to pay respect to this monk and asked him to change my birth name, which was Neou Kim Sieng. When we were about six or seven meters from the monk, he shouted out "Call him Kim Ann, and he will no longer get sick." One time while we were preparing the food, I had the chance to witness a miracle he created. From the dining hall, he pointed toward the rice fields and shouted, "Come up, please." When I looked at where he was pointing, I saw many nuns walking in the fields. But when I looked again there was no one. This made me believe in his magical powers.

A year after the 1970 coup d'état, monk Chaem fled the village. I don't know why, but I knew he had a kinship with the royal family and was a supporter of King Sihanouk. After the Khmer Rouge's victory, I saw him in a yellow robe returning to Bos Khnaor village. Several days after his return, the village chief sent him to the security office at Prakk Sisaha Hill about one kilometer from my house. The villagers were very happy about his presence and came to see him. While he was held there, the Khmer Rouge did not allow me to give him food. Two weeks later, the Khmer Rouge brought him to be executed. Before he died, they undermined his powers by removing all of his magical hip laces and killed him at 6:30 in the evening. Some villagers did not believe he was killed, and in 1986-1987 I heard them say there was a monk who looked really like Chaem. Many concluded that he hadn't died; they said he was ordained again, but dared not stay in his home village. Every time I think about my grandparents, I miss him too.

My Grandmother and Her Sister

My grandmother's name was Voek. She had two sons: my uncle Neou Kao and my father. She

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(From the Right) Et, Ro and Voek in 1960s

lived with my family until the Khmer Rouge took control of the country in 1975. She became a Buddhist nun after the death of her husband; at that time, my father was just four years old. Under Democratic Kampuchea, she lived with my father in Samaky village, Bos Knaor subdistrict, Kampong Cham province. The Khmer Rouge assigned her to look after small kids, weave mats, and polish rice. Finally, she became ill and died of malnutrition.

My grandmother's sister Chy Ro was also a widow. She has a son named Et who planted and sold vegetables. In 1975 his family was evacuated from Kampong Cham to Kampong Thmar subdistrict in Kampong Thom province. He had sent my father a letter asking him if he could come back to my father's birth village, but my father did not agree because my family was a target of the Khmer Rouge. Later I learned that all of Chy Ro's family members who were evacuated to Kampong Thmar died there.

My Family and the Evacuation

Before the 1975 evacuation my family lived in Samaky village, Bos Knaor subdistrict, Chamkar Leu district, Kampong Cham province. My father's name was Neou Try; my mother's name was Siek Kim Hun. My father used to be a volunteer soldier

in the Sihanouk regime. These soldiers were armed and trained to protect local communities. He also worked at the house of my aunt Ney Huoy, one of the richest families in Bos Knaor village. After the 1970 coup d'état, my aunt and another uncle, who were merchants buying farm produce in Kampong Cham province, moved to Phnom Penh.

In the same year, my father led a group of rioters to demonstrate against the coup, which removed King Sihanouk from power. When the procession reached Prek Kdam, the Lon Nol soldiers shot off one of his ears. After that, the Lon Nol soldiers chased him. He fled and hid in the forest, and then served in the liberation army for a short period of time. I brought some medicine and rice for him when he was hiding in the jungle. When the situation calmed down, he returned to the village.

In 1971 my family was evacuated by the Khmer Rouge army to the village of Kean Khlaing; it was in the liberated zone about 40 kilometers east of Bos Knaor village. When my family returned to Bos Knaor, our house had been burnt down. In 1972 my family was again evacuated to Speu village, Chamkar Leu district for two years. In 1974 we returned to our home village. In 1975 the Khmer Rouge evacuated us to Samaky village, Bos Knaor subdistrict, Chamkar Leu district; we lived there until 1979.

In 1976 when I was sixteen years old, Angkar put me into child's mobile work brigade in Lvea Leu. My father was assigned to raise pigs. His eyes were impaired and he had to work until night. In the dry season, he fell into a waterless well about 4

meters deep, and fell sick.

In dry season of 1977 there was no rain and many cows died. Angkar allowed the villagers to eat them. My sister did not eat beef, only ate rice with salt. I felt so much pity for her that I cut a fruitless papaya tree to make *chhai peou* (a preserved salty food) for her. Angkar nevertheless accused me of destroying its papaya tree. Pornm, the chief of my unit, lied to me, saying I should go to the Samaky village office, where the village chief Kien would have me bring food to the work site. He told me to hurry as the chief was waiting. When I arrived, Kien slapped my face and pulled my hair. Then he called Chan, a militiaman, to tie my hands behind my back and ordered him to bring me to the bamboo forest east of the village. I was horrified when I heard that. Although the militiaman hit me hard, I didn't feel pain because my mind was occupied with fright. The bamboo forest was a killing field.

When I refused to go, the militiaman violently pulled me up. "Brother Comrade, I cut the papaya tree because it has not borne fruit for two years and it will not bear any fruit again. If you don't believe me, please go and see it," I pleaded. The chief village whispered something to the militiaman, who then loosened my binds a little, and then escorted me to the village security office where a prison guard put me in chains. The militiaman told the guard to watch me so I did not escape. When I saw the guard's face, I realized that we knew each other. His name was Chakk. After he interrogated me, he removed my shackles and brought me to a place where I was to collect manure to make fertilizers. I had to collect 12 buckets a day. I worked hard in order to gain Angkar's trust. After a month, Angkar reduced my punishment and sent me to work at the subdistrict office of the special unit for Bos Khnaor village.

There, I was assigned to thresh rice, clear forests, excavate hills, etc. One night while I was threshing rice, I saw a Land Rover come out of the

rubber plantation and head to a village about 700 meters from where I stood. There was a deep well in that village. The next day, I followed the car's tracks with Mauv (who now heads Sreh Chak school), who worked in the mobile brigade with me. We came to a well and I felt that something was under my shoes. I bent down and found coagulating blood on the dead leaves. I abruptly looked into the well and saw many corpses. I was terribly scared and I tried to build myself in Angkar's eyes with hard work.

Seeing that I was a clever child, Angkar wanted to place me in a special unit under a ministry. However, they told me that the name Neou Kim Ann was a Vietnamese name and I was not permitted to join the special unit. This made me even more frightened. Then Angkar sent me to be trained on agricultural techniques at Stung Kdei dam, where there was an agriculture experiment station. I stayed there until the Vietnamese army attacked Cambodia at the end of 1978.

The Vietnamese army had not yet liberated my region completely, so I tried to hide from the Khmer Rouge. It was only when the Vietnamese troops liberated the whole country that I was able to come back to the village and live with my family.

Pivoine Beang is a researcher working on DC-Cam's Photo Archive Project, and Savina Sirik is a DC-Cam staff member working on the Victims of Torture Project.

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The Mil Ethnic Minority under Democratic Kampuchea

Sophal Ly

The Mil (or Milk) is a little known ethnic minority in Cambodia. Their homeland is Chhok Trach (aka Klek Klok) village, about 30 kilometers east of O-Po village in Kratie province. The Mil left this village many years ago and moved to an area called Sre Changhab because of a smallpox epidemic and an invasion by the Phnong tribe (a Mon-Khmer tribe of eastern Cambodia) in which many Mil were killed. Today, about 60 Mil families live together with Khmer people in a village about 40 kilometers from the center of Kratie province.

During the Khmer Rouge regime, many Mil men served the revolution, and some became high-ranking officials. Others were killed by the Khmer Rouge, and many disappeared.

Teng, for example, was a reconnaissance chief during the regime. All of the villagers in Sre Changhab

knew that Teng was a very cruel man during that period. If anybody – especially the 17 April people – did anything wrong, Teng would order them to be killed. Teng had killed many 17 April people. In 1979, the Vietnamese soldiers arrested Teng and sent him to Vietnam for a month. After he returned to the village, a group of 17 April people living in Tamong district tried to kill him.

Fifty-nine year old Kak Van said that he lost a son while he was serving the revolution. Later, he heard some villagers say that his son was killed by Ta Mok.

Soeur Klim, age 45, began working for the revolution in 1976 when he was 15. At that time, Angkar sent him to work under Yi and Kuon in Kratie province for a month. In late 1977, he was moved to work as a combatant in Division 920 of



Mil Ladies in Changhab village

Ratanak Kiri province. In 1978, Angkar arrested Yi and Kuon, accusing them of being traitors. After they were captured, Angkar also caught Klim and other combatants. Klim ran into the forest and hid until 1982, when he came back to his village.

During Democratic Kampuchea, all the residents of Sre Changhab were evacuated and sent to live in Changhab collective. Their houses were

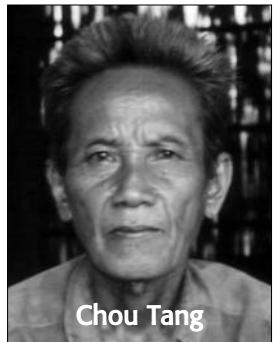


Soeur Klim

used for storing salt, rice, and other materials. The youths were forced to serve in the army. Angkar ordered the middle-aged men to build dams, cultivate rice, and do construction. The elderly women took care of infants at the children's site.

Kan and Chou Tang said that they were ordered to build houses. Angkar allowed them to visit their homes every two or three months. Angkar also sent them to build dams at O-Krieng and other places. Kan said that during the regime he cultivated and harvested a large amount of rice, but he still ate watery porridge every day. In the harvest season, he saw trucks coming and driving off with the rice. The Khmer Rouge cadres told people that the other collectives had no rice. The trucks were sometimes driven into the forest and vanished.

The number of workers in Changhab collective increased after 1977, when Angkar sent more evacuees, including Khmer, Chinese, and Chams to live with the Mil. The only language permitted, however, was Khmer. Today, sixty year-old Chou Tang is a village chief. He recalled that "The Chinese were forbidden to speak Chinese; the Chams were banned from speaking the Cham language; the Mils



Chou Tang

were prohibited from speaking their language. Only Khmer was permitted. In addition, the religious rule that does not let the Cham eat pork was also eliminated. My small house was occupied by two families: Cham and Chinese."



Kov Khen

Kov Khen, age 74, said that many new people died during that time because they complained and could not endure the work. Not many Changhab villagers were killed. Most of them died of disease because there was a lack of proper medicine.

On December 20, 1978, the Khmer Rouge planned to cook Khmer noodles and put poison in them in order to kill the people in Changhab collective. This plan failed because the Vietnamese soldiers chased the Khmer Rouge out. Khen accidentally learned of this plan while he was walking to the rice fields. "One day I heard the high-ranking Khmer Rouge having a meeting outside the village. On the 30th, they said, we should keep a thousand beautiful Khmer women to breed with Chinese men. The rest of people would be poisoned. If the Vietnamese soldiers had not arrived in 1979, we would all have been killed."

As the Khmer Rouge soldier were fleeing from the Vietnamese, they took people with them, saying that those who did not escape would have their throats cut by the Vietnamese. In Changhab, some people were very frightened and decided to go with the Khmer Rouge, while others returned to their homes. Chou Tang said that he escaped to Sambo district, and met his family at Kampong Pneov. After giving up his weapon to a Vietnamese soldier, he brought his wife and children back to his village. When Khen was running to O-Kach Pruol, he met a Vietnamese soldier who told him to return home.

After 1979, the Vietnamese appointed a chief

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of Changhab village to oversee the distribution of rice, salt, cows, and buffalos.



Keo Nan

During that period, the Khmer Rouge fought near the village, killing some villagers and injuring others. Tang's aunt was one of those who died during the fight.

Tang said, "I will never forget this 3-year, 8-month, and 20-day regime until I die. All I had built was

completely destroyed. I had to start a new life after 1979. I can never forget this."

When recollecting their past during the Khmer Rouge regime, the Mil always said that they do not want to see or hear of this time again. What they want is only peaceful lives like the ones they have today. If people come to promise them something better than this life, they would not listen.

Sophal Ly is a DC-Cam staff writer for Searching for the Truth.

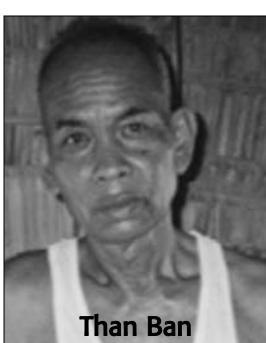
THAN BAN'S LIFE

Vireak Sarin

"Why did the Khmer Rouge arrest my sister?" asked Than Ban, while looking at Im Paris's photograph. After he read her biography, which stated that she was arrested and sent to Prey Sar Prison on January 21, 1978, he knew she must have died.

Ban's father Nuon Than married his mother Uy in the 1940s, and they had three children. Poverty drove the couple to divorce. Than and his younger brother and sister lived with their mother in the village where they were born, and his father moved to Phnom Penh. Ban was not able to attend school because he had to earn a living to help support his family.

In the early 1950 his mother was hired as a cook and maid for a Frenchman named Pica. The



Than Ban

two fell in love and got married. Pica was a road engineer who was in charge of constructing the asphalt road from Kampong Cham's boundary to Prey Veng's provincial town. The new family lived for three years in Pea Nea subdistrict, Kanh Chreach district, Prey Veng

province.

Pica's job ended in late 1953, and he was to return to France. Even when her husband was leaving to go

home, Uy did not tell him that she was three months pregnant. Six months later Ban's mother delivered a daughter named Im Paris.

In 1956 when Paris was almost three years old, Ban's mother married a widower named Im. The couple did not have any children. About three years later, the widower passed away.

In 1959 Ban's mother fell ill, and all responsibility for the family fell to Than Ban. He worked fiercely to earn money, and sent his mother to the Russian Hospital in Phnom Penh. When she did not get better, Ban decided to take her back to the village. Ban took good care of his mother for eight years before she passed away.

After his mother's death, Than Ban's responsibilities grew; he looked after his siblings and paid for their education. Ban loved Paris the most, as she was a lovely and smart girl. He sent his beloved sister to the school at Prey Svay Pagoda in Kanh Chreach district. Paris studied until the 6th grade, and could speak and write good French and English.

After the 1970 military coup d'état that overthrew King Sihanouk, Paris quit school. Than Ban started to work with one of his friends named Sophea Keth, who was a people's representative in Kanh Chreach district. His tasks were to gather people from three

districts to demand that King Sihanouk be reinstalled on the throne. Sophea Keth was responsible for rallying people to demonstrate in Prey Veng district, while Ban was to bring in people from the districts of Kanch Chreach and Sithor Kandal.

On June 20, 1970 the demonstration was to stop in front of the National Assembly in Phnom Penh, demanding to see General Lon Nol and demand the return of the King to Cambodia. Forty trucks left Prey Veng district for Phnom Penh. As soon as they reached the provincial town of Prey Veng, soldiers of Lon Non, Lon Nol's brother, blocked their way and fired at the protesters.

