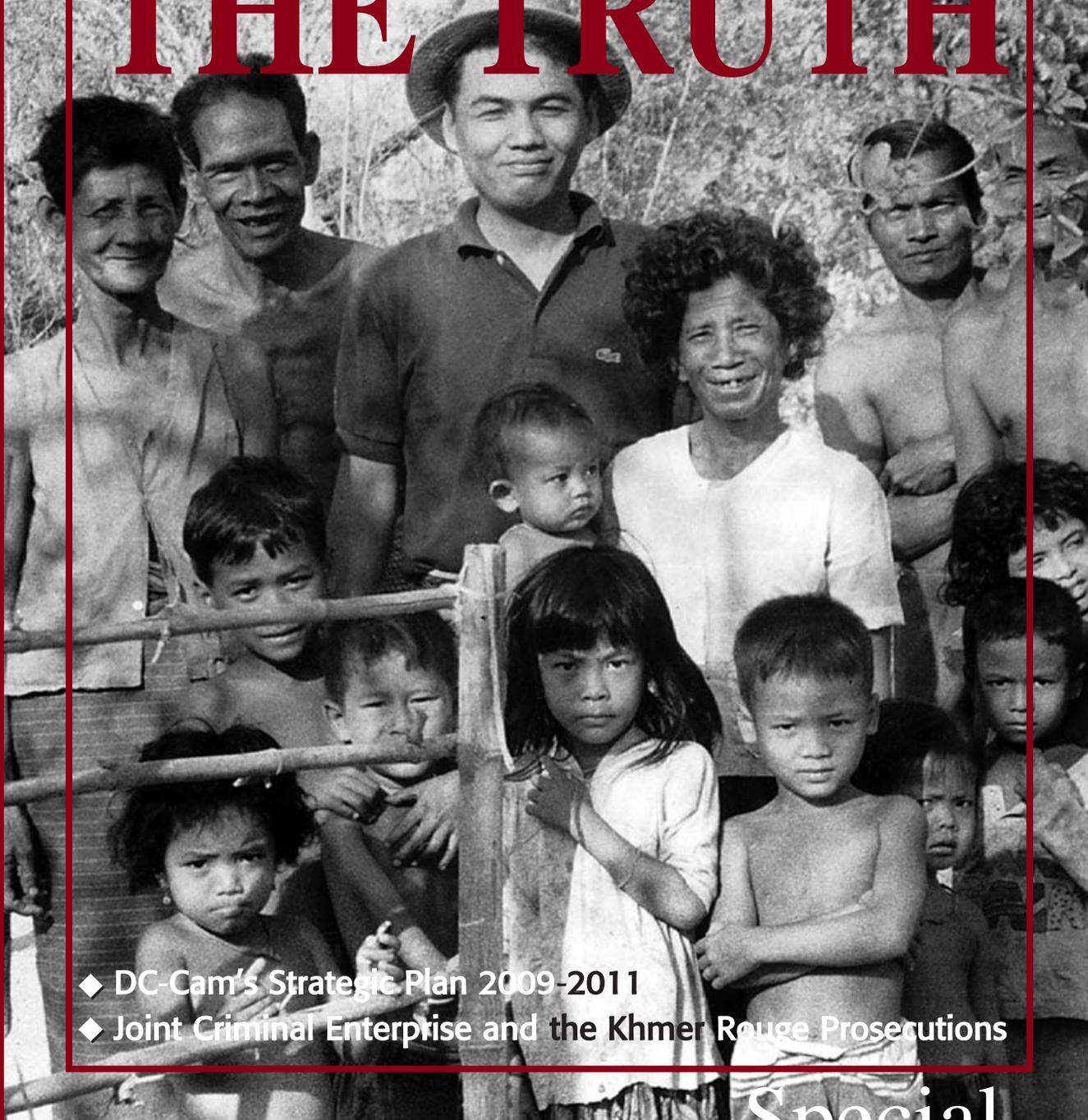


Searching for

THE TRUTH



- ◆ DC-Cam's Strategic Plan 2009-2011
- ◆ Joint Criminal Enterprise and the Khmer Rouge Prosecutions

«Returning to their homeland, the Swedes heralded Cambodia as being in the beginning, albeit imperfect, stages of a model communist society and believed that communism could indeed be a Savior for the Cambodian people.»

-- Gunnar Bergstrom

Special
English Edition
Fourth Quarter 2008

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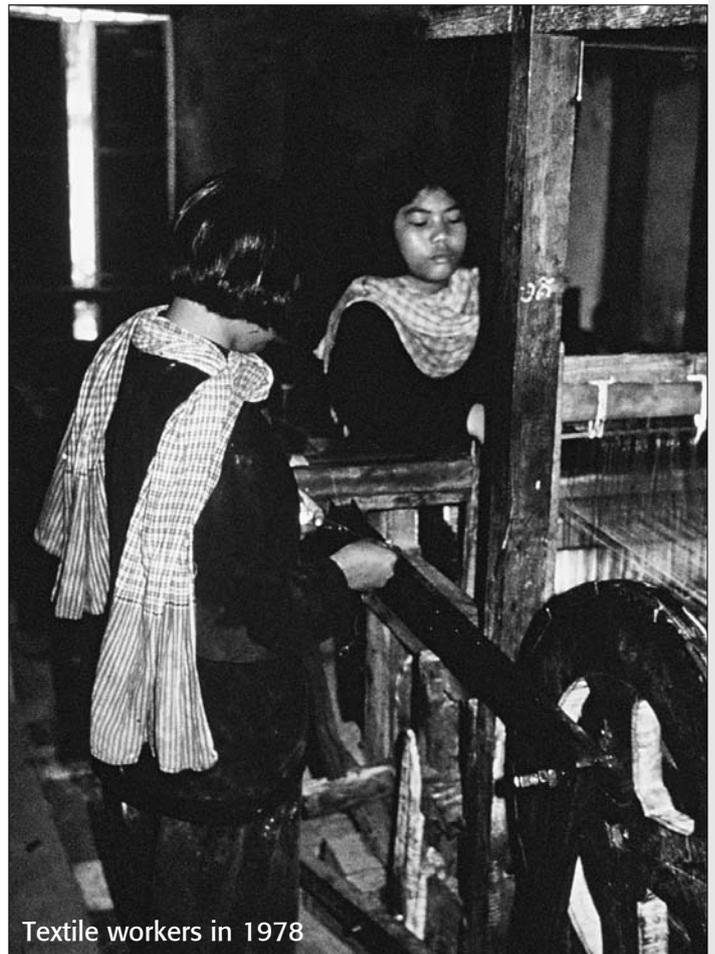
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Textile workers in 1978

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LETTER FROM YOUK CHHANG:

RESPONDING TO THE CAMBODIAN GENOCIDE IN A GLOBAL CONTEXT: DC-CAM'S STRATEGIC PLAN 2009-2011

Thirty years after the fall of Democratic Kampuchea (DK), Cambodia is still grappling with the painful legacies of genocide, torture, and mass atrocity. This week, a national event will commemorate the collapse of the Khmer Rouge regime, but the wounds inflicted during that era have yet to heal. Bitter political disputes will resurface about the nature of the government that displaced the Khmer Rouge, suggesting the need for further national reconciliation. There also remains a need for justice. The proceedings now underway at the Extraordinary Chambers in the Courts of Cambodia are a critical step, but the coming trials of at least five former DK officials—Nuon Chea, Ieng Sary, Khieu Samphan, Ieng Thirith,

and Duch—cannot alone address all of the injustice related to Khmer Rouge rule and its aftermath.

Between 2009 and 2011, the Documentation Center of Cambodia (DC-Cam) proposes to promote memory, justice, and reconciliation in a number of different ways. Our focus is on ordinary Cambodian people—victims and their descendants—whose voices must be heard loudly in any discussion of the country's past, present, and future. In addition to honoring those who died during the Khmer Rouge regime, it is crucial to reach out to and support living Cambodians, in the country and across the globe. This summary Strategic Plan outlines how DC-Cam will attempt to create enduring mechanisms to help



Children and their caretaker at a cooperative

overcome the shadows of Khmer Rouge terror and build a brighter future in Cambodia.

I. A Physical Legacy

Building a Permanent Genocide Research Center: DC-Cam has begun to build a permanent center to expand our work and ensure a long-term commitment to human rights and genocide prevention in Cambodia. The Cambodian Ministry of Education has generously provided us with a large parcel of land in Phnom Penh for that purpose. The land, which totals nearly 4,800 square meters, is situated on the campus of the Beong Trabek High School, fittingly on the site of a former Khmer Rouge prison. We have enlisted a team of expert architects in New York to design a building complex that will house the permanent center. They are aided by architecture students from Columbia University and the Royal University of Phnom Penh's School of Fine Arts. We plan to break ground for a new building complex in 2010.

The permanent center will be called the "Sleuk Rith Institute." That name reflects our core objectives, as well as our Cambodian heritage. Sleuk rith are dried leaves that Cambodian religious leaders and scholars have used for centuries to document history, disseminate knowledge, and even preserve culture during periods of harsh rule. They represent both the beauty of knowledge and the power of human perseverance during times of peril.

The permanent center will serve three core functions. First, it will be a physical memorial, encouraging visitors to honor and remember departed victims and all those who suffered under the Khmer Rouge regime. Secondly, the center will be an educational hub, enabling current and future generations to learn about Cambodia's harrowing past. Education will ensure that Cambodians never forget those who unjustifiably died and suffered, and it will empower them to prevent similar abuses in the future. Finally, the center will be a hub for research, seeking to become the leading Asian institution focused on genocide studies, one that will be connected to leading scholars and other

institutions throughout Asia and the wider world.

II. A Legacy of Memory

Genocide Education in Cooperation with the Ministry of Education: Genocide education is crucial if Cambodians are to preserve their history and remember those who perished under Khmer Rouge brutality. Education is also essential if Cambodians are to understand why and how the genocide happened, appreciate the effects of the tragedy, and address the many continuing challenges that flow from the genocide. DC-Cam is currently in the process of working with the Ministry of Education and academic experts to establish a core curriculum on genocide and other crimes against humanity, which will be introduced to Cambodian classrooms at the end of 2009. Together with local and international experts, we are providing in-depth training to 24 Cambodian officials, who will serve as leaders in genocide education. They, in turn, will train 185 educators to lead efforts in various districts throughout Cambodia. We will also host roughly 3,000 secondary school teachers from around the country for shorter basic training programs.

Our curriculum and training program will revolve around DC-Cam's history textbook *The History of Democratic Kampuchea*. Our textbook has received plaudits from around the country and the world. It is the first of its kind, educating Cambodian youths about the Khmer Rouge tragedy after three decades of relative silence on the subject in Cambodia's schools. It is also available in digital format on the Internet, therefore reaching a global audience.

Genocide education is a key to liberating the victims of Khmer Rouge terror and transforming them into leaders in the global quest for human rights and dignity. Our work with the Department of Education has received wide international acclaim and support, including from the US Agency for International Development; the governments of Sweden, Norway, Denmark, Germany, and Belgium; the open Society Institute, and the U.S.-based National Endowment for Democracy.

Remembering the Victims of Democratic Kampuchea: DC-Cam also plans to compile and publish a book of names of all those known to have died under the Khmer Rouge regime. The compendium will be based on our research and will tangibly recognize and remember those who perished. To date, there are more than a million names in our databases. New names and related information are still being added. The book will be distributed to every commune in Cambodia and placed in the commune's office, which will give current and future generations a concrete memorial dedicated to those victims who died. The compendium will also allow families and future generations to be able to trace their family history, a search that for many is still not over. To reach the larger global community, we will post an electronic version online.

III. A Legacy of Justice

Making Our Documents Available Worldwide:

Another way DC-Cam will promote memory and justice, at home and abroad, is to digitize over 900 reels of microfilmed documents from our archives. We are now working with Rutgers University in Newark, New Jersey and the Center for Research Libraries to bring about that important goal and make our impressive collection accessible via the internet. Doing so will allow scholars, journalists, media, government and international officials, ordinary Cambodian citizens, and members of the diaspora to conduct effective research on the genocide. Toward that end, we also maintain strong collaboration with the Tuol Sleng Genocide Museum.