Sophea Keth was gunned down at the scene, and many others were also killed. Than Ban and another driver told the people to retreat. After that, Ban was under investigation and watched closely by Lon Nol's soldiers. They accused him of leading a demonstration against the new government. Afraid, Ban decided to hide in the forest with other resistors, leaving his siblings at home.

Two weeks later, Paris went to look for Ban in the forest. But when she could not find her brother, she returned to the village. Afraid that Lon Nol's soldiers might assault Paris, Than Ban asked his friend Sung, who was the district secretary of Kanh Chreach, to take care of her.

Three months after Ban went into the forest, Sung took Paris and two of her friends to work at the district office. Sung assigned Paris to work on logistics and care for his household.

After things calmed down, Ban returned to his home village. Angkar then assigned him to the job of handling subdistrict economics and supplying food to soldiers. Ban traveled to various districts, seeking to purchase rice, pigs, chickens, and salt, and supply them to battlefields near and far.



Im Paris

1978

Paris visited her house in 1972, and brought a pair of shoes made from rubber tires and some clothing for her brother. Paris told Ban that she and her friends Ton and Soeun were working with Sung at the district administrative office. After she had visited for four days, she returned to her office, bringing Ban's two children along with her.

After the Khmer Rouge's victory on April 17, 1975 Than Ban was accused of having links to Prince Botum Chan and was removed from his office. He then began working in a cooperative as an ordinary citizen.

After four months, Angkar sent Paris to work in Phnom Penh. She was made a deputy director of Chib Tong, a shoe factory located in Tuol Kork. In 1976 Paris was allowed to visit home. She had

stayed for only two days, and returned to Phnom Penh. After that, she disappeared.

During the Khmer Rouge regime, Ban tried to seek information on his beloved sister, but never received any. He thought that she might have been killed at the time the Khmer Rouge arrested and smashed along with cadres working in the West Region's ministries and offices.

Ban lived with other villagers in the cooperative until Vietnam liberated the country. Even after 1979, Ban still looked for his sister in various provinces including Banteay Mean Chey, and yet no information was found.

Ban regrets that he had devoted his life to serving the Khmer Rouge revolution with the hope that King Sihanouk would return to power. He wants the Khmer Rouge leaders to be brought to justice as soon as possible; otherwise, their deaths would let them get away with their crimes.

Vireak Sarin is a member of DC-Cam's Promoting Accountability Team.

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DITH SAROEUN: LON NOL'S COLONEL GENERAL

Sokoeun Kong

Dith Saroeun was born in Thnal Cheat village, Baray subdistrict, Baray district, Kampong Thom province. In the 1960s after passing the 6th grade, he decided to go into the military. After training in France for two years, he returned to Cambodia and was made a first lieutenant in the army. His duty was to supply food to the forces in the battlefields.

Then his family introduced to him a girl from his hometown named Say Yun. After their marriage, Saroeun and his wife moved to live at Banteay Sloek near the Russian Hospital. At that time, the family's living situation was difficult.

After Lon Nol took power in 1970, Saroeun was promoted to a colonel general in Division 5; this was one of the seven divisions under the direct command of the general staff. Meanwhile, Saroeun's barracks was moved to Boeng Kak behind Calmette Hospital. In Division 5, there were six offices; warehouses for weapons, foodstuffs, garments, and various materials; a hospital and a facility for disabled people. Saroeun and his wife later moved to Toek La-akk and their living conditions improved.

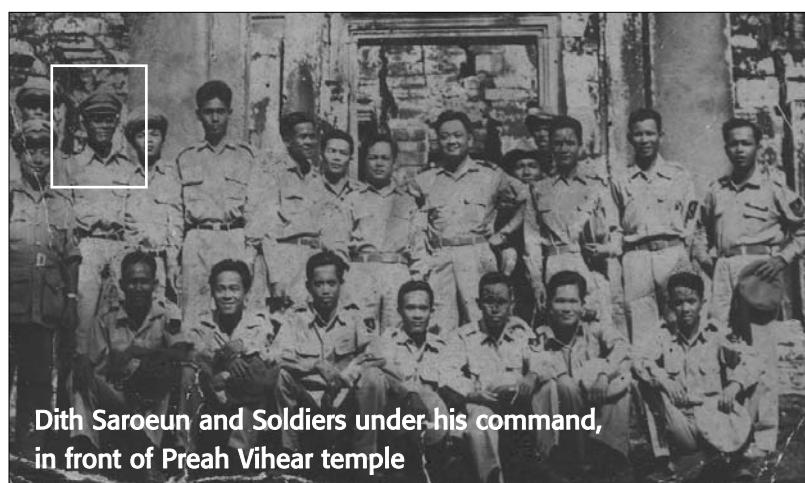
Division 5 stood off National Road 5. Its mission was to block the road and fight the Vietcong or revolutionary troops heading to Phnom Penh. Sometimes, Division 5 cooperated with Division 7 on the battlefield, where the dead were put aside

and the living were to grab their guns and continue to fight. Food, ammunition, and all military equipment were provided by the United States.

In Saroeun's home village in Baray district, his brother-in-law Dith Sam On and other schoolteachers were armed to help protect their compounds. When the situation became more serious, the teachers hid their arms in a pond behind Saroeun's father's house. Some fled to Phnom Penh, while others ran off to other provinces. When the revolutionary forces found the hidden weapons, Dith Sam On was called for re-education. He has since disappeared. At the time, Saroeun was unable to contact his home.

On 17 April 1975 the Khmer Rouge emptied the city of Phnom Penh. Saroeun, his children and niece made their way to Kampong Speu province in a car that was confiscated by the Khmer Rouge. After living in Kampong Speu for three months, Saroeun was called to be re-educated and was never seen again. Later his son and three daughters also lost their lives due to malnutrition and disease. After that, his wife became mentally unstable; she chanted Buddhist dharma constantly. She also died during the Khmer Rouge regime. Saroeun's mother and other relatives were sent to Boeng Bei in Battambang province, where most of them died.

Dith Kim Song, Saroeun's sister, is the only family member who survived the regime. One photograph of Saroeun also survived; it was left with his niece Pich Thach. The picture shows Saroeun with his soldiers in front of Preah Vihear temple when they were delivering food to soldiers who were fighting the Thais in an attempt to reclaim the temple.



Dith Saroeun and Soldiers under his command, in front of Preah Vihear temple

Sokoeun Kong is a DC-Cam staff member who works on the Victims of Torture Project.

A REQUEST FOR JUSTICE

Som Rithy

The Khmer Rouge entered Siem Reap's provincial capital on the night of April 18, 1975, and immediately forbid people to leave their town. On the morning of April 19, this "black shirt" force called ordinary citizens, soldiers, teachers and government officials for a meeting at the provincial hall, where they would receive assignments from Angkar. The following day, Angkar called upon people to leave the town for three or four days.

Armed Khmer Rouge soldiers ordered them to pack their belongings and leave. My parents-in-law, brother- and sister-in-law, and my wife and I left our house on a cart loaded with some of our possessions. The roads were flooded, with some people carrying their belongings on their shoulders or heads, and others pulling carts. All of them wore sad, frightened expressions.

The black shirted soldiers were everywhere on the roads, looking like crows. Houses were emptied and silenced, leaving tables and chairs scattered untidily. Reaching a junction near Sala Dambaung, I saw a soldier with a gun at his waist approaching my family. He asked about our jobs. I told him that I was a motorbike mechanic, and my father-in-law said he was a worker. The soldier then told us to go west Kra-lanh district. A little outside the town of Siem Reap, we stopped to rest with a woman who had been separated from her husband and children. She told me that the Khmer Rouge chased her out of the hospital even when she was sick, and other patients who were unable to move were put in a truck and driven away.

My brother-in-law and I took turns pulling the cart. After walking for about 1 kilometer, we met another woman with a small package on her head and her two children. The woman burst into tears when one of her children asked for his father. She

told her child that Angkar had taken him to be reeducated. Feeling compassionate towards the two little kids, I put them in the cart so they would not have to walk. Because it was getting hotter and we were hungry, we decided to take a short break for lunch at Toek Vil village. Along the way, we met several black shirted soldiers on motorbikes who asked about our former jobs. I gave them the same response. At about 5 p.m. we arrived at Kha-nat village.

While we were resting under a big tamarind tree, two Khmer Rouge soldiers appeared, asking me to repair a broken motorbike. After I fixed it, they told me not to leave because Angkar was preparing shelters for people. Two days passed before we were allowed to move our possessions and go to a house.

A week later, a Khmer Rouge cadre named Sal came to rule Kha-nat village. He called people to come for a meeting and hear Angkar's plan. The plan was that people needed permission from the official authority in order to travel; otherwise, they would be responsible for the consequences.

In the morning, about 50 families were assigned to move south of Kha-nat village. They took a cart path near Kok Khmaoch. Building shelters was quite difficult because we had to barter clothes, tobacco, and other materials with the base people for bamboo leaves, sugar palm leaves, wooden columns, and other construction materials to build our huts. Day by day, there was less and less food. Not long after that, Angkar declared that it would collect people's possessions and turn them into community property, and they would create a cooperative dining hall. Angkar appointed all the base people to watch over the 17 April people. It also assigned people to cultivate rice, build levees, dig channels, clear forests, uproot tree trunks and plant yams. Angkar directed us to work for a yield of

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3 tons of rice per hectare. Nevertheless, every meal was only watery porridge which sometimes was mixed with corn, yam, or manioc.

One day when I was on my way to chop wood at Baray, I saw many corpses lying in trenches. I thought they had probably been teachers, soldiers, and other government officials who were taken from Phnom Penh to be reeducated in Siem Reap.

In 1976, Angkar pushed people to work even harder, yet the food rations were becoming smaller. As a result, I became absolutely exhausted, skinny and sick. However, Angkar commanded six of us to clear vines in a forest south of Angkor Wat. There I saw a huge pile of bones.

In my village, Angkar divided labor according to age. The elderly men made ox-carts, baskets, rice mills, and ropes for tying cows and buffalos. The elderly women cut banana trees to make mats for drying rice and looked after children. The adults had to do various kind of cultivation. The youths worked in the mobile units. The children were assigned to tend buffalos, and to collect cow dung and water plants for making natural fertilizer. In addition, Angkar assigned the base people to observe the 17 April people. Anyone who did not follow Angkar would be accused of being the enemy.

Angkar of the Super Great Leap Forward planned that the people of Kha-nat village would cultivate lowland, upland, and floating rice fields. They worked day and night, but they never had enough food, even in the harvest season. Some people had banana and papaya trees, water convolvulus, and various leaves and vegetables to mix with their watery porridge in order to temporarily sate their hunger. At night, I secretly planted yams and because of this I became sick. Later, Angkar ordered me to cut bamboo at Ralom Cheung Spien village in the northern region where the minority people lived. Then I was sent to plough in the lowland rice paddies.

One day, a man who had returned home without informing Angkar was beaten and tied to a

running horse. After that day, we never saw him again. Another time, a pregnant woman fell on a dike. The Khmer Rouge militiamen accused her of being lazy. Then they stomped on her abdomen until she died. We (the 17 April people) discussed this and decided that if the Khmer Rouge mistreated innocent people like us again, we would fight for justice to the death.

One night in 1977 while I was sleeping, a group of Khmer Rouge militiamen with weapons came to my hut and arrested me. They hit me with their rifles butt until I pissed. My arms were tied and handcuffed behind my back. My brother-in-law was also arrested that night. As the Khmer Rouge led me to the truck, my mother-in-law cried out loudly, "Where are taking my son to?" They responded angrily, "We arrest only those who betray Angkar." All ten prisoners in the truck were sent to a detention center in Siem Reap. My arms swelled up, my legs were shackled, and I hurt from the wounds the Khmer Rouge had given me. I looked around and saw about 300 prisoners who were shackled, sleeping in rows.

When morning came, five soldiers brought their notebooks to record the biographies of the new prisoners. The militiaman asked me about my previous job. I answered that I was a motorbike repairman. In detention, we had only watery porridge and soup made of banana and *rambutan* leaves, and a green vegetable. Two female prisoners cooked for the prisoners.

Later the militiamen put me in a small stone cell that was large enough for only two prisoners. It held a jar and a steel helmet for containing excrement and urine. Three days later, the Khmer Rouge put another prisoner in my cell. His name was Sim, a district chief of Chikreng, who was accused of betraying the revolution. In the morning, the militiamen would take him out for interrogation. Every prison guard had keys, a stick, ax, metal pipe, hammer, a walking stick with a knife hidden inside, and electric wire twisted in bundle. At noon, they bought him back to detention, and a moment later the guard would

bring a small plate of rice and bowl of soup for him. Sim would eat half and leave the other half for me. In the afternoon, he was taken out for questioning again. In the evening, the guard brought Sim back. He told me in a whisper that if Angkar asked him whether he betrayed the revolution or not, he would rather answer "yes" to avoid being hurt. But he would surely die no matter whether the answer was "yes" or "no."

A few days later, the guard unlocked my shackles and ordered me to fix motorbikes. He led me to a court where I saw a covered truck, three motorbikes, screwdrivers, and six Khmer Rouge soldiers. "You must repair these well; otherwise, I will take your life," they threatened. With trembling hands, I tried to fix the bikes. At noon, the guard took me back to prison. In the afternoon, I was taken out to work again.

One evening while I was working, a young Khmer Rouge soldier got out of an A-2 truck and asked me, "How long have you studied fixing motorbikes?" "I have had this skill since 1968," I responded. He then asked, "Did you ever join the army?" "No, never," I said.

Twenty days later, Sim was taken out to killed, but before that the militiamen allowed him to wear new clothing and prepared a meal for him to eat with his wife, who was a chief of the women's unit in Chikrek (she, too, was in detention). After that, the militiamen took him along with 100 other prisoners. Later, his wife was beaten as punishment by the prison guard. Her face, arms and legs were so swollen she could hardly walk until the day they killed her.

I was then moved to a big cell that held 50 prisoners. In the morning, the militiamen took me out to repair a C-90 motorbike that belonged to the son of the region chief.

I was completely desperate and thought that I could never come back home and meet my family. I ate anything I could find, including, crickets,



grasshoppers, frogs, toads, tadpoles, crabs, and wild leaves.

One day, near Thaom Yuth pagoda, a young Khmer Rouge cadre brought me a bicycle to paint. A lot of Khmer Rouge cadres watched me. Seeing that I was doing a good job, they brought more bicycles for me to paint.

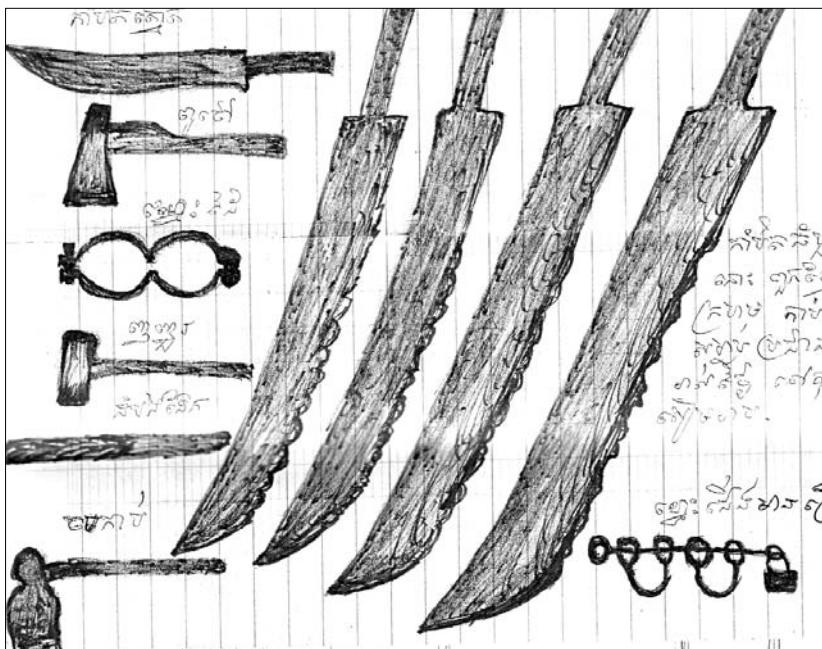
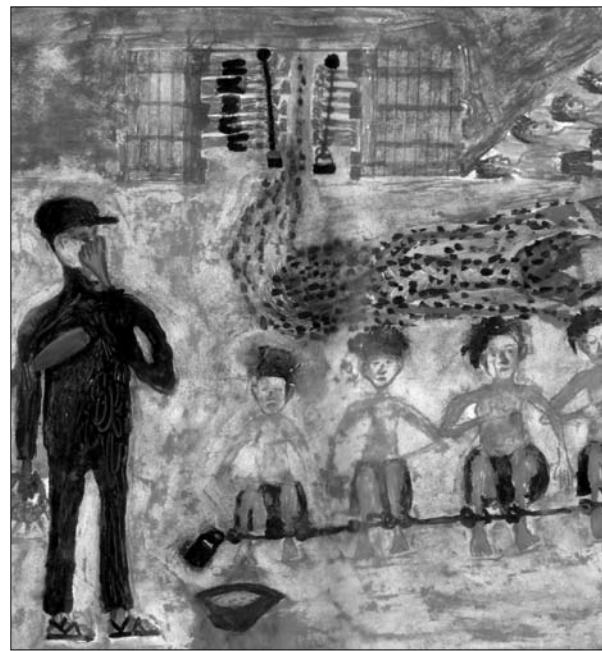
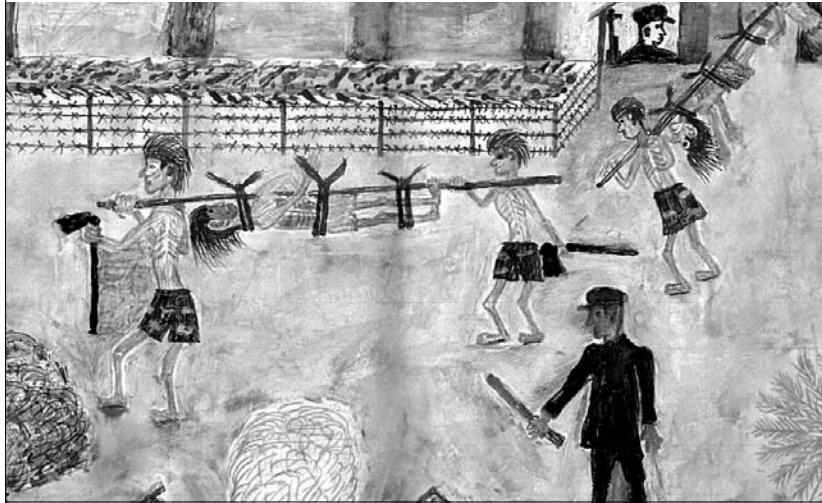
All the working prisoners had to seek permission from the guards before doing anything, even such mundane activities as going to the toilet, picking up things to eat, or drinking. If we did something without their consent, we would be beaten until the Khmer Rouge felt content. One day, I tried to take a small portion of dry porridge from the bottom of a pot. But a guard saw me and hit my neck with an oar until my vision blurred. Another day, I picked up a jackfruit seed that a guard had thrown away. This time, he told me to kneel down and then beat me on the waist with a huge stick.

And one day, another prisoner and I were carrying a pot of porridge that was hung from a pole when a guard named Sam pushed the other prisoner. The pole lurched forward, and I fell down. The boiling porridge, which had just been taken from the fire, burned my legs, arm, and torso. Because we had no medicine, I collected rotten banana tree trunks, soaked them in lubricant, and applied the

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Paintings by Som Rithy

The Pictures describe what he saw in a security ceter in Siem Reap during his imprisonment



salve on my wounds. Seven days later, my body swelled up like that of a corpse. I was miserable for the next three months until I recovered.

If a prisoner intended to escape, the guards would beat that person to death. I once witnessed a guard beating a boy. "Why did you run?" he asked. "I miss my parents so much," answered the boy. The guard savagely hit him on his back and said, "Your mother was killed, you son of traitor!" The boy, too, was murdered the following night.

One day, a guard ordered me and another prisoner named Sei to repair a US covered truck at the district court. The truck had been used as a military ambulance during the Lon Nol regime. While we were mending it, Sei murmured softly, "Rith, have you ever seen the knife used for killing people?" "No, never" I answered. Sei said, "If you want to find out, have a look in back of the driver's seat." I peeked in and saw a rusty, saw-bladed knife covered with blood.



Another day while I was working near the forge, a Khmer Rouge soldier named Prunh ordered a worker to temper iron and make two knives with large round handles. Prunh said, "The previous knives were kind of difficult to use. This time, you have to make it properly; otherwise, you will die." On hearing this, I became very frightened.

In addition to repairing motorbikes, I carried pots, distributed helmets the prisoners used as food containers, collected human waste for making fertilizer, and buried dead prisoners. Because I worked near the detention center, I saw the trucks bringing new prisoners and taking the old ones out. On average, 200-300 new prisoners come in every day, and about the same number were taken away. Sometimes the Khmer Rouge took the prisoners out twice a day. They were beaten by the guards each time they were interrogated.

Some prisoners died in their bad-smelling cells, and others committed suicide by biting off their tongues, suffocating themselves, plunging into deep wells, and cutting their veins. Not a single day had passed without prisoners committing suicide. Every evening, I had to go from cell to cell to ask whether there was dead person inside and how many had killed themselves. The corpses were not wrapped; their wrists and ankles were tied to a pole to be carried away. The bodies were buried in Thoama Yuth pagoda or an area to the west of the pagoda. We dug holes that could hold 5 to 10 corpses. After we buried the bodies, we asked the guard for permission to pick water convolvulus and bring it home for making soup.

The detention center had about 60 of Khmer Rouge soldiers as guards. They would count and record the number of prisoners regularly. Those young



soldiers cursed, beat and did whatever they wanted to the prisoners. Having been in prison for almost 2 years, 28 prisoners and I were released and sent to Memai Bridge, about 55 kilometers from Siem Reap province. Before leaving, the prison chief had advised me to try my best to fulfill Angkar's assignments so that I did not return to prison. Moreover, he gave us 12 pigs. As the truck drove out of the detention center, I began to feel as if I had come back to life again. A week after I started working at the bridge, I heard that my wife, daughter and mother-in-law had been moved and were living about 4 kilometers away.

On January 7, 1979, a Vietnamese tank came and we began walking. It took us five days to reach Siem Reap. Then I left for my home village in Battambang in order to see my family. When I arrived, my mother rushed to hug me and burst into tears. Only two of my siblings were alive. My father was killed by the Khmer Rouge. My elder brothers Da and Tha died of hunger. My youngest brother Nareth had his throat cut by the Khmer Rouge. When the first cut did not kill him, he struggled to crawl out of the grave. But the Khmer Rouge saw him and cut him again until he died. My sister-in-law became a widow with five children after the Khmer Rouge murdered her husband. They poured gasoline over my sister-in-law Ton and set her on fire, leaving her three children orphans.

I managed to survive because I was skilled at repairing motorbikes. I would like to appeal to the Cambodian people not to be misled by communism. I would like to declare to all Cambodian compatriots that I cherish democracy. I would like to ask both the national and international courts to find justice for me as well as for the three million innocent Khmer citizens who died during the regime. Please make the Khmer Rouge tribunal a reality as soon as possible.

Som Rithy submitted this article to Searching for the Truth.

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WHERE IS MY FAMILY?

Say Suokia

On April 17, 1975 the Khmer Rouge liberated Cambodia from the Lon Nol regime. I was 12 years old then, living with my parents and siblings in Phnom Trel village, Phnom Kong subdistrict, Angkor Chey district, Kampot province. One day, while I was playing with other kids in the neighborhood, I saw a huge crowd of people walking on the road in front of my house. Some of them were pushing their cars or three-wheel bikes; others were pulling carts, motorbikes or bicycles. It was a spectacular scene: they were dressed colorfully, walking with their belongings. Some of them stopped to search for their relatives or friends, and many were walking without any particular destination.

Eleven travelers came to our house, asking my father for shelter and a place to cook food. I was happy to get to know them, and their children were also fond of me. I took spiced dried beef and other foods from my mother and gave it to them. Seeing that they were friendly, my father invited them to stay temporarily, and they agreed.

Not long after that, the regional militia unit came to our house. They accused my parents of hiding 17 April people. As a result, those new people left, and my family was evacuated to Pich Changva village, about 2 kilometers from my home.

My father Say Khay was 45 years old in 1975. He was assigned to build a hospital. My mother, who was about to give birth, asked for maternity leave. My five sisters were moved to Banteay village, Chinear subdistrict, Traing district, Takeo province.

My father worked from dawn to dusk. Sometimes he worked overtime until my mother sent me to tell him it was time to eat. When he returned from work, he always took off his shirt and wore old loose short trousers. Although my mother asked him to change his clothes, he would not because he was afraid that Angkar would label him as a capitalist.

My father told my mother that the militiamen were looking into his background. He thought that he might not be able to see his unborn baby. He said that if he ran away, he could survive, but Angkar



would kill his wife and children. So he decided to stay to make his family safer.

Three days later, while he was hammering barbwire to make it into nails, two militiamen dressed in black and carrying M-16s walked toward my father. "Angkar knows that you used to be an engineer, so Angkar would like to invite you to be an instructor since Angkar needs people with skills to help build the country." When he heard this, my father's expression changed. He looked straight at his friends and said, "Goodbye everybody." His friends were sad, but dared not speak a word because they knew that no one ever came back when Angkar took them away. Without wasting a minute, the two militiamen walked him about for 100 meters, and tied his arms to his back tightly.

My 16-year old cousin Say Sok and I secretly followed my father. From our hiding place in the bushes, we watched. I wanted to run to him, but my cousin grabbed my hands and filled my mouth with grass to prevent me from shouting out. They walked my father until they reached his cousin's house. He asked the militiamen to let him have a drink there.

Next, the militiamen walked my father to the national road and tied him to a big tree. Then they called a man named Chhin who was about my father's age and used to live in the same village. After the two men were walked for about 700 meters, the Khmer Rouge collected Chheang Chhuon, who was living in the same subdistrict. He had been a customs officer during the Sihanouk regime (today, he is my father-in-law). The militiamen took the three men to the west; after that I no longer followed them.

My mother did not know what had happened, so she secretly cooked some rice and boiled a pigeon she had raised for a family meal. When she learned about my father, she fainted. Twenty days later, she gave birth, and a week later, Angkar sent my family to Banteay village, Chikmar subdistrict, Traing district, Takeo province. My mother hoped she would meet her other children there, but was disappointed, as they had been moved to another unit.

After three months in Banteay village, my mother received word that my elder sister Say San had broken both legs when a mound of fertilizer she was digging collapsed. They sent her home to heal. In the meantime, I was moved to a worksite along the Vietnamese border.

In 1979, when the Khmer National Liberation Front overthrew Pol Pot's regime, my family members were separated. After January 7, 1979 I heard an old woman say that my mother and siblings were alive. So I decided to return to my home village and we eventually reunited.

As a widow with eight children, my mother had a lot of hardship in her life. Sometimes she would rather sit and watch her children eating than eat herself. She was never negative toward her family.

In 1985, I studied at Angkor Chey senior high school. The school director offered to take me to visit Praphnom village in Kampot province, whose mass graves hold the bodies of thousands of innocent people. I brought packages of food to offer to the monks. I wanted to pray for my father, who probably lost his life there.

I saw the committees collecting the skulls and bones and neatly piling them. The committee, school director, and students held a ceremony to show their respect to the spirits of their families and other guiltless people who died during the Khmer Rouge regime. The brutal cadres pulled out people's fingernails, electrocuted them, broke their skulls with hoes, stabbed them with bamboo or knives, and removed their livers. Then, after the school director spoke, I gave a speech about the tragedy of the Khmer Rouge genocide, which massacred good citizens, patriots, government officials, scholars, professors, students, engineers, and monks. Then the committee began placing food in the monks' bowls. Seven monks were asked to pray and to the souls of dead who had reincarnated.

During Democratic Kampuchea, I lost five relatives: my father, father-in-law, grandparents, and uncle.

Say Suokia is a survivor of the Khmer Rouge regime and reader of Searching for the Truth.

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THE RIGHTS OF THE DEFENDANT

Gabriel Kuris

The DC-Cam 2005 legal training project focused on "Criminal defense before the upcoming Khmer Rouge Tribunal." This document is an excerpt from the legal training course materials.

Introduction

A court cannot be fair if it does not respect the rights of the defendant, including the right to be presumed innocent, the right to have a lawyer, and the right to a fair and public trial. Because anyone might be wrongly accused of a crime he did not commit, defendant rights are fundamental to a lawful, just society.

In the case of the Khmer Rouge Tribunal, however, belief in defendant rights may be secondary to feelings of anger and impatience. Many people feel, understandably, that those accused of being most responsible for the crimes of the Khmer Rouge do not deserve the chance to speak another word.

Before looking at defendant rights in the Tribunal, it is important to consider why these rights should be respected at all.