Examining Crimes by Lower-Level Khmer Rouge Officials: A further goal of our work is to expand the legacy of justice underway at the Extraordinary Chambers in the Court of Cambodia. DC-Cam plans to conduct a study relating to the crimes committed by lower ranking Khmer Rouge cadres. The study will trace various abuses that occurred under the Khmer Rouge regime, looking into the less-researched area of crimes by lower-level members of the regime. In fact, DC-Cam has conducted thousands of interviews of former

Khmer Rouge officials and cadres since 2001, with support from the Ministry of the Interior. The study will provide victims, some of whom may feel disconnected from the ongoing criminal process upcoming tribunals, with an opportunity to testify about their own experiences, and thus come to terms with their past. Like South Africa's Truth and Reconciliation Commission, the study hopes to focus not on placing blame on particular individuals, but rather giving victims a chance to speak and be heard—a crucial step towards national reconciliation and justice.

Commemorating Key Human Rights Laws:

Finally, DC-Cam will seek approval from the Royal Government of Cambodia to convene a forum commemorating the passage of key human rights laws. In particular, we intend to highlight the Genocide Convention, the watershed treaty that condemned and prohibited genocide sixty years ago. We also intend to draw attention to the recent ASEAN Human Rights Convention. We hope to lead a forum in collaboration with the Cambodian government, which adopted the Genocide Convention in 1950 and signed the ASEAN Human Rights Convention on December 10, 2008. The former represents one of the bedrocks of modern international human rights law, while the latter expresses a renewed regional commitment to basic human rights and dignity.

The proposed forum will include local and international participants and serve to illuminate the critical continuing need to promote human rights and prevent genocide, in Cambodia and beyond. We hope that the forum will also establish a community of scholars, advocates, officials, and others from inside and outside of Cambodia to carry on that mission. DC-Cam aims to serve as a principal hub in Asia to ensure that atrocities like those in Democratic Kampuchea never happen again.

Youk Chhang is the Director of the Documentation Center of Cambodia and Editor-in-Chief of Searching for the Truth magazine.

GUNNAR IN THE LIVING HELL: DEMOCRATIC KAMPUCHEA, AUGUST 1978

A RETROSPECTIVE EXHIBITION OF AND SEMINARS WITH GUNNAR BERGSTROM

Sarah Jones Dickens

Gunnar Bergstrom has not returned to Cambodia since his delegation tour thirty years ago. For fourteen days in 1978, Bergstrom came to Cambodia along with other representatives of the Swedish Cambodian Friendship Association on a "public relations" tour, a Khmer Rouge operation aimed to rally and increase support for the Khmer Rouge from abroad from other communist countries. During his trip, the delegates were taken around Cambodia by Khmer Rouge cadres; they visited Phnom Penh as well as Kandal, Siem Reap, Kampong Cham, and Kampong Som provinces; saw hospitals, factories, and schools; and watched people work and plant rice in the fields. They even had dinner at the Royal Palace in Phnom Penh with Ieng Sary and Pol Pot, the masterminds behind the sanguinary Khmer Rouge. But while Bergstrom and the Swedish delegates "wined and dined" with high ranking Khmer Rouge officials, the rest of the country was in turmoil: mentally and physically dead, overworked, starved, and resigned to the wanton destruction of their country. Returning to their homeland, the Swedes heralded Cambodia as being in the beginning, albeit imperfect, stages of a model communist society and believed that communism could indeed be a Savior for the Cambodian people. It was not until the delegates saw thousands of refugees pour into Thailand that they realized they had made a grave misjudgment.

But on November 15, 2008, Bergstrom will travel back to Cambodia for the first time since 1978 to speak with over 400 commune chiefs and villagers, ready to tell Cambodians—and ultimately the world—the things he saw, ignored, and were never shown during his first visit. In the spirit of

Bergstrom's arrival, The Documentation Center of Cambodia in collaboration with The Living History Forum of Sweden has mounted a traveling exhibition entitled *Gunnar in the Living Hell*, which features never-before-seen photographs taken exclusively from Bergstrom's personal archive of his 1978 tour. Starting on November 18, 2008, the exhibition will open at Reyum Gallery and at the Extraordinary Chambers in the Courts of Cambodia (ECCC) in Phnom Penh, Cambodia, travel to Kampong Cham, Kampong Thom, Battambang, Kampot, and Kampong Som; and finally will find a permanent home at Tuol Sleng Genocide Museum in Phnom Penh, Cambodia. A duplicated set of the exhibition will be shown at the Living History Forum in Stockholm, Sweden in Summer 2009 and will travel around Sweden from early 2010.