Why Defendant Rights are Important in the Khmer Rouge Tribunal. Both Cambodian domestic laws and the International Covenant on Civil and Political Rights (ICCPR, see below) guarantee certain rights to defendants. Likewise, the laws governing international and mixed tribunals contain clear provisions on defendants' rights (see, for instance, Art. 21 of the ICTY Statute and Art. 66 and 67 of the ICC Statute). But why should those accused before the Khmer Rouge Tribunal (KRT) be allowed to defend themselves in fair trials, when the Khmer Rouge allegedly failed to deliver fair justice? Why should we presume defendants innocent when we believe they were members of a regime that committed unspeakable crimes? Below are a few reasons why defendant's rights are especially important in the Khmer Rouge Tribunal.

First, defendant rights are necessary to determine the full **truth**. Although the Khmer Rouge clearly committed terrible crimes, it is not certain that any of the defendants who will be tried by the KRT are individually responsible for these crimes. We cannot find out what crimes happened, how they happened, and who is responsible for them without allowing the accused a chance to defend themselves and speak from their own perspectives.

Second, defendant rights are necessary to make the KRT **legitimate**, both within Cambodia and abroad. If the trial appears biased or unfair, the KRT may be dismissed by the rest of the world. Within Cambodia, an unfair trial would open more room for doubt and thereby allow those convicted to maintain their claim of innocence. However, after a fair trial, those convicted will be more likely to accept their wrong doing, which may ultimately help to heal the wounds of society. In the same way, a legitimate, fair trial is beneficial to the victims as they can feel sure that the correct people have been convicted after a proper testing of the evidence.

Ultimately, granting defendant rights shows the society's commitment to **justice**, rather than revenge. By giving equal rights to everyone, citizens affirm that they are different from criminals. It is criminal to abuse the law to serve one's interest; it is just to apply the law equally and blindly. It is criminal to break the law to harm those who are vulnerable; it is just to punish only those who are *proven* guilty. Despite the public cries for swift revenge, it is the court's responsibility to carefully apply the law and treat the defendants in the KRT as innocent citizens, no different from anyone else.

Sources of Defendant Rights. There are three major sources of law for defendant rights in the KRT. The first two are the laws establishing the tribunal, particularly the **ECDK Law**, Articles 33 to 35, and the

UN-RGC Agreement, Articles 12 and 13. The third source is the ICCPR (Articles 14 and 15), which is binding because Cambodia signed and ratified the Covenant, and because the ECDK Law and the UN-RGC Agreement require that the Tribunal follow it.

The ICCPR is the most fundamental of the sources of law that govern the rights of the defendant before the KRT because its list of defendant rights is more comprehensive. Further, the rights guaranteed in the ICCPR have been interpreted and clarified extensively over the past few decades by the UN Human Rights Committee (HRC).

Besides these sources, some of these rights are also set forth in the Cambodian Law on Criminal Procedure of 1993, the UNTAC Law of 1992, as well as in the Constitution of the Kingdom of Cambodia of 1993.

Presumption of Innocence

Article 14 (2) of the ICCPR provides that "Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law." Similar expressions appear in Article 13 (1) of the UN-RGC Agreement and Article 35 of the ECDK Law. The UNTAC Law, Article 25 on Presumption of Innocence, also sets forth: "All suspects, indicted and accused persons benefit from the most complete presumption of innocence." This right also appears in the 1993 Constitution, Article 38.

The right to be presumed innocent implies, as follows:

1. The judges or court in charge of a criminal case shall process the case in accordance with the presumption of innocence.

They must assume, at all stages of the criminal proceedings, that suspects or accused persons are innocent until proven guilty. The presumption of innocence may be violated by judges or a court if the burden of proof is put on the suspect or defendant during the proceedings or if they present someone as guilty of an offense before he has been proven guilty.

The burden of proof rests with the prosecutor.

In Cambodia, the prosecutor may submit to the court evidence of a criminal offense by any means in order to convince the judge of the guilt of an accused person (see Art. 125 of the Cambodian Law on Criminal Procedure). In case of doubt, the accused must be found not guilty in accordance with the ancient principle in *dubio pro reo*. Note that the HRC General Comment No.13 specifies that "No guilt can be presumed until the charge has been proven beyond a reasonable doubt."

The presumption of innocence will be violated if a judicial decision concerning a person charged with a criminal offense reflects an opinion that he is guilty before he has been proven guilty according to law.

2. Public officials must refrain from prejudging the outcome of a trial.

Public officials include ministers, military and police officers, and all other public authorities.

As the HRC General Comment No. 13 states: "It is, therefore, a duty for all public authorities to refrain from prejudging the outcome of a trial. For example, a public statement by a representative in the National Assembly implying that a defendant 'deserves punishment' would violate this right."

Public authorities can inform the public about criminal investigations in progress. But they should do so with all the discretion and circumspection necessary if the presumption of innocence is to be respected.

The 1979 Trials of Khmer Rouge Leaders

The apparent violation of the right to be presumed innocent was one of the most sharp and serious criticisms of the 1979 Khmer Rouge Tribunal. There were many criticisms of this Tribunal, some of which have been disputed. But the trials clearly failed to meet international standards for the presumption of innocence. The defendants were declared guilty even by the Tribunal's title: "The People's Revolutionary Tribunal Held in Phnom Penh for the Trial of the Genocide Crimes of the Pol Pot-leng Sary Clique." The judge presiding over the trial exposed his belief that the defendants were guilty by stating the day before the trial: Trying the Pol Pot-

Ieng Sary clique for the crime of genocide will on the one hand expose all the criminal acts that they have committed and mobilize the Kampuchean people more actively to defend and build up the people's power, and on the other hand show the peoples of the whole world the true face of the criminals who are posing as the representatives of the people of Kampuchea."

Thus, despite the evidence against Pol Pot and Ieng Sary, the trial was widely perceived as an illegitimate "show trial," and its verdict of guilt was never enforced. If public officials do not carefully respect the presumed innocence of defendants, the upcoming KRT might be widely perceived as illegitimate like the 1979 Tribunal.

The Right to a Fair Trial

Article 14 (1) of the ICCPR guarantees defendants the right to a “fair and public hearing by a competent, independent, and impartial tribunal established by law.” This right is echoed by Article 33 of the ECDK Law and Articles 12 (2) and 13 (1) of the UN-RGC Agreement.

Competence, Independence, Impartiality. Ensuring the competence, independence, and impartiality of the judges in the KRT has proven to be an especially contentious issue in the process of establishing the Tribunal. **Competence** means that judges must be wise, trustworthy, and highly capable of understanding and applying the law. **Independence** means that they must act without regard to the views of the public or political leaders. **Impartiality** means that they must make their decisions rationally, unaffected by personal feelings and biases.

Article 10 of the ECDK Law lists many qualifications that the KRT's judges must meet, including high moral character, spirit of impartiality, integrity, and experience in international law. However, many critics have called into question the ability to find competent, independent, and impartial Cambodian judges for this mixed tribunal, because the Cambodian judiciary has been widely criticized as corrupt and ineffective. UN Secretary General Kofi Annan stated in this regard in March 2003 that: "I cannot but recall the reports of my Special Representative for human rights in Cambodia, who has consistently

found there to be little respect on the part of Cambodian courts for the most elementary features of the right to a fair trial. I consequently remain concerned that these important provisions of the ... [UN-RGC Agreement] might not be fully respected by the Extraordinary Chambers and that established international standards of justice, fairness and due process might therefore not be ensured." Some NGOs, like Human Rights Watch and Amnesty International, have refused to support the tribunal because of such concerns.

Generally, judges are presumed to be competent, impartial, and independent until proven otherwise. In the *Prosecutor v. Akayesu* case, the ICTR Appeals Chamber (judgment of 1 June 2001, para. 91) determined that judges can only be proven biased or incompetent on the basis of adequate and reliable evidence reaching a "high threshold." The Court wrote, "In the absence of evidence to the contrary, it must be assumed that judges of the International Tribunal can disabuse their minds of any irrelevant personal beliefs or predispositions."

Equality of Arms. To ensure **equality of arms**, a Court must put the defense and the prosecution in a *procedurally equal position*, both before and throughout a trial. This means that both sides have an equal opportunity to present their case, equal access to evidence and witness testimony, and equal rights and privileges before the court. As the Appeals Chamber for the ICTY held in the *Prosecutor v. Tadic* case (judgment of 15 July 1999, para. 48), “Equality of arms obligates a judicial body to ensure that neither party is put at a disadvantage when presenting its case.”

Equality of arms does not mean equality of resources, as the ICTR and ICTY have both concluded. Rather, equality of arms means that the court must treat both sides in a manner ensuring procedural equality and grant both sides adequate time and opportunity to prepare their case.

Public Access. Article 14 (1) of the ICCPR contains the right to a public hearing and public verdict. Article 12 (2) and 13 (1) of the UN-RGC Agreement and Article

34 of the ECDK Law both guarantee that the KRT's hearings and judgments be open to the public.

All these laws include exceptions to this right under special circumstances, but the right to a public trial is considered an essential safeguard of justice as it helps ensure **transparency**: if a trial is public, it is much harder for judges to abuse the law and deny defendant rights. Further, a public trial has more **legitimacy**, because the public can verify that it is fair.

Public access to the KRT's hearing sessions will be especially important to help the process of **truth and reconciliation**. Public access will spread the truths exposed in the trial and help victims of the Khmer Rouge recover from the crimes they suffered by finally seeing a court recognize these crimes and carry out justice. Additionally, if defendant rights are respected, the KRT will also offer an opportunity for Cambodians to **be informed** of their rights before Cambodian courts.

The KRT will be held in Phnom Penh and everyone will be allowed to attend the hearing sessions for free, Cambodians as well as foreigners. A special section will be reserved for the general public, including those with personal interests in a certain case. The trial will be recorded on videotape and written transcript, broadcast live on television, and possibly broadcast outside the court if the audience cannot fit inside the chamber.

There are a few instances where the Court might decide to hold a hearing session *in camera*, closing it from public access. The UN-RGC Agreement and ECDK Law allow for exclusion of the public "where publicity would prejudice the interests of justice." Besides concern about prejudice, Article 14 (1) of the ICCPR lists a few other reasons for a court to exclude the public from a hearing: "morals, public order, national security in a democratic society, or when the interest of the private lives of the parties so requires."

The most likely reason the KRT might close a hearing is to protect certain witnesses. The Court might allow a witness to testify privately if his testimony

might lead to public danger or embarrassment. For example, courts often allow rape victims to testify in private. Sometimes courts also allow witnesses to testify anonymously, keeping their identities secret by using methods such as screens, video links, or voice distorters if it would otherwise endanger them or their families.

Note that some NGOs have seriously criticized the laws of the KRT for failing to ensure adequate witness protection. For example, Amnesty International has written, "There is scant provision for victim and witness protection [in the KRT]... Victims and witnesses will not come forward to testify without the necessary assurances for their safety from international, rather than domestic authorities."

Right to Defense Counsel

The right to counsel includes the defendant's right to choose his own counsel, and the right to have a lawyer provided if he cannot afford one. This right is included in Article 35 (d) of the ECDK Law and Article 13 of the UN-RGC Agreement. It is fully described in Article 14 (3) (d) of the ICCPR, which provides: "[A defendant has the right]...to be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it" Legal assistance must be provided throughout the whole criminal proceedings, including during the pre-trial investigation.

None of the KRT's laws specify how counsel will be freely provided to defendants who are **indigent** (too poor to afford their own lawyer). Thus, the KRT's judges will have to look to the procedures followed by Cambodian courts. In Cambodia, the president of the Court's registrar must determine and certify that a defendant is indigent; but no standard is provided. If a defendant is found indigent, the president of the trial chamber will ask the Bar Association to appoint

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a lawyer to represent the defendant. The Bar Association has a small team of lawyers who represent indigent defendants. Besides these lawyers, the Bar Association might instead appoint a lawyer in private practice or a lawyer from one of the few non-governmental organizations that provide legal services to the poor, such as the Cambodian Defenders Project and Legal Aid of Cambodia. In practice, judges often contact one of these lawyers directly and bypass the Bar Association.

Note that according to the UN-RGC Agreement, Article 17 (c), the United Nations will pay the remuneration of defense counsel of any indigent defendants, as it did for the international or mixed criminal tribunals for Rwanda, Yugoslavia and Sierra Leone.

One problem the KRT might face is ensuring an effective defense by competent defense counsel. The UN Human Rights Committee (HRC) has interpreted the ICCPR to hold that the counsel provided to defendants must be reasonably competent. In *Phillip v. Trinidad and Tobago*, a man charged with the capital crime of murder complained to the HRC that he was provided counsel only three days before his trial, and the lawyer provided was inexperienced. The HRC ruled: "Although Art. 14 (3) (d) did not entitle the accused to choose the lawyer provided to him free of charge, the court should ensure that the lawyer's conduct of the trial was not incompatible with the interests of justice."

Cambodia has few criminal defense lawyers with experience and practice in international criminal law. Furthermore, many of these lawyers might be unwilling to represent defendants before the KRT. Thus, the Tribunal might need to hire foreign counsel to assist the Cambodian lawyers provided to indigent defendants, which would be permitted under Article 21 (3) of the UN-RGC Agreement. Defendants could even argue that they have the right to foreign counsel to ensure equality of arms, since the prosecutorial team will certainly include foreign lawyers experienced in international law.

The Right to Adequate Time and Facilities to Prepare the Defense

Article 14 (3) (b) of the ICCPR grants a defendant the right "To have adequate time and facilities for the preparation of his defense and to communicate with counsel of his own choosing." This right is also provided by Article 13 (1) of the UN-RGC Agreement and Article 35 (b) of the ECDK Law.

This right is strongly related to equality of arms. The word "*facilities*" has been interpreted broadly to include access to relevant evidence, the ability to examine and copy documents that might help a defendant's case, the ability to seek the opinion of independent experts, and access to any official communications between the prosecutor and the court. This access to evidence begins during the investigation stage, before the indictment. This right also includes the right to confidential communication between defendant and his counsel, which begins immediately after the defendant is arrested.

The extent of this right depends on the factual and procedural circumstances of the case at issue – some cases require more time to prepare for than others, and some cases require more extensive facilities than others. The HRC has interpreted this right most widely in trials for the most serious crimes, such as murder. For example, in *Phillip v. Trinidad and Tobago*, the HRC ruled that one weekend was insufficient time to prepare a defense for the capital crime of murder. And in *Yasseen and Thomas v. Guyana*, the HRC found a violation of the right to adequate facilities because the defendants, charged with murder, were not allowed access to a police record of interrogation used as evidence against them. Considering the severity of the crimes before the KRT and the difficulty of defending oneself against accusations of crimes which occurred over 25 years ago, this right will probably be interpreted broadly.

Right to Call and Examine Witnesses

Related to equality of arms and the right to have adequate time and facilities is the defendant's right to call and examine witnesses. This right is provided in Article 14 (3) (e) of the ICCPR, which reads as follows: "[A defendant has the right]... to examine, or have

examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him." This right is also set forth in Article 13 (1) of the UN-RGC Agreement and Article 35 (e) of the ECDK Law.

Before the KRT, this right means that defendants will have the right to have the court compel witnesses to appear before the court, and to have the right to cross-examine the witnesses called by the prosecution in order to challenge their testimonies. The prosecution must tell the defense which witnesses they expect to call, and the defense must be given adequate time to examine them.

Witnesses for the prosecution (and also for the defense) can testify anonymously, with their identity kept secret from the court and the public, if necessary for their protection. However, usually the defense counsel must be informed of their identity to allow the defense equal opportunity to examine them. If the defense counsel had to examine a witness without knowing his identity, he might be unable to challenge the credibility of the witness. For example, in the case *Windisch v. Austria*, the European Court of Human Rights (ECHR) ruled that it was unfair for the court to convict the defendant on the basis of statements from anonymous witnesses. To reach this conclusion, the court noted that, at no time in the proceedings, did the defense have the opportunity to directly examine the witnesses. It also stressed that: «Being unaware of [the witnesses'] identities, the defense was confronted with an almost insurmountable handicap: it was deprived of the necessary information permitting it to test the witnesses' reliability or cast doubt on their credibility.»

There are only a few exceptional circumstances where international criminal or mixed tribunals have allowed the identity of a witness to be kept secret from the defense (e.g., if the victim reasonably fears retribution from the defendant). In such cases, the ECHR considers that "conviction should not be based either solely or to a decisive extent on anonymous

statements" (see, for instance, ECHR judgment in the case *Kostovski v. Netherlands*).

Other Defendant Rights

There are many other defendant rights provided for by the ICCPR, the ECDK Law, and the UN-RGC Agreement. A few of these are unlikely to provoke controversy in the Tribunal, but are worth a brief note.

Right to Be Tried without Undue Delay. Anyone accused of a crime has the right to be tried, and given a verdict, within a reasonable period of time. Article 14 (3) (c) of the ICCPR guarantees the right to be tried "without undue delay." This right is also provided by Article 35 (c) of the ECDK Law. This right applies to both bringing a case to trial and processing it. The period of time to take into consideration runs from the time that the suspect/accused is informed that steps are taken by the authorities against him to the day where a definite decision is delivered (e.g., a judgment or a dismissal of proceedings). The meaning of "undue delay" depends on the complexity and circumstances of each case.

Note also that the right to be tried without undue delay is rooted in both the right to liberty (Art. 9 of the ICCPR) and the right to be presumed innocent. Governments shall ensure that those who are in pre-trial detention are not unnecessarily deprived of freedom and are brought to trial as quickly as possible, since they are presumed to be innocent. Furthermore, someone who is detained for a long period of time is more likely to appear guilty to the public.

Right against Self-Incrimination. Article 14 (3) (g) of the ICCPR recognizes the right of the defendant "Not to be compelled to testify against himself or to confess guilt." This language also appears in the ECDK Law, Article 35 (g). This right to remain silent distinguishes defendants from witnesses, whom the courts can compel to testify.

The European Court of Human Rights hold that the "right to remain silent under police questioning and the privilege against self-incrimination are generally recognized international standards which lie at the

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heart of the notion of a fair procedure (...). By providing the accused with protection against improper compulsion by the authorities these immunities contribute to avoiding miscarriages of justice and to securing the aims of Article 6 [of the European Court on Human Rights, which guarantees the right to a fair trial]." (see ECHR judgment in the case *John Murray v. United Kingdom*, 8 February 1996, para. 45).

Although not specifically stated in the ICCPR, the EHRC has further held that any evidence obtained through coercion cannot be accepted as evidence in court. In addition, if a defendant refuses to testify, this refusal cannot constitute evidence of guilt. Finally, defendants must be informed of this right to remain silent before being interrogated. Thus, any statements made by defendants to investigating authorities before being informed of the right to remain silent could be challenged if submitted as evidence by the prosecutor before the KRT.

Right to Be Informed of Charges. Article 35 (a) of the ECDK Law guarantees defendants the right "[T]o be informed promptly and in detail in a language that they understand of the nature and cause of the charge against them." This is nearly the exact same language used in Article 14 (3) (a) of the ICCPR.

In its General Comment No. 13, the HRC has stated that to meet this standard, the criminal charge must indicate, orally or in writing, "both the law and the alleged facts on which [the charge] is based."

Right to Appeal. Article 14 (5) of the ICCPR reads: "Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law."

If a defendant wishes to appeal his case to a higher authority, but cannot afford counsel, he has the right to be provided with competent counsel for this appeal (see HRC views in the case of *Hill v. Spain*). The laws of the KRT have established the Supreme Court Chamber, which is an appellate chamber to review appeals filed by the prosecutor or the defense.

Right to Free Assistance of an Interpreter. The

ECDK Law, Article 35 (f), and ICCPR, Article 14 (3) (f), both grant defendants the right "to have free assistance of an interpreter if the accused cannot understand or does not speak the language used in court."

Article 24 of the ECDK law provides that this right to an interpreter begins during the investigation stage. The official working languages of the Tribunal are Khmer, French, and English.

Concluding Remarks

Protecting defendant rights must be balanced carefully against other goals of the KRT, such as revealing truth, punishing criminals, and seeking meaningful justice for the victims. Sometimes, when these goals conflict, a temptation arises to sacrifice defendant rights. However, if the KRT does not ensure that its defendants receive the rights guaranteed under the ICCPR, the ECDK Law, and the UN-RGC Agreement, the tribunal will not be legitimate. It will become a waste, or even a source of injustice itself. But if the KRT carefully respects the rights of the defendant, it will be more likely to achieve all of its goals, and it will serve as a model for the Cambodian judicial system.

UN-RGC Agreement

Article 12

The procedure shall be in accordance with Cambodian law. Where Cambodian law does not deal with a particular matter, or where there is uncertainty regarding the interpretation or application of a relevant rule of Cambodian law, or where there is a question regarding the consistency of such a rule with international standards, guidance may also be sought in procedural rules established at the international level.

The Extraordinary Chambers shall exercise their jurisdiction in accordance with international standards of justice, fairness and due process of law, as set out in Articles 14 and 15 of the 1966 International Covenant on Civil and Political Rights, to which Cambodia is a party. In the interest of securing a fair and public hearing and credibility of the procedure, it is understood that representatives of the Member States of the United

Nations, of the Secretary-General, of the media and of national and international non-governmental organizations will at all times have access to the proceedings before the Extraordinary Chambers. Any exclusion from such proceedings in accordance with the provisions of Article 14 of the Covenant shall only be to the extent strictly necessary in the opinion of the Chamber concerned and where publicity would prejudice the interests of justice.

Article 13

The rights of the accused enshrined in Articles 14 and 15 of the 1966 International Covenant on Civil and Political Rights shall be respected throughout the trial process. Such rights shall, in particular, include the right: to a fair and public hearing; to be presumed innocent until proved guilty; to engage a counsel of his or her choice; to have adequate time and facilities for the preparation of his or her defense; to have counsel provided if he or she does not have sufficient means to pay for it; and to examine or have examined the witnesses against him or her.

The United Nations and the Royal Government of Cambodia agree that the provisions on the right to defense counsel in the Law on the Establishment of Extraordinary Chambers mean that the accused has the right to engage counsel of his or her own choosing as guaranteed by the International Covenant on Civil and Political Rights.

ECDK Law

Article 33

The Extraordinary Chambers of the trial court shall ensure that trials are fair and expeditious and are conducted in accordance with existing procedures in force, with full respect for the rights of the accused and for the protection of victims and witnesses. If these existing procedures do not deal with a particular matter, or if there is uncertainty regarding their interpretation or application or if there is a question regarding their consistency with international standards, guidance may be sought in procedural rules established at the

international level.

The Extraordinary Chambers of the trial court shall exercise their jurisdiction in accordance with the international standards of justice, fairness and due process of law, as set out in Articles 14 and 15 of the 1966 International Covenant on Civil and Political Rights.

Suspects who have been indicted and arrested shall be brought to Trial Chamber according to existing procedures in force. The Royal Government of Cambodia shall guarantee the security of the suspects who appear before the court, and is responsible for taking measures for the arrest of the suspects prosecuted under this law. Justice police shall be assisted by other law enforcement elements of the Royal Government of Cambodia, including the armed forces, in order to ensure that accused persons are brought into custody immediately.

The conditions for the arrest and custody of the accused shall conform to existing law in force.

The Court shall provide for the protection of victims and witnesses. Such protection measures shall include, but not be limited to, the conduct of *in camera* proceedings and the protection of the victim's identity.

Article 34

Trials shall be public and open to representatives of foreign States, of the Secretary-General of the United Nations, of the media, and of national and international non-government organizations, unless in exceptional circumstances the Extraordinary Chambers decide to close the proceedings for good cause in accordance with existing procedures in force where publicity would prejudice the interests of justice.

Article 35

The accused shall be presumed innocent as long as the court has not given its definitive judgment.

In determining charges against the accused, the accused shall be equally entitled to the following minimum guarantees, in accordance with Article 14 of the International Covenant on Civil and Political Rights:

- ◆ to be informed promptly and in detail in a language that they understand of the nature and cause of the charge against them;

- ◆ to have adequate time and facilities for the preparation of their defense and to communicate with a counsel of their own choosing;
- ◆ to be tried without delay;
- ◆ to be tried in their presence, and to defend themselves in person or with the assistance of counsel of their own choosing, to be informed of this right, and to have legal assistance assigned to them free of charge if they do not have sufficient means to pay for it;
- ◆ to examine evidence against them and obtain the presentation and examination of evidence on their behalf under the same conditions as evidence against them;
- ◆ to have free assistance of an interpreter if the accused cannot understand or does not speak the language used in the court;
- ◆ not to be compelled to testify against themselves or to confess guilt.

ICCPR

Article 14

1. All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The press and the public may be excluded from all or part of a trial for reasons of morals, public order or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice; but any judgment rendered in a criminal case or in a suit at law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children.

2. Everyone charged with a criminal offense shall have the right to be presumed innocent until proved

guilty according to law.

3. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality:

- (a) To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;
- (b) To have adequate time and facilities for the preparation of his defense and to communicate with counsel of his own choosing;
- (c) To be tried without undue delay;
- (d) To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;
- (e) To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
- (f) To have the free assistance of an interpreter if he cannot understand or speak the language used in court;
- (g) Not to be compelled to testify against himself or to confess guilt.

4. In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation.

5. Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law.

6. When a person has by a final decision been convicted of a criminal offense and when subsequently his conviction has been reversed or he has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated

according to law, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to him.

7. No one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country.

Article 15

1. No one shall be held guilty of any criminal offense on account of any act or omission which did not constitute a criminal offense, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed

than the one that was applicable at the time when the criminal offense was committed. If, subsequent to the commission of the offense, provision is made by law for the imposition of the lighter penalty, the offender shall benefit thereby.

2. Nothing in this article shall prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognized by the community of nations.

Gabriel Kuris was a 2005 Summer Legal Associate with DC-Cam.

THE USE OF THE TERM “TRIBUNAL” AND “TRIALS”

John D. Ciorciari

(1) When do we use the term «tribunal,» and when do we refer to «trials,» when discussing accountability for the crimes of democratic Kampuchea?

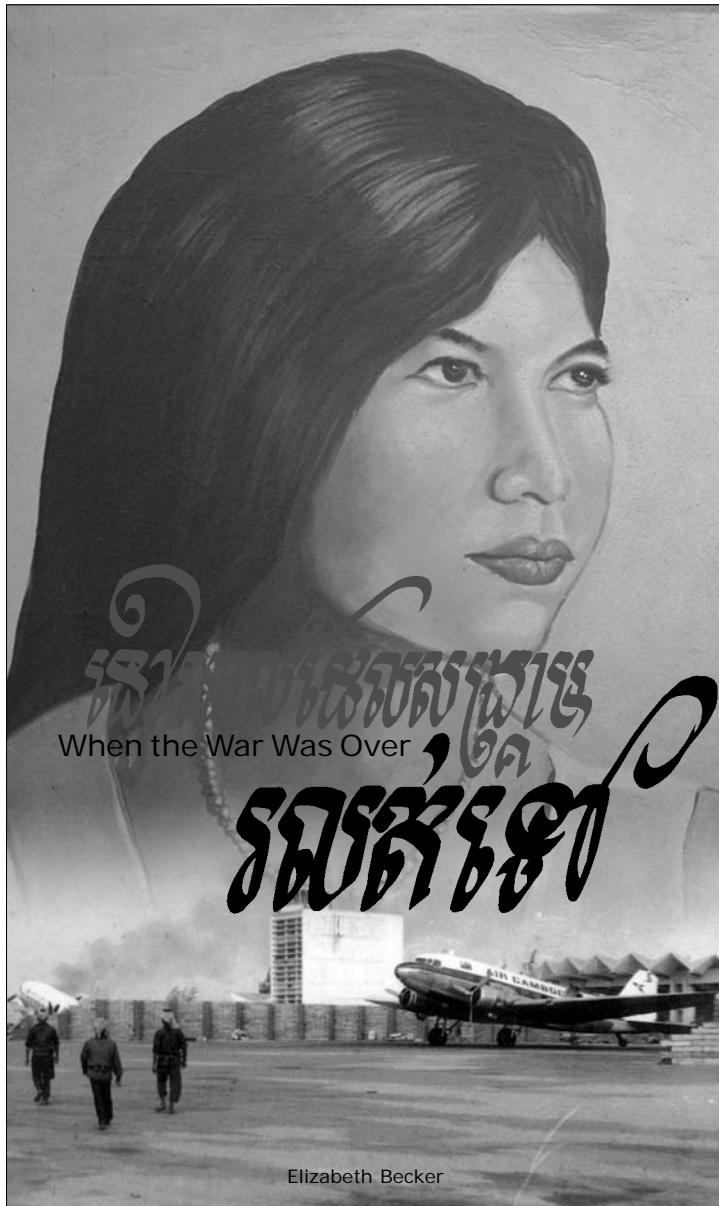
It is important to distinguish between these two terms. The tribunal is an institution; it is a special court that is being created within the Cambodian legal system. Its official name is the “Extraordinary Chambers” and it includes two parts—a trial chamber that will hear criminal cases and an appeals chamber that will have the power to review the trial court’s decisions. The Extraordinary Chambers are not a normal criminal court. They are being established for the specific purpose of putting certain former officials on trial for abuses they allegedly committed in Democratic Kampuchea (DK) between April 17, 1975 and January 6, 1979. While the “tribunal” is an institution, criminal trials refer to particular legal processes to decide whether an accused individual is innocent or guilty. Several trials of former DK officials are likely to occur in the tribunal. Scholars and journalists often refer to the upcoming “Khmer Rouge trials,” but it would be more precise to call these “trials before the Extraordinary Chambers.” The Extraordinary Chambers will not necessarily be the only court to hear cases against former members of the Khmer Rouge organization. For example, former Khmers Rouges could be put on trial in a foreign country

or in a normal Cambodian criminal court. These would also be “Khmer Rouge trials” but would not necessarily follow the same rules and procedures as trials held in the Extraordinary Chambers.