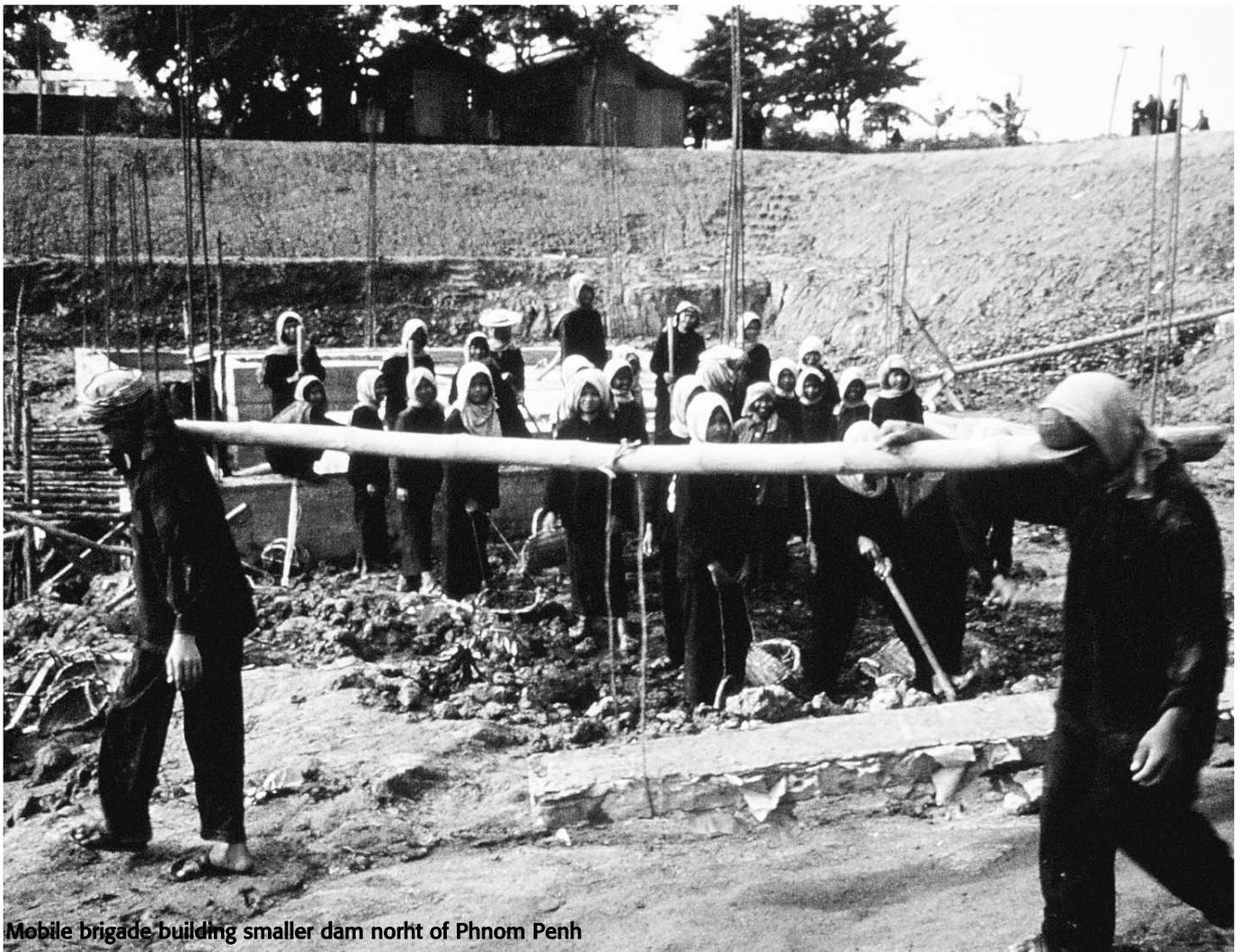
Gunnar in the Living Hell tells the story through the lens of one man, Gunnar Bergstrom, who was invited to, and allowed in, the country during 1978. Some of the photographs included in this exhibition uncannily depict Bergstrom and the other delegates happily smiling with a Khmer Rouge cadre in the Cambodian countryside, at the Royal Palace, Angkor Wat, and in an almost-deserted Phnom Penh. Other photographs present a skewed and manipulated glimpse into the daily "life" of regime: Cambodians eating communally, working in the rice fields, and building dams and other irrigation projects. But as with most visual documents produced under and for the Khmer Rouge, Bergstrom's visual collection too lacks the torture, starvation, death, and despair for which the Khmer Rouge is so renowned. These absences beg the questions: Is there any justification for the Swedes'

support of the Khmer Rouge? Did the Khmer Rouge cadres filter what the Swedes saw, or were the Swedes willfully blind to the conditions surrounding them? Are the Swedish delegates bystanders, or were they too victims of the Khmer Rouge, intellectually manipulated and duped by the regime's leaders and its followers?

Hopefully, Gunnar in the Living Hell will shed light on these tours, spark discourse and scholarship about the role or lack of participation from the international community then and now, and encourage other former delegates to Cambodia during 1978 to come forth and share their stories, experiences, and documents with the rest of the world. And perhaps more crucially, the exhibition may also bring some sort of reconciliation to the Cambodians who saw or have heard about foreign

delegates coming into the country, survivors who have wondered for the last thirty years why the international community, although present in their country during the Khmer Rouge, never came to their rescue. While the tribunals may indeed pave the way for the beginnings of national reconciliation, according to Suzannah Linton, reconciliation must happen on the ground. It must involve former victims, perpetrators and bystanders, whether it was those people "who willingly participated, the 'unwilling' perpetrators who were forced to commit crimes, or bystanders who aided through their moral support and silence." The latter is perhaps the most fundamental aspect of Bergstrom's trip back to Cambodia. (SJD)

Sarah Jones Dickens is a US Fulbright Student.



Mobile brigade building smaller dam north of Phnom Penh

KNOWING THE TRUTH AFTER COMING BACK TO MY HOMETOWN

Lakhena Tat

When thinking about Democratic Kampuchea, all Cambodian people always recall the killing, torture and forced labor of Khmer Rouge. Some people who lived under this regime knew all about the atrocities the Khmer Rouge committed and understood that they killed a lot of people without holding any trials. Unlike these people, Yon, who lives in Wat Phnom village, Kampeng commune, Kiri Vong district, Takeo province, did not know about the activities of the Khmer Rouge. After she came rejoined her parents in her hometown in 1979, she knew only about the situation faced by her family and the people who live in her village.

Yon is the oldest daughter among her 9 siblings. When she was young, Yon studied only through primary school and knows how to read a few letters. In 1968, because her family was poor and didn't have the means to allow her to continue her studies, Yon decided to stop studying in order to help her parents, and would buy rice from other communes to sell at home.

In 1970, the situation in her village changed because of fighting between Khmer Rouge and Lon Nol troops. Khmer Rouge troops put a lot of big tanks in the village that made not only her family but also the whole village feel worried, so they left their homes. Some people ran to the rice fields, some people climbed to the mountains and some people ran to Kampot province in order to hide themselves for a while. When the situation was quiet again, they came back to the village.

In 1972, after Khmer Rouge troops had controlled the whole village for about one month, the chief woman named Kou and the chief commune leader named Nhep (deceased) would repeatedly visit to choose three men and women per village to serve the revolution. Kou and Nhep came to Yon's house three times but she also refused to go because she wanted to look after her old parents.

Entering the revolution

Nhep and Kou never gave up trying to take Yon into the revolution and in 1975 they came to her house once more. This time Yon decided that she could no longer refuse because it was said "when Angkar says go west, you have to go west. If it says go east, you have to go east. It is not your decision. If you refuse, you will lose forever." At that time, Angkar required all women to wear black shirts and cut the hair to their necks. Angkar sent Yon to grow soy beans at Tro Peang Thom office near the Damrei Romiel mountain. After 100 people were assembled, Angkar ordered them to work at Ang Tasom, Takeo province. Yon stayed in unit 32, Regiment 53. Her jobs included city cleaner, transplanting rice and growing coconut trees that were under the control of Nhol.

About one month later, a car arrived to carry all the workers to Sre Ambil, Kampot province. Arriving at a construction site in Sre Ambil, Yon noticed that there were not many male workers; most of the workers were female. Angkar divided them into Regiment 53 and unit 2 under the control of Choenn. Yon was first assigned to collect vegetables to support the workers. Yon would ride a bicycle to other communes, such as Krang Sbout, and tell them that Sre Ambil Unit needed vegetables and in three days a car would arrive to pick up them up. When the designated date arrived, Yon and several other workers would drive the car to collect the vegetables.

A while later, Yon was assigned to carry salt to the storehouse. This job required her to get up at 5 o'clock in the morning and work until the evening. The technique for making salt was to pound the land until it was hard, and then insert sea water into the field. A few days later, the salts would grow and they would weigh them. If the salts had number 7 or 8, it meant that those salts grew well. But if those salts had number 9 or 10, it meant that those salts did not grow well. Later, they divided all the workers into

teams to stuff the salts in bags of about 50 kilograms to keep in the storehouse. Angkar said, "Those salts are carried to our parents who have no salts to eat." Yon remembers, "I saw about 10 cars carrying the salts to the train station everyday but I didn't know where they went next."

While working, Yon was very worried about her security because she saw how her group members disappeared one by one for knowing someone who betrayed Angkar. Moreover, in her unit there were three people who were strangled until they died without ever knowing the reason, including one named Meas Phet. Even though the work was busy, there were regular three-day meetings with the chief of the Fifty-member Unit and the Division. In the meeting, every individual was required to express their views about the work in order to improve their stand. Choenn and some workers, however, did not attend.

Even though the work was difficult and tiring, individual workers got enough food to eat. Furthermore, every weekend Angkar made a sweet snack for them to eat in order to encourage them to work even harder.

In the rainy season, when they could not make the salt, Angkar chose four or five people in each group to farm in Kep city. Yon had never visited home because her request to do so had been refused by the chief of the unit. Even though her request was refused, she had never tried to secretly ran away in order to visit home because she saw how one person who did so was caught by Angkar and then killed.

Working in a hospital

In 1977, Angkar chose people who had a good background to work in Phnom Penh. In Yon's group they chose only Yon. Yon did not want to work in Phnom Penh, but she could not refuse because she afraid she would be killed. When she arrived at the hospital where she was told to work, Yon was assigned to a house that was divided into many parts including a washing injury room, operating room, cleaning room and cooking room. Yon was assigned to the washing injury room, which had 10 female workers. Even though Yon had never studied medicine before, she was able to get help from older staff with

a lot of experience. Anyway, she was never blamed by Angkar. Later, Angkar had new strategy for ensuring equal work, so they had Yon cook for the medical staff and all the patients who stayed at the hospital. During that time, Yon could leave the hospital area if there was an order to carry firewood from Tuol Tum Poug market. Yon was very surprised because the city was very silent.

There was one kind of bottled medicine that was used to cure the patients. A piece of paper stuck to the bottle said in Khmer that the uses of the medicine included injecting it into blood vessels and muscles. There were many injured people at the hospital. Every three days Yon saw many cars carry injured people there at around nine or 10 in the evening. Most of them had serious injuries.

Yon once attended a one-day meeting at Olympic Stadium with staff from all of the ministries intended to strengthen their resolve to work for Angkar. This meeting was led by Ta Mok.

Escape to Battambang province

On the day that Vietnam liberated the Cambodian people, the patients and Yon ran to the train station at five in the evening. A few hours later, the train arrived in Battambang province. Yon wanted to come back home but she heard people say, "If we came back, Vietnamese troops will shoot us." Also, Yon did not know the way back home. Therefore, Yon continued her journey until she arrived in Sam Lout district where she continued to work as a nurse to help injured people.

Because of the difficulties of her living situation, in June 1979 Yon decided to go back to her hometown. In 1980, Yon got married to a man who lived in the same village. Today Yon has five children, four boys and one girl. Because Yon is very busy with her work, she doesn't know about the Khmer Rouge Tribunal, but she thinks that forming this court is right and is very useful for our society in order to find justice for the Cambodian people as a whole.

Lakhena Tat is a staff writer for Searching for the Truth magazine.

A KHMER-ARAB RELEASED FROM TUOL SLENG PRISON

Bunthorn Som and Leakhena Tat

17 April 1978 was the day that the Khmer Rouge revolutionary forces took complete control of Phnom Penh. That day all Cambodian people were supportive of the Khmer Rouge and expected the country to have peace. However, these hopes were dashed when the Khmer Rouge armies ordered the city's inhabitants to leave their homes within three days. During the subsequent purges, countless innocent people including Chinese, Vietnamese, Thais, New Zealanders, French, Australians and Americans were tortured and executed. Tuol Sleng, known as S-21 Office, was the biggest prison during the Democratic Kampuchea period, containing around 15,000 prisoners who were tortured and executed. Sek Kalkhan was one of the very few Tuol Sleng prisoners discharged and sent back to a cooperative when no basis for his guilt could be established.

Arabs in Cambodia

Kalkhan was born in an Arab village, district 5, Phnom Penh city (near the Chinese embassy). There were 40 native-Arab families settled in that village, most of them raising cattle, sheep and running their own businesses. Kalkhan's father, Adol Goly, immigrated to Cambodia in 1898 and raised cattle and sheep on an Arab farm. At the age of 25 Goly married a Lao woman named Salyma. They then both raised cattle and sheep and sold the milk to the market.

Growing up, Kalkhan learned to speak only Khmer and French, and thus could not speak Arabic. Although he stopped studying in grade 5th (grade 7th today) at Chak Kraval High School, he was able to read to write well. After the coup in 1970, Kalkhan decided not to continue his studies and helped out his parents by pulling out the grass; feeding animals at three different farms located near Steung Meanchey, Chinese embassy and another place in Phnom Penh; and selling the animals' milk.