(2) Should we use the term “Khmer Rouge?”

The term Khmer Rouge can be useful as a shorthand way to describe DK officials and cadres, members of the Communist Party of Kampuchea (CPK), and other Cambodians who professed loyalty to Pol Pot and other former DK leaders during the period after 1979. From a scholarly or legal perspective, however, it is more accurate to refer to individuals specifically as officials or cadres of the DK regime, members of the CPK, or supporters of particular rebel factions after 1979. The Extraordinary Chambers will only hear cases for crimes committed by former DK officials. Using the term Khmer Rouge Tribunal is therefore somewhat misleading. That term implies that the tribunal’s jurisdiction extends to a broad range of individuals once affiliated with the Khmer Rouge organization. In fact, the tribunal will only be able to try a small number of “Khmers Rouges” who occupied influential official posts in Democratic Kampuchea.

John D. Ciorciari is a legal advisor of the Documentation Center of Cambodia.



When the War Was Over

ELIZABETH BECKER

Elizabeth Becker was a *Washington Post* correspondent, then became the Senior Foreign Editor of National Public Radio and is currently the Assistant Washington Editor at the *New York Times* in charge of foreign and financial news.

She has reported from Cambodia since 1973, writing in publications including the *New York Times*, the *London Review of Books*, the *Far Eastern Economic Review*, and *Die Tageszeitung*. *When the War Was Over* won a Robert F. Kennedy Book Award and was the basis for the documentary film *Bophana* by Rithy Panh. She is also the author of *America's Vietnam War*, a narrative history.

She holds a degree in South Asian Studies from the University of Washington and lives in Washington, D.C., with her two children. This 724-page book is translated into Khmer by Tep Meng Khean and Sokha Irene, and edited by Youk Chhang.

A T T E N T I O N

The Documentation Center of Cambodia (DC-Cam) and the American Embassy in Phnom Penh recently published a translation of a book entitled, "When the War was over" by Elizabeth Becker.

In this book, Mrs. Elizabeth Becker tells and analyzes historical stories about who was the Khmer Rouge, why this group established a regime that led to the severe destruction of Cambodia, and root causes of conflicts with Vietnam.

This book is given free of charge to Cambodian publics who wish to acquire more thorough understanding and analysis of what happened in Cambodia three decades ago. For more information, please contact the Documentation Center of Cambodia via P.O. Box 1110 or House 66, Preah Sihanouk Blvd, Phnom Penh, Cambodia or via e-mail: dccam@online.com.kh.

KHMER ROUGE TRIALS MOVE INTO FINAL STATES OF PREPARATION

Sean Visoth and Michelle Lee

Sean Visoth

This week we move into an important new stage in the long process of establishing the Extraordinary Chambers in the courts of Cambodia with international participation and assistance.

The newly appointed and assigned Deputy Director of the Office of Administration, Ms. Michelle Lee, is leading the UN Start-Up Assessment Mission to Cambodia, 6-16 December 2005 consisting of seven members, who include four newly appointed Chiefs of Security, Information and Communications Technology, Budget and Finance and General Services, as well as officials from the United Nations Headquarters in New York – Anne-Marie Ibanez from the Department of Political Affairs, acting as spokesperson for the Mission, and David Hutchinson from the Office of Legal Affairs.

As well as members of the Royal Government's Secretariat of the Task Force, the Cambodian delegation includes representatives from the Ministries of Economy and Finance; Land Management, Urban Planning and Construction; the Ministry of Interior's Extraordinary Chambers Security Commission and the National Information and Communications Technology Development Authority.

During the period since the last UNAKRT visit almost exactly one year ago, much has happened. The most significant date was the entry into force of the Agreement on 29 April 2005, following a successful Pledging Conference in New York on 28 March.

Other key points have been the appointment of the senior administrative positions on both sides; work towards the selection of judicial officers, both international and Cambodian; continuing preparation of resource materials for the Extraordinary Chambers and for public information; as well as training of Cambodian judges and lawyers.

From the Cambodian side, we feel we are now on the cusp of establishing the Extraordinary Chambers. We look forward to working with the UN team during

this final phase of preparation and then finally moving into the process for which all this work has been aimed – to bring justice to the Cambodian people for tragic events that took place in our country a quarter of a century ago. I know I can speak for all the Cambodian team in saying how grateful we are that the international community, represented today by the UN delegation, is joining us in this historic task.

Michelle Lee

The purpose of this UN Start-Up Assessment Mission is to advance these preparations to a new level, by checking the planning documents prepared during the three UNAKRT Technical Missions against the reality of today, by looking in more detail at how and when the Extraordinary Chambers may begin its operations, and to move towards finalization of the two Supplementary Agreements on Utilities, Facilities and Services, and on Security and Safety, which were foreshadowed in the main Agreement signed on 6 June 2003 and endorsed by the United Nations General Assembly and Cambodia's National Assembly.

Yesterday our delegation had the honor to meet Deputy Prime Minister Sok An, Minister in Charge of the Office of the Council of Ministers and Chairman of the Royal Government Task Force for a productive exchange of views.

The Mission commenced with the two delegations holding a fruitful first plenary meeting, setting the agenda for the ten-day mission and definitely setting the tone for a warm and collaborative working relationship between the two sides. Since that initial meeting the UN delegation has been making courtesy calls on the major donor countries and other interested states. The response to these visits has been extremely positive, and the diplomatic community has offered to support our efforts in practical ways as we begin our work.

As soon as all members of the UN delegation arrive, a site visit will be made to the premises designated for the Extraordinary Chambers in Kambol and a number

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of specialist meetings will be held to make concrete plans for entering the operational phase of establishing the Extraordinary Chambers in the near future.

The principal remaining obstacle relates to securing the total funding required for the operations of the Extraordinary Chambers over three years. At the present moment the \$43 million on the United Nations side of the budget is almost fully subscribed, but the Cambodian side still lacks \$10.8 million. The Cambodian Government is appealing to other governments for urgent action to help meet this gap through bilateral contributions. A number of countries have indicated that they are considering how they can make a favorable response to this appeal, and we are hoping that this issue will be resolved within the coming weeks.

We are happy to be here and ready to start work. We know this will be a challenging task, but one that

we are determined to carry out to the very best of our abilities. I have been able to recruit key members of the start-up team from among the very best in the United Nations system, and I have selected them especially for their extensive experience in their specific field and in other mixed and international tribunals. We intend to share the very best practices, and to work hand in hand with our Cambodian counterparts with the intention of leaving behind a positive legacy. But we are also aware that we have much to learn from Cambodia's rich and ancient cultural traditions.

Joint press statement dated 9 December 2005 by His Excellency Sean Visoth, Executive Secretary of the Royal Government Task Force and Director of the Office of Administration, and Ms. Michelle Lee, Deputy Director of the Office of Administration

A CAMBODIAN JUDGE'S VIEWS ON THE TRIBUNAL

Terith Chy

When thinking about the atrocities committed in the 20th century, the Khmer Rouge regime stands out as one of the worst. Some 30 years ago, the Khmer Rouge changed nearly every social system in Cambodia – education, religion, markets, and more – in an attempt to make it the world's most advanced communist country in a matter of days. To achieve their agrarian revolution, they moved all of the people in Cambodia's cities to the countryside to farm. There, they endured untold hardships, including overwork, malnutrition, forced separation from their loved ones, and execution.

No one living in Cambodia between 1975 and 1979 could escape, from the king to ordinary people. One of them is Seng Sivutha, who is now a judge on the appeals court; he was 13 when the Khmer Rouge took power.

Life under the Khmer Rouge

Less than a day after the Khmer Rouge came to power on April 17, 1975 they began to empty the

cities. Vutha's family was relocated from Phnom Penh to the village of Thmey in Rolaing Ken subdistrict, Kandal Stung district, Kandal province.

Like other Cambodians, Vutha was assigned to work in the fields. "I was sent out to tend cows, plant tapioca, and make fertilizer from tree leaves," he said, adding that he met his parents and sister often during 1975 and 1976.

But starting in 1976, his situation changed when he was assigned to work in a mobile unit far from his home and family. Once every three to six months, Vutha was allowed to visit home. He was only able to visit his father twice before he passed away. In all, Vutha lost 21 relatives during the Khmer Rouge reign, including his father, uncles, aunts and cousins.

Education

Right after the Vietnamese invaded Cambodia in 1979 and overthrew the Khmer Rouge, people began rebuilding their lives. Most people headed back to the place where they were living before 1975.

When he first arrived in Phnom Penh, Vutha saw that education was vital for his future as well as for the reconstruction of the country. Despite many difficulties (like other Cambodians, Vutha's family had no financial resources, and the education system had been destroyed during the regime, and lacked teachers, facilities, and materials), Vutha managed to finish high school in 1987.

He was able to fulfill his dream of acquiring higher education in 1988, when he was awarded a scholarship from the Ministry of Education of the Republic of Kampuchea to study law in Ukraine, and was awarded a master degree's in law in 1994. He also attended a number of training programs on international law, international criminal law, international humanitarian law, and combating terrorism.

Career and Challenges

With an academic background in law and extensive understanding and experience in local and international law, Vutha, who has been involved in legal work for more than 10 years, is now a judge on the appeals court. "With deep interest in the legal area and through legal study and research, I developed a justice-motivated sense, and want to do everything for the sake of social justice," he said.

Being in a position to decide who is innocent and who is guilty is a huge responsibility that presents considerable challenges. For example, the Cambodian public has little understanding of the country's laws, which is a challenge for both Judge Vutha and for justice as a whole.

But Judge Vutha views such challenges as a motivation for his work. When asked about what inspires him in his job, he said, "Because I love my people. I will do my best to protect the rights of my people. Delivering justice to everybody, as stated in the country's laws, is the main motivation for me."

Personal Views on Extraordinary Chambers Issues

The perpetrators of atrocities worldwide have been tried for their crimes, including those in Europe and Japan after World War II, Rwanda, the former

Yugoslavia, Sierra Leone, East Timor, and recently, Iraq. In Cambodia, however, the perpetrators of a regime that claimed nearly two million lives have been living freely for nearly three decades.

The negotiations between the United Nations and Cambodian government on the establishment of the Extraordinary Chambers for prosecuting senior leaders and those most responsible for crimes committed during the period of Democratic Kampuchea lasted nearly eight years. Most of the obstacles to the tribunal have now been removed, and the UN and Cambodian government are screening and selecting candidates to serve on the Extraordinary Chambers. Once this process is complete, the tribunal will begin.

Time: The outcome of the trials and the amount of time they will take are not certain. Many legal issues will likely be raised that might prolong the trials, as they have in other nations. The International Criminal Tribunal for Rwanda, for instance, began in 1995 to try the perpetrators of a genocide that took nearly one million lives within 100 days. Ten years later, the trials are still being held. And the trial of Slobodan Milosevic in the former Yugoslavia began in 1999 and shows no sign of ending. Who knows what will happen in the trials of the former Khmer Rouge leaders?

"It would not be an easy task to gather evidence and launch an investigation into a crime committed 30 years ago," said Judge Vutha, expressing his concerns about the possible length of time it might require to prosecute former leaders of the Khmer Rouge regime. He also stressed several other important aspects of the tribunal.

Presumption of Innocence: Being a judge, one has to be impartial and unbiased; otherwise, the principle of presumption of innocence would be violated. This principle will be applied at the Khmer Rouge tribunal. If a judge or tribunal official says publicly that any former leader of the Khmer Rouge is guilty at any time before a verdict is reached, this would be considered a biased statement. For Judge

Vutha, as long as the former Khmer Rouge leaders have not been convicted by the tribunal, he would not say anything about their guilt. "I would not say whether they are guilty or not until the court delivers its final decision," said the judge, answering a question on his own thinking with regards to the culpability of the Khmer Rouge leaders.

Right to Defense Counsel: It is notable that the Extraordinary Chambers (or the Khmer Rouge tribunal) is a hybrid domestic/international court. Judges and prosecutors from Cambodia and abroad will be involved in the tribunal and will apply both national and international laws during the proceedings.

Some lawyers have questioned whether an international lawyer can fully represent former Khmer Rouge leaders at the Extraordinary Chambers. Article 13 of the Agreement between the Cambodian government and United Nations on the establishment of the Extraordinary Chambers and article 35 of the Law on the establishment of the Extraordinary Chambers clearly provide that "The accused is entitled to have adequate time and facilities for the preparation of their defense and to communicate with counsel of

their own choosing.” But, article 5 of the Cambodian Bar Law states that foreign lawyers may not represent clients; they can only assist Cambodian lawyers in the courtroom.

For Judge Vutha, this should not hinder the tribunal's legal process. "According to article 31 of the national constitution and article 35 of the Khmer Rouge tribunal law, the accused are entitled to choose any legal service for their defense," he said. He added that if the accused choose foreign counsel, it will not be an obstacle because The Extraordinary Chambers will also have foreign judges and prosecutors.

"The law on the establishment of the Khmer Rouge tribunal is a bridge to justice, and we have waited for it for months and years," said Judge Vutha.

Although the Khmer Rouge committed their crimes 30 years ago, bringing those responsible to trial is essential for ending Cambodia's culture of impunity and strengthening its rule of law.

Terith Chy is the English co-editor-in-chief of the special English edition of Searching for the Truth.

McCOLLUM REMEMBERS THE VICTIMS OF THE CAMBODIAN GENOCIDE

Washington, D.C. - Today, Congresswoman Betty McCollum (MN-04) submitted the following statement in the Congressional Record on the passage of a resolution remembering the victims of the Cambodian genocide (H.Con.Res. 238).

"I am very proud to represent in the U.S. Congress thousands of refugees, including many from Cambodia, who now call Minnesota their home. The Cambodian refugee story is one of overcoming tragedy and violence, but it is also one of courage and resiliency. Over thirty years ago, Pol Pot led the Communist guerilla group, the Khmer Rouge, in a large-scale insurgency to restructure Khmer society. In four short years, close to 2 million Cambodians, over a quarter of the population,

perished in one of the worst atrocities in modern history.