Leaving home

As soon as the Khmer Rouge armies defeated the Lon Nol forces and took control of Phnom Penh, they announced that "all the people must depart from their homes in three days without bringing their luggage along, because Angkar needs to purge internal enemies." After hearing that, most of the Arab families agreed to leave. Four disagreed and were killed immediately by the Khmer Rouge troops. Seeing that, Kalkhan together with his family and four other Arab families moved to Prek Pra district, while others returned to their hometowns. Kalkhan and his family stayed in Prek Pra district for 20 days, because his father missed his house and personal property that had been left behind, and hoped to return Phnom Penh after the purge. But after the Khmer Rouge guards said, "You do not need to wait; Angkar will not allow all of you to go back to the city," his family decided to go on to Traoy Sla sub-district, Sa-ang district to stay with base people. There, Kalkhan spent much of his time searching for shellfish, snails and fish to eat.

New life

A month later, Angkar sent Kalkhan's family to live in a former Lon Nol barracks located in Prek Dach sub-district, Leuk Dek district, region 25, where numerous villagers accidentally stepped on mines and died. Because Angkar had not yet implemented a strict policy about emigration, some Chinese, Vietnamese, Muslim, and Arab families were able to live there temporary before riding boats to Vietnam. Three months after the arrival of Kalkhan's family, Ta Sindy, who supervised that area, drove around in a car distributing rice, salt and medicine to the villagers, and declared, "All of you do not have to miss your homes. Following the plan, we are now living together." Later, Angkar started to select guerrillas and unit, group, village, and sub-district

chiefs to control the village. Because Kalkhan had a strong body, Dim, the Prek Tauch sub-district chief, assigned him to work with Ta Chea making knives, axes, hoes, sickles, and ploughs. Kalkhan's parents and siblings were assigned to the farm in the mobile unit, chase the birds out of the rice fields, and make baskets and carrying sticks. Kalkhan's relatives were recognized to be Arab by their habit of not eating pork and their lack of fluency in Khmer, but Angkar still gave them food to eat.

Innocent Prisoner

On March 1976, Kalkhan's and Ta Kloeng's families were told to go back their hometown in Phnom Penh. After lunch, a car (CMC brand) arrived and stopped at Prek Tauch sub-district factory. Seeing that, Kalkhan was extremely happy and abandoned his work to enter the car with his torn cloth. Along the way, on the First National Road, Kalkhan noticed three different check points, one located in Dei Edth, another at Beung Snao, and the last at around Chbar Ampeou. When the car stopped at a bus stop in Phnom Penh, four Khmer Rouge soldiers told Kalkhan to get out of the car and stuck their guns in his back. Without knowing why, he was blindfolded and shackled, and then pushed into another car.

Not long after the car reached Tuol Sleng

Prison. A Khmer Rouge soldier untied his blindfold and threatened him, "Do you know this is Tuol Sleng? Once I ask you question, you must respond!" Later, the soldiers opened curtains hanging on a wall to show Kalkhan their torture tools: bamboo sticks, electric wires, pliers and pincers. Afterward, Kalkhan was kicked and hit by 10 guards. Some of them accused Kalkhan of being a former lieutenant, captain, and major, while others said he had been a pilot. Next, he heard a security guard ordering his subordinates to detain him in Room 07. They then shackled him. Because the shackles were smaller than his ankles, the guards crammed them harshly into the shackles and locked them, then unlocked the shackles on his wrists.

Time at Tuol Sleng Prison

The day after his arrival, four interrogators came to question Kalkhan, asking him, "What was your position while King Sihanouk was in power?" He replied, "I studied and helped my parents raised cattle and sheep, then sold their milk to the market." After hearing that, they threatened, "You must answer us honestly," but he insisted that what he said was true. The interrogators seemed not to believe him and asked, "Were you in the army during the Lon Nol regime?" He responded, "I was not in the army; I helped my parents to feed animals and



looked after the house." Again they asked, "What did you do in this communist regime?" he said "I was a blacksmith; I worked everyday." After questioning, the interrogators let Kalkhan write down his own background because they could not write properly.

Kalkhan was asked the same questions three or four times a day by different interrogators. Twenty days later, two Chinese-ethnic photographers along with four prison guards told him, "Don't look around," then shackled his wrists and escorted him out. Because Kalkhan had been shackled for quite a long time, he was not able to walk well and leaned on the wall. One of the photographers applied an ointment on his wrists and a guard combed his hair. Later the photographer took three photographs.

The following week four guards and an old Khmer Rouge cadre holding a prisoners' name list came to question Kalkhan. He asked, "Where did you live?" and Kalkhan responded fearfully, "I lived in Arab village." The cadre added, "What did you write in your biography?" and Kalkhan answered, "I wrote that I earned my living by selling cattle and sheep's milk which I had raised." At 12am, three days after this questioning, a prison guard unlocked Kalkhan's shackles and ordered him to walk forward. Kalkhan then saw his family and Ta Kloeng's family in the campus of Tuol Sleng. Because Angkar had not discovered the two families' guilt they were released and given rice and pots. Later on, a Khmer Rouge cadre called the families to join a meeting. During the meeting, some Khmer Rouge officers said, "When our country is developed, we will stop using human and cattle labor, and instead use machines." They told the families to work hard at their farming.

Return to the cooperative

As soon as the meeting came to the end, Kalkhan and Ta Kloeng's families were transported across Kompong Speu, Ta Khmao, and Chbar Ampeou to Prek Dach cooperative. Along the way,

Kalkhan's family was given a jar of palm sugar. Because Kalkhan's father was afraid of being put back in prison again, he brought the palm sugar back to the cooperative and warned all children not to say anything about what had happened at Tuol Sleng. At a meeting in the cooperative, the village and sub-district chiefs together with other villagers asked Kalkhan, "Angkar sent you back to your hometown, why you come back?" and Kalkhan's father replied with fear, "It is due to Angkar's plan." Once, when the subject came up, he remained silent and cried.

Later, Angkar assigned Kalkhan to farm and to help build a dike and dam three kilometers from the village. In the middle of 1977, Kalkhan's youngest brother came to meet him with a pale face and said, "Our father has died." Hearing that, Kalkhan asked for permission from the unit chief to bring his father's body to honor, but this request was denied. Kalkhan then asked to borrow a tradeus (a bamboo strip used for carrying things) from the unit chief to carry his father's body to bury. However, this suggestion was also declined. Even though Kalkhan's requests were refused, Kalkhan brought his father's body to bury on the hill next to the village. After hearing about this, the unit chief punished him by making him thresh rice for a week with no food; he was allowed only water to drink.

After liberation day, 7 January 1979, Kalkhan earned his living by farming, fishing, working and driving a motor taxi. Today he lives with his wife, Oun Saret, and four children. For 30 years, Kalkhan did not dare to describe his suffering under the Khmer Rouge regime. However, after learning about the Khmer Rouge tribunal he was happy to speak the truth, and hopes that his testimony will help the tribunal find justice for him and all the other innocent people who were detained and executed.

Lakhena Tat and Bunthorn Som are staff writers for Searching for the Truth magazine.

THE MASSACRE OF KHMER ROUGE CADRES IN THE EASTERN ZONE

REPORT ON PIR ROAD TRIP TO PREY VENG

Savina Sirik

From September 8 to 10, 2008, the Documentation Center of Cambodia's (DC-Cam) Public Information Room (PIR) team visited Kdoeung Reay sub-district, Prey Veng province. The team brought two documentary films, *Behind the Walls of S-21* and *Preparing for Justice*, to screen for villagers in the commune. Kdoeung Reay pagoda was selected as the screening site due to its location in the center of the commune. Monks, nuns, and villagers including young children took part in the film screening. About seventy copies of *Searching for the Truth* magazines and Khmer Rouge Tribunal booklets were distributed to the audience. The screening was intended to inform people in rural areas about the recent developments at the Extraordinary Chambers in the Courts of Cambodia (ECCC), to encourage them to talk about their experiences under the Pol Pot regime, and to investigate possible sexual abuses in the region during the regime.

Background to the Site

During Democratic Kampuchea, Prey Veng province, together with Svay Rieng, Eastern Kampong Cham, and the Chhlong district of Kratie, formed the Eastern Zone. Prey Veng was formerly known as region 22, and, being close to the Vietnamese border, was the location of intense fighting during the last period of the Khmer Rouge era. The border areas of Phnom Cheung Andaeng and Trapeang Phlong were the frontline of the war, and were where some sub-district villagers the team spoke to had fought with the Vietnamese. A villager from Kdoeung Reay village described how in 1978

Khmer Rouge soldiers from both the Southwestern and Eastern Zone were sent to protect the border region. That was the first time during the regime that Southwestern Zone cadres appeared in the area.

Under control of the Khmer Rouge the Zone became chaotic after a few years of relative peace. The replacement of Khmer Rouge cadres from the Eastern Zone by ones from the Southwestern Zone, and the massacres of the Eastern Zone cadre, occurred throughout the period and lasted until Vietnam invaded in 1979. In late 1977 and 1978 many high ranking Eastern Zone cadres were removed from both the frontlines and cooperatives and killed. Cadre who were found to be related to the high ranking cadre or active before the cleansing of Eastern Zone were also targets of the purges.

Revolutionary Struggle

After the overthrow of Prince Norodom Sihanouk in 1970, the Khmer Rouge communists used the opportunity to strengthen their power and had the Prince tell the Cambodian peasants to stand up and seize power from Lon Nol. In the hopes that the Prince would return to rule the country, many rural Cambodians left their families and homes to take up arms and fight for the revolution. Additionally, the bombardment during that time forced many of them to escape their village to the jungle. For example, 62 year-old Chuo Pheng and his neighbors in Kdoeung Reay sub-district went to the jungle and fought for the Khmer Rouge under pressure from both the bombing and the repeated calls of the Khmer Rouge for revolution.

After the KR victory over the Lon Nol's government, the country reached a turning point. Hopes of

bringing back the Prince to power faded when the new government announced the elimination of currency, revolutionary leaders Hou Nim and Hou Yun were assassinated, and the new head of state Pol Pot appeared. Chuo Pheng spoke of the deteriorating situation in his region. He said that the living conditions of his villagers were changed to communal working and eating that made life difficult for them. At that time, he was assigned to be chief of a cooperative responsible for overseeing communal work. Though this situation was hard for many villagers, it was even worse when the Eastern Zone's chief, Sao Phim, was arrested and accused of being a traitor.

War against Vietnam and the arrest of Eastern Zone's cadres

The situation in Prey Veng worsened when Southwestern Zone cadres came to the region to assist in waging the war against Vietnam. Van Phal, 57, a former KR soldier in Region 20, complained that the Southwestern Zone's soldiers were sent to fight for nothing as the Eastern Zone soldiers were already in control of the situation. The presence of cadres from the Southwestern Zone actually increased the deterioration of the Eastern Zone after the purge of Sao Phim.

Toward the end of 1977, the confrontation between the Khmer Rouge and Vietnam along the border intensified. More soldiers were sent to help on the frontlines. At the same time, cadres at the highest level in the army and in the cooperatives were withdrawn from their positions and replaced with new cadres from the Southwestern Zone. This event was still clear in the memories of most villagers. Most of interviewers told us that the replacement was a dreadful event. Many of the cadres who were removed were sent for re-education. Almost none of them returned.

Sam Kimsan, 70, recalled that in late 1977 cadre from the west of the country with a different accent from people in his area took control of his village and replaced almost all the previous chiefs.

He saw many of them tied up in a line walk pass by his village toward what he assumed was an execution site.

Van Phal and his colleagues in the army had wondered about the disappearance of their commander, Ta Khoem. Then Phal saw Ta Khoem's sub-commander, Sarun, taken away after a short while in the position of his commander. Phal realized that both of them had been sent away to be killed. Phal and his colleagues worried about their own fate when the new high ranks from Southwestern Zone arrived as replacement commanders.

Escape from the arrest

Van Phal and many other soldiers from the border area Trapeang Phlong and Phnom Choeung Andeng were scared due to the continuous disappearance of high ranking officials from their military unit. They escaped from the unit and went to hide in their home village. Phal recalled that he begged his neighbors to help hide him from the Southwestern Zone's cadres; otherwise he would run to the jungle and join the resistance force supported by Vietnam. Fortunately, with support from his family and his villagers, he was able to survive until Vietnam's invasion.