"In response to this terrible tragedy, Congress passed the Refugee Act of 1980, landmark legislation that formally incorporated into U.S. law the international definition of a refugee and formalized the process of refugee resettlement. This year marks the 25th anniversary of the Refugee Act, which paved the way for 150,000 Cambodians to resettle in the United States.

"Minnesota has a long and proud tradition of being a safe haven for refugees. The Minnesota-based American Refugee Committee was founded to assist the victims of the Cambodian crisis. With their help, many Cambodian families have made

new lives for themselves here in Minnesota and are now enriching our community as business owners, community leaders, professionals, and scholars.

"One remarkable example is the story of my constituents Kunrath and Kevin Lam, both survivors of the Killing Fields and the owners of Cheng Heng Restaurant in St. Paul. Kunrath's father was targeted by the Khmer Rouge for being an urban intellectual. Though her father escaped, 200 of her family members, including Kunrath's baby brother, all perished in the genocide.

"Despite her tremendous loss, Kunrath Lam came to Minnesota filled with promise and hope. She and her husband own a thriving business and remain active within their community. Four years ago, they began pooling tips and donations from their faithful customers. Now, a new school stands

in the childhood village of Kunrath's father in northwest Cambodia, a country that once banned schools. Over 800 students attend classes at the Sara Elementary School, named after their daughter, and the Lams are now raising money to build another school in a nearby village.

"The Lams' story is one of many refugee stories filled with courage and hope. I am proud to cosponsor this resolution remembering the victims of the Cambodian genocide and welcoming the establishment of an international criminal tribunal to bring to justice the perpetrators of the genocide. This resolution represents a small but important step in remembering the victims and honoring the survivors of Cambodia's Killing Fields."

Release: December 15, 2005

(www.mccollum.house.gov)

THE UNIQUE WAY THE KHMER ROUGE USED LANGUAGE AND ITS CHALLENGES FOR TRANSLATORS

Bunsou Sour

Since its inception in 1995, the Documentation Center of Cambodia (DC-Cam) has been collecting documents related to the history of Democratic Kampuchea (1975-1979). To date, the Center has amassed well over 600,000 pages of documentation from this regime, including text books, correspondence, cadre notebooks, diaries, telegrams, committee minutes, reports, and photographs and films. DC-Cam's collection also includes petitions and interview transcripts from the regime's survivors, and a variety of other materials.

The language the Khmer Rouge used in their communications - military, educational, propaganda, and civil administration - will likely pose challenges for both interpreters and translators because it varies greatly from standard Khmer. It can be characterized in many instances as:

a.. Idiomatic. The CPK's documents contain many ambiguous terms and phrases that most people (including interpreters and legal practitioners) would find difficult to understand without an historical knowledge of Democratic Kampuchea. Examples include 'carry out shock assaults', 'smash', 'staunch revolutionary stand in terms of a clean morality of living and cleanliness in political terms', and 'consciousness illness'.

b.. Lacking in clear reference: The CPK's documents also employed many political figures of speech that are not intuitively obvious, such as: 'Burn the outside to a crisp, but pull it out while the inside is still raw'; and 'Small-fry eats a little, big-shot eats a lot'. Some are metaphoric, such as 'Angkar [the CPK Central Committee, but commonly understood as the Khmer Rouge] has the eyes of



'the pineapple' (this phrase implied that Angkar was watching people wherever they were).

c.. Maoist. The leaders of the Democratic Kampuchea adopted an extreme form of Mao's doctrines. They employed such common Communist phrases as 'dialectic materialism', but also added a distinct twist of their own. Some examples include: 'only when the requirements of cleanly sweeping away the concealed enemies boring from within are consistently grasped will it be possible to sweep them out absolutely cleanly and successively'; 'reorient ideological and organizing views and stances in time'; 'the dictatorship of proletariat of the party'; and 'strengthen the stance of absolute and hot class struggle'.

d.. Adjective- and adverb-based. The Khmer Rouge used adjectives and adverbs heavily, and translators will be hard pressed to find their equivalents in English. For example, 'felicitously welcome the second anniversary of national independence; The super-fantastic 17th of April'; 'eliminate absolutely immaculately the ideology of individual and personal property rights'; 'sweep cleanly away'; and 'let's congratulate super-excellently the glorious Communist Party of Kampuchea'.

e.. Administrative. The CPK organized its administrative system very differently from those used in previous regimes, and its language reflects this. Examples include such administrative terms as 'squad', 'fifty-member unit', 'mobile work brigade', 'Economic Support Unit', 'Hot Group' 'Cool Group' and 'Chewing Group'. The latter three are understood to refer to the CPK units responsible for conducting torture and extracting confessions.

Such atypical language has been interpreted and understood differently by Cambodian and international scholars alike. This could pose

problems for translators in terms of accuracy and the time needed to produce a correct and nuanced translation. The key to understanding the CPK's use of Khmer lies in understanding Khmer Rouge history, administration, and terminology (an intimate knowledge of Cambodian culture is important, too).

To cope with such challenges, especially as the tribunal for senior Khmer Rouge leaders draw near, DC-Cam's Tribunal Response Team has developed an English language glossary that defines the terms the Khmer Rouge used. In addition, we have developed a transliteration system that encourages consistency in translating the names of people, places, and the like.

The glossary and transliteration systems were developed after careful readings and intensive research on the CPK cadres' diaries, notebooks on political sessions or trainings, and propaganda texts, which have given us insight into the obscure meanings of the language employed by the Khmer Rouge. Finally, our experience in interviewing former lower-level CPK cadres has added greatly to our understanding of the unique terms found in a variety of CPK documents.

Before the tribunal begins, it is important that the tribunal's translators and investigation teams understand the meanings of the terms found in CPK documents. This will require that they first study the historical context of the regime, which will give them a better background in understanding how the Khmer Rouge employed their unique language. Otherwise, many important points of evidence could be missed.

Bunsou Sour is team leader of DC-Cam's Response Team.

FAIR TRIALS MEAN JUSTICE FOR ALL

Muth Chantha

Background

The Government of Democratic Kampuchea, known as the Khmer Rouge, took power in Cambodia in 1975. During its three-year, nine-month reign (1975-1979), this government committed the most serious violations of human rights in the post-World War II world. When the regime fell, some three million Cambodian people had died from forced labor, starvation, and execution.

Twenty five years later, those responsible for organizing, instigating and carrying out those crimes against humanity remain free. The legacy of the crimes has created a culture of impunity and has continued to haunt Cambodia today. The nature of the crimes committed was the most horrific in Cambodia's history and has been classified as *jus cogens*. Impunity in the face of genocide and crimes against humanity is unacceptable. Therefore, by bringing those responsible for crimes of *jus cogens* is essential in delivering justice to Cambodians and in closing this chapter of the country's history. Justice is a critical element for repairing the damage done to Cambodian society and for promoting national reconciliation. On the one hand, accountability for such heinous crimes can be an important preventive measure in Cambodia by demonstrating that those responsible for these offenses will have to face punishment, and on the other, it will promote awareness among the people about the meaning of justice and the rule of law.

A tribunal meeting international standards should have been created many years ago. But after Democratic Kampuchea (DK) was ousted from power by Vietnam in 1979, the United States and China led an international effort to call for the withdrawal of Vietnamese forces from Cambodia

and to continue to recognize the DK as the legitimate government of Cambodia. Even though the nature of the genocide was known, the United States led a successful effort for the DK to maintain Cambodia's seat at the United Nations, which it held in a coalition with others who fought against foreign occupation until 1991.

It is sad that the 1991 Paris Peace Agreement failed to stress the importance of bringing those responsible for DK's gross human rights abuses to justice. In addition, the Communist Party of Kampuchea was given legitimate status in the National Supreme Council until it withdrew from the peace process and 1993 elections.

In a letter dated 21 June 1997 from the then-First Prime Minister Prince Norodom Ranariddh and the then-Second Prime Minister Hun Sen, Cambodia requested resources and expertise from the United Nations to try former Khmer Rouge. The UN Secretary-General responded in July 1998 (in July 1997, a coup against Prince Ranariddh put Cambodia in a state of extreme political instability) by appointing a group of experts to offer suggestions about how to proceed.

Several rounds of negotiation were conducted between the Royal Government of Cambodia's Task Force (led by Senior Minister Sok An) and the United Nations team (led by Chief Legal Counsel, Undersecretary-General Hans Correll). On February 8, 2002, the United Nations unilaterally announced that it was withdrawing from the negotiation process. Its principal reasons were that the government was not negotiating in good faith, and the future tribunal, if created, would lack international standards of justice.

Six member states reportedly met with the United Nations Secretary-General and the

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Undersecretary-General for Legal Affairs and put pressure on the United Nations to return to the negotiating table with Cambodia.

A Fair Trial

It is generally recognized that the right to a fair trial is a norm of international human rights law that was designed to protect individuals from the unlawful and arbitrary curtailment or deprivation of other basic rights and freedoms, the most prominent to which is a person's right to life and liberty. This right is guaranteed under Article 14 of the International Covenant on Civil and Political Rights (ICCPR), which provides that "everyone shall be entitled to a fair trial and public hearing by a competent, independent and impartial tribunal established by law." The right to a fair trial is applicable to both the determination of an individual's rights and duties in a suit at law and to the determination of any criminal charges against him or her. The term "suit at law" refers to various types of court proceedings, including administrative proceedings.

Certain standards were designed to assess a fair trial, but they are complex and constantly evolving. They may constitute binding obligations that are included in human rights treaties to which the state is a party. But they may be also found in documents (even non-binding documents) that can be taken to express the direction in which the law is developing. A fair trial can be evaluated based on the laws of the country in which the trial is being held; the human rights treaties to which that state is a party, and norms of customary international law. A minimum list for evaluating a fair trial would comprise: i) a state's constitution, especially its provisions on human rights and the judicial system; ii) its Criminal Code and Code of Criminal Procedure; statutes on the establishment and jurisdiction of the courts and on the public prosecutor's office, and iii) landmark court decisions pertaining to human rights.

Right to Legal Counsel under Cambodian Laws

The Cambodian legal profession was totally

decimated by the Khmer Rouge, leaving the country with as few as ten professionally trained judges and lawyers by the time the Vietnamese invaded in 1979. While efforts were made by the government during the PRK and SOC years to reconstruct the legal system along the lines of Soviet principles imported from Vietnam, as recently as 1993, there were reportedly only five trained legal professionals in the entire country, aside from the cadre of untrained and highly-politicized CPP-appointed judges presiding over the people's courts.

In the past few years, the number of licensed lawyers in the country has risen to 216 as of early June 1999. Of these 216 licensed lawyers, proximately 40 currently work in the executive or legislative branches of government. Because government work is deemed incompatible with the autonomy required of lawyer, these 40 are not considered practicing lawyers, leaving approximately 176 practicing lawyers in the country. With somewhere between 75 to 80 lawyers practicing with a legal aid organization or an NGO, there are about 100 private lawyers in all of Cambodia, most of which practice alone or in small firms. (The number of licensed lawyers stated in this paper was based on the data in 1999. Any recent development since should be referred to the Cambodian Bar Association).

Since October 1995, the practice of law in Cambodia has been regulated by the Bar Association of the Kingdom of Cambodia (BAKC) and its governing Bar Council. The Bar Council has prepared a Code of Conduct governing lawyers and is responsible for maintaining compliance. Suon Visal, a well-respected lawyer who previously served serving as Technical Director for Cambodian Defenders' Project of the country's legal aid NGO that provides legal services to poor was elected as President of CBA. However, the election result was challenged by the incumbent president Ky Tech, who refused to hand over the presidency to Soun Visal. The legal battle in court pursued. The appeal court ruled in favor of the

incumbent president by rejecting the election outcome, in which the ruling was strongly criticized non-governmental and international organizations. Despite the appeal court's ruling's both incumbent president and president-elect continued their legal battle, which led to the stalemate of the functioning and operation of CBA.

The right to counsel in the pre-trial stages of a criminal trial is clearly linked to the right to a defense during the trial as set out in Article 14 (3) (d) of the ICCPR. The provision states that everyone shall be entitled in the determination of any criminal charge against him/her "to be tried in presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case." This provision provides specific rights, including the right to be tried in one's presence, to defend oneself in person, to choose one's own counsel, to be informed of the right to counsel, and to receive free legal assistance.

The right to legal counsel was in fact guaranteed under the Constitution, and Criminal Code and Code of Criminal Procedure. Article 38 (8) of the Cambodian Constitution provides that "every citizen shall enjoy the right to a defender through judicial recourse." Under the 1993 SOC Law on Criminal Procedures, Article 75 states: "When the accused person appears for the first time, the investigating judge shall inform him or her of the imputed act, receive his or her statement after informing him or her of the right to answer or not to answer without the assistance of a lawyer or defender chosen by him or her or appointed automatically." Article 76: "If the accused tells the judge that she or he chooses a lawyer or requests that a lawyer shall be automatically appointed by the government for his or her defense, then the investigating judge shall suspend the interrogation and call the counsel shortly in order to interrogate

the accused in the presence of counsel."

The right to counsel is provided with even greater specificity by Article 10 of the UNTAC Law, which provides that "the right to assistance of an attorney or counsel is assured for any person accused of a misdemeanor or crime. No one may be detained on Cambodian territory more than 48 hours, now amended to 72 hours, without access to assistance of counsel, an attorney or another representative authorized by the present text, no matter what the alleged offense may be."

It should be noted that Cambodia is also a signatory to major international human rights instruments. The 1993 Constitution recognized the Universal Declaration of Human Rights of 1948 and other international human rights instruments. Cambodia just signed the Additional Protocol to the ICCPR, which makes individual citizens subject to international law, *inter alia* United Nations Human Rights Committee. However, Cambodia does not strictly abide by its treaty obligations.

Despite the laws specifying the importance of having legal representation at all stages of criminal proceedings, Cambodian authorities have often failed to offer adequate legal assistance to those who are arrested and detained. The right to legal counsel of one's own choice – when he lacks the financial means, he has the right to have a court-appointed defense counsel at no cost, because this is necessary in the administration of justice – has not been ensured when an accused cannot afford one.

This is of great concern to the future Extraordinary Chambers. Below, I state how this right to legal counsel is implemented and guaranteed during the proceedings, and address a few foreseeable problems.

Legal language regarding the "assistance of counsel of their own choosing." Based on my analysis, this phrase means that all persons are entitled to call for the assistance of a lawyer, who is qualified and competent, of their choice to protect and establish their rights and to defend them at all

stages of criminal proceedings. If the accused cannot afford his or her own counsel, the authorities must provide a lawyer free of charge if the interests of justice so require. Whether or not the interests of justice require such an appointment depend primarily on the seriousness of the offense and the severity of the potential penalty.