Phal's fate was not the worst. Many villagers holding leadership roles in the cooperative were arrested and sent away from home and some were killed. Chuo Pheng, 62, who lived and worked in the cooperative during the Khmer Rouge, was arrested and forced to work hard for three months



Chuo Pheng

in a restricted area under strict observation by Southwestern Zone cadre. Pheng told us that he was arrested because he was the head of a village under the Eastern Zone's control during the early period of the KR regime. Many who resisted going to the

restricted area were sent to death immediately. Among the prisoners, Pheng had seen many of the missing who, it became known later, were executed at Svay Rormiat - a former high school - and a few other places outside the district.

In late 1978, the last period of the KR, many villagers from the cooperatives were evacuated by the cadres of the Southwestern Zone to Kampong Cham, Kampong Thom, and other regions to escape the Vietnam invasion. They later struggled to survive the fighting between the KR and Vietnamese force on their own. The fire and bombardment resulted in many innocent people's death. Those able to survive had to struggle against the hunger that took away many lives. Pheng complained of the hardship he endured during the evacuation. He said that the leaves and roots of plants were the only food he had. Many old people were not able to survive the starvation. After a month he and his villagers were able to return to the village and were provided with rice.

The importance of educating young generation about the Khmer Rouge regime

After being interviewed, our interviewees wanted to convey a message to the younger generation that they should learn and remember this dreadful history in order to prevent it from happening again. Chuo Pheng said that although some children were

told about the regime by their parents, they seemed to pay little attention to learning and understanding its history. He suggested that to strengthen their knowledge, children should receive formal education about Democratic Kampuchea at school. This will assist them to learn from a respected authority such as teachers or education practitioners.

Thy Phally, 30, who was born less than a year before the fall of the regime, stated that he had seen human remains at Svay Rormeath high school in his sub-district and heard the stories of mass killing during the KR from his parents. He believed what his parents had told him, but he worried about some younger adults who did not pay attention to these stories. He said that educating children through local media, such as by broadcasting films about the regime, would be one of effective way to help them understand and remember this history.

Like Pheng, Van Phal recommended reinforcing Khmer Rouge history in school programs so that young children can learn about it even if their parents had not had an opportunity to explain about the past. Theng Pen, 43, shared this view and said that he would love young children to be taught Khmer Rouge history so they would not forget and the regime would not reoccur. He additionally opined that the screening of the films on the Khmer Rouge would facilitate young generation's belief in the atrocities committed by the Khmer Rouge.

When expressing their views on justice and the tribunal proceedings, most participants said that, although the ECCC was established to try senior leaders and those most responsible to bring justice for the KR's victims, this act would never repay the Cambodian people for what they had lost.

Savina Sirik is the Team Leader of DC-Cam's Living Documents Project.



Villagers, nuns, and monks watching the documentary films

STATEMENT BY IENG SARY, MINISTER OF FOREIGN AFFAIRS

D30569

The following is an extract of a statement made by Ieng Sary, the Deputy Prime Minister who is also the Minister of Foreign Affairs, on March 17, 1978 in Phnom Penh.

The people of Democratic Kampuchea are overcoming all obstacles in order to safeguard and defend their independence, sovereignty and territorial integrity and absolute right to decide their own destiny. Our present struggle which revolves around the acts of aggression and annexation perpetrated by the " Socialist Republic of Vietnam" is not in essence any different than the struggle for national liberation against the war of aggression perpetrated by US imperialism, during which our people made great sacrifices not only for their independence but the victory of non-alignment principles. Indeed our present struggle is to allow Democratic Kampuchea to live, develop and move forward as an independent, peaceful and non-aligned country. In the past, the great community of non-aligned countries has actively supported the just cause of

the Kampuchean people. It still continues to pay great attention to Vietnamese acts of aggression against Democratic Kampuchea. This attitude has further encouraged their belief in their just cause.

We are fully aware that non-aligned movement is facing many difficult problems caused by the interference and intervention of imperialists, expansionists and their supporters. It is for this very reason that the truth be known in the current Kampuchea - Vietnam conflict. Being faithful to the principles of non-alignment, Democratic Kampuchea deeply wishes that the non-aligned community can devote its time and mobilise its forces in the struggle against our common enemies.

The root cause of the present conflict was outlined in a statement made by the Government of Democratic Kampuchea on December 31, 1977. Vietnam several decades ago set forth its strategic objective to establish a "Indochina Federation" which would involve one country, one party and one people. Vietnam wanted to force Kampuchea to join this



Ieng Sary during DK period



Ieng Sary in 2008

"federation" since that time; especially since 1975 all kinds of pressured, overt and covert, peaceful and war like have been used to achieve this end. But Vietnam has suffered successive defeats in that:

- ♦ its schemes of seduction about "special friendship" and "special solidarity" with Kampuchea;

- ♦ its spying, subversive and undermining activities;

- ♦ its attempts to stage coup d'etats; and its military violations and encroachments of Kampuchean border territory have all failed. It was only after these defeats that Vietnam launched its large-scale attacks during the last four months of 1977 and early 1978. This action is tantamount to a non-declared war against Democratic Kampuchea.

By January 6, 1978, the Revolutionary Army of Kampuchea had wiped out the Vietnamese invading forces. However despite these defeats, Vietnam has not abandoned its policy of forcing Kampuchea to join a Vietnamese dominated "Indochina Federation". This is why the situation remains tense. Vietnam has still continued to carry on military activities and subversion against Kampuchea. The Vietnamese army have continued firing on our territory with machine guns and artillery. It has continued to send in espionage agents to gather intelligence on Kampuchea. While this is happening it is actively preparing its military forces to move to border areas for which we feel can only be for one reason, the continual escalation of Vietnamese aggression against Democratic Kampuchea in 1978. Further to this Vietnam has slandered the government chosen by the people in the international arena. We had expected a greater degree of political maturity by the Vietnamese leaders. It appears to us, that Vietnam is desperately trying to seek international legitimacy for its gross acts of interference and plans for annexation. Should Vietnam have any right to carry out such activities?

Following its heavy defeats on January 6, 1978 on February 4, 1978 the day prior to Vietnam's

demand