However, it still creates room for different interpretations. "Assistance of counsel of their own choosing" is not likely guaranteed under Cambodian law. According to Article 5 of the Law on the Bar of Kingdom of Cambodia, only Cambodian lawyers can represent their clients in court. Based on this article the "assistance of counsel of one's own choice" was unlikely to be ensured because the accused cannot access qualified, competent, reliable, and impartial counsel. Furthermore, the accused may not want to choose a Cambodian counsel, if he or she believes that his or her interests will not be served. This creates a conflict of law. When it arises, the interests of justice of the accused will be affected and the principle of a fair trial will not be guaranteed. It should be noted that "everyone charged with a criminal offense has a primary, unrestricted right, including the right to defend himself." Thus, he is entitled to access to any competent lawyer. This right will not be respected and protected unless the inconsistency between the Law on the Bar and Law on the Extraordinary Chambers is rectified.

Lack of international experience and exposure. Not many Cambodian lawyers have been trained in international law and important binding treaties, conventions, and covenants that would be frequently referred to during the tribunal. The majority of Cambodian lawyers do not have experience in representing cases or the conduct of judicial proceedings in international tribunals, although the Law on Extraordinary Chambers dictates that existing laws and procedures will be applicable. Training alone is not sufficient to enable them to provide adequate criminal defense for

those accused of high-profile international crimes. Experience and familiarity with international court proceedings is valuable for the accused. Despite the fact that foreign lawyers are allowed to practice with a Khmer lawyer, a gap still exists when it comes to communication and understanding, and the defense process. On the other hand, Cambodian lawyers still face challenges before a panel of mixed judges during the trial process when they present their legal arguments. Flexibility is required if one intends to make a strong defense. I would suggest that the Law on the Bar should be amended to accommodate foreign lawyers to represent clients in the Extraordinary Chambers and where possible, a position of "co-lawyer" be established, since the Law has already established "Co-Investigating Judge and Co-Prosecutor". I suggest that such an exception be considered only for the Extraordinary Chambers, in order to avoid the concern of job-stealing from well qualified and experienced foreign lawyers. The Bar Association of Cambodia made it clear that it does not want to recruit more lawyers because it intends to create job for the current lawyers.

Independence and impartiality of counsels. The independence and impartiality of Cambodian lawyers is strongly questioned by many, in particular, the accused. At least one out of two lawyers would probably count themselves as victims of the Democratic Kampuchea regime. This could lead one to question whether a lawyer would sincerely defend a client whom he knows committed a murder or caused the death of his or her relatives through forced labor or starvation. When a defense lawyer has his independence or impartiality questioned, a conflict of interest will emerge. The interests of justice of the accused will also be jeopardized. Even the accused person is provided with the right to change his or her defense counsel if he or she thinks that the said lawyer does not serve his/her interests of justice. But the change itself does not help much because the accused may feel strongly that he will never have an independent

and impartial defense or be well represented. But he may opt to have one rather than nothing. This does not mean that I don't have confidence in Cambodian lawyers, but this is a special court for special cases. How can the Extraordinary Chambers and Bar Association, in particular the Bar Disciplinary Council, ensure the independence and impartiality of a lawyer? How can the Code of Ethics be enforced?

Language. The right to an interpreter is critical to ensure a fair trial. In the determination of any criminal charges against him/her, every person is entitled to have the free assistance of an interpreter

of such documents will be costly and the authenticity of the translation can be called into question. The question in this regard is who will be responsible for the cost of translations and their authenticity? It is important that the Extraordinary Chambers recruit qualified interpreters and translators who were trained in law and have knowledge of legal terminology. There are not many interpreters and translators in Cambodia who were trained in law and understand court proceedings, and who can provide simultaneous interpretation that is not limited to the court proceedings. Language will be one of many

On June 30, 2005 the United Nations approved the newly constructed headquarters of the Royal Cambodian Armed Forces on the outskirt of Phnom Penh as the location for the Khmer Rouge Tribunal



if he cannot understand or speak the language being used in the court, as stated in Article 14 (3) (f) of the ICCPR. The official working languages of the Extraordinary Chambers are Khmer, English, and French, as stated in Article 45 of the Law on Extraordinary Chambers and Article 26, paragraph 2 of the Agreement. The main issue raised by this provision is what interpretation should be given to the words "used in court." While it could obviously be said to refer to oral proceedings, this needs to be clarified. Nevertheless, the right to translations of written documents (documentary evidence and testimony) is not expressly stated. Written translations

challenges that the Extraordinary Chambers will face. It will have to establish rules for interpretation: whether it requires simultaneous or consecutive interpretation, and the exact words used in court or oral proceedings. It may be recommended that future interpreters and translators should be trained in legal terminology and in court procedures before they are assigned to their job.

Muth Chantha is Senior Program Manager of National Democratic Institute for International Affairs (NDI) bases in Phnom Penh. His paper does not necessary reflect the opinions of the NDI.

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ANNOUNCEMENT

DC-CAM LOOKING FOR PHOTOGRAPHS OF FORMER NEW PEOPLE

DC-Cam recently wrote a book called *Stilled Lives: Photographs from the Cambodian Genocide*. It describes the lives of 51 men and women who joined the Khmer Rouge revolution. Thirty-nine of these fifty-one people died at Tuol Sleng prison. Only nine are alive today.

We will soon read selected stories from the book on our radio program. The stories will air on: FM 102 MHz, Phnom Penh, FM 93.25 MHz, Kampot, FM 99 MHz, Preah Vihear, and FM 103.25 MHz, Battambang.

To write the book, we interviewed former cadres, base people, and their family members. They also gave us photographs of themselves. Many of the pictures were taken before the Khmer Rouge came to power, but some show the cadres during the revolution.

Funding for the book was provided by the National Endowment for Democracy. The book revealed that those joining the revolution had the same hopes and needs as other Cambodian people, and also lost their loved ones. We hope this book will help Cambodian people to understand that both victims and perpetrators share a common humanity.

We are now planning a book that will tell the stories of the new people and their families during Democratic Kampuchea. If you or one of your relatives was a new person and would like to tell your stories for the book, we would like to interview you. We welcome the contributions of Cambodians from both at home and abroad.

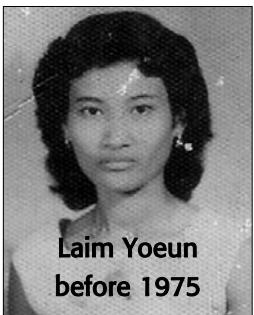
Because photographs will be a very important part of this book, we are only asking help from people who would agree to share their photographs with us. They must have been taken before or during Democratic Kampuchea. We will scan the photographs and return the originals to you. Please call DC-Cam at 023-211-875 or write us at Box 1110, Phnom Penh. Email: truthpivoine@dccam.org or truthsavina@dccam.org.



SEARCHING FOR MISSING FAMILY MEMBERS

If you have information on any people who disappeared during Democratic Kampuchea, please contact the letter writers directly or the Documentation Center of Cambodia via phone: 023 211 875 or Fax: 023 210 358 or P.O. Box 1110, Phnom Penh.

Missing Brother



I am Laim Yoeun, age 65, now living in Lar Tik Trei village, Kampong Chhnang subdistrict, Kampong Chhnang district, Kampong Chhnang province. Prior to the Democratic Kampuchea regime, I lived in Krang Phtel village, Bralay Meas subdistrict, Kampong Leng district, Kampong Chhnang province.

I would like to search for my younger brother Laim Sam Orn, who has been missing since the day the Khmer Rouge evacuated people from Bralay Meas to Kampong Leng district. Before this, he had been ordained a Buddhist monk in Bralay Meas pagoda in his home village, for three years. He left the monkhood in 1975 at the age of 21.

In the 1980s Chhing Kaun and Sun, who lived in the village, told me that they met Sam Orn in Samlot, Battambang province and convinced him to return home, but he refused to come because he was afraid he might be killed by the Khmer Rouge along the way. I also was told that he has changed his name from Laim Sam Orn to Orn Kamsott.

Missing Nephew

My name is Chhem, age 48. I live in Thmei village, Kraing Leav subdistrict, Rolea Pha-Ea district, Kampong Chhnang province.

I would like to search for my nephew named Vang who was separated from our family in Prey Bratauch when the Khmer Rouge evacuated him from Chroy Ko.

Missing Nephew

I, Sam Sim, am 48 years old and live in Pat Lang village, Kraing Leav subdistrict, Rolea Pha-Ea district, Kampong Chhnang province. I would like to search for my nephew known as Toy, who was separated from the family in Taom Kal Tik, Tik Phos district, Kampong Chhnang province when the Khmer Rouge evacuated him from Pat Lang village.

Missing Brother

My name is Norng Sim, age 38. I am now living in Pat Lang village, Kraing Leav subdistrict, Rolea Pha-Ea district, Kampong Chhnang province. I would like to search for my younger brother named Sopha, who has been separated from our family since the Khmer Rouge's evacuation.

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Missing Sister

My name is Chhim Sokhom. My father is Chhim Krip and my mother was Peou (she died of illness in 1977). I am living in Sre Chenda village, Preah Sre subdistrict, Oudong district, Kampong Speu province.

I would like to search for my younger sister named Chhim Tort, also known as Sophal, who disappeared during the Khmer Rouge regime. Through her brother Chhim Sung, who was a subdistrict chief, Sophal joined Khmer Rouge in 1974 at the subdistrict office. After 1976, she was sent to work in Phnom Penh at 17 April Hospital. In the same year she visited her ill mother in the village for five days and then returned to her work. She has disappeared since then.

Missing Son

I am Yors Pheng, age 72. My daughter Man Man, age 45, would like to search for my son Man Mun who left home in 1976 and has been missing ever since. In early 1976, Man Mun was forced by the Khmer Rouge to leave the monkhood and was sent to work in the potato-planting unit in Phnom Peam Chaing, Preah Sdech district. Man Mun never returned home.

Missing Parents and Six Siblings



My name is Sun Sira. I am 53 years old and live in House 63, St. 350, Group 35, Village 6, Sangkat Boeng Kengkang 3, Khan Chamkar Mon, Phnom Penh, near Tuol Sleng Museum. I would like to search for my parents and six of my younger siblings.

My father, Sun Tho, was a teacher at the Thmar Sar pagoda school in Kampong Chhnang province, and my mother was Khim Thon. My siblings are:

Brothers: Sun Saroeun and Sun Sarann

Sisters: Sun Sophany, Sun Sophanna, Sun Sophalla, and Sun Somaly.

All of them were born in Kampong Chhnang province and lived in front of Aranh Pagoda. Sun Sira was separated from the family in 1975 while I was studying medicine in Phnom Penh. After the liberation of January 7, 1979, I looked for my family in Kampong Chhnang and was told by neighbors that all of them were killed by the Khmer Rouge after April 1975. A year later, I was informed on Pchum Ben day by villagers that some people have also come to look for my family in Kampong Chhnang.

Missing Brother

My name is Chuon Song, female, age 52. Today I live in Pat Lang village, Kraing Leav subdistrict, Rolea Pha-Ea district, Kampong Chhnang province. My father's name was Chap Kun (he died of illness in 1976) and my mother's was Siv Sim (she died of illness in 1975).

I had ten siblings. Two are alive:

Chuon Song, female

Chuon Put, female

and seven have died

Chuon Sos, female (died of disease in 1974)

Chuon Kim, male (died in 1975)

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Chuon Sao, female (died of disease in 1992)

Chuon Kin, male (died of disease in 2001)

Chuon Peun, male (died of disease in 1975)

Chuon Kin, male (died of disease in 1973)

Chuon Thy, female (died of disease in 1979).

I am searching for one brother, Chuon Kei, who has been missing since the age of 17.

Missing Son

I am Im Yeav, age 70, living in Svay Teap village, Ampil Krao subdistrict, Sithor Kandal district, Prey Veng province.

I would like to search for my son named Meas Sokhom, who went missing in 1978 when the Khmer Rouge assigned him to fight against the Vietnamese along the border of Kampong Cham province. Sokhom had been a messenger in Ampil Krao subdistrict since 1974. Staying in the same position, he was moved to Sithor Kandal district. Before the Khmer Rouge sent him to the battlefield, Sokhom visited home once.

PUBLIC INFORMATION ROOM

DC-Cam's Public Information Room (PIR) is open to students, researchers, government and non-government organizations, and interested members of the public who want to learn more about the history of Democratic Kampuchea and the developments of the coming Khmer Rouge tribunal.

DC-Cam is the largest repository of primary materials on Democratic Kampuchea. Through the PIR, the public can read the documents and use them for research. The documents in our possession include biographies, confessions, party records, correspondence, and interview transcripts. We also have a database that can be used to find information on mass graves, prisons, and genocide memorial sites throughout Cambodia.

The PIR offers four services:

1. Library: Through our library, the public can read documents, books and magazine, listen to tapes, watch documentary films, and view photographs held at DC-Cam, the Tuol Sleng Genocide Museum, National Archives and other locations.

2. Educational Center: DC-Cam shows documentary films and offers lectures on Khmer Rouge history, the upcoming tribunal, and other related subjects.

3. Tribunal Response Team: Our document and legal advisors will provide research assistance to the tribunal's legal experts from both Cambodia and the United Nations, as well as to the public.

Khmer Rouge documentary films are shown every Tuesday and Thursday at 9 a.m. and 3 p.m.

The PIR is located at House 66, Preah Sihanouk Blvd, east of the Independence Monument. It is open to the public from Monday to Friday, 8 a.m. to 12 p.m. and 2 to 5 p.m. For more information or if you want to arrange a group event, please contact our staff, Phearum or Pidoa, at 023 211 875. Thank you.



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Searching for THE TRUTH



- ◆ Three Projects to Help DK Survivors See Justice Done
- ◆ Introduction to the Khmer Rouge Tribunal

"I cannot hold my tear. I lost my husband and all of my siblings. Nothing is harder than living through the Khmer Rouge. We must prevent it from happening again."

-- Ma Las

Special
English Edition
Third Quarter 2005

Magazine of the Documentation Center of Cambodia

Searching for THE TRUTH

- ◆ A Role for ASEAN in the Formation of the Khmer Rouge Tribunal
- ◆ The Case for Cambodians to Pursue Justice Under the New Khmer Rouge Forensic Evidence in Cambodia

Special
English Edition 2005

Magazine of the Documentation Center of Cambodia

Searching for THE TRUTH

- ◆ A Place of Honor in History
- ◆ Tany Kau's Dilemma : Responding to Sexual Violence under the Khmer Rouge

Special
English Edition 2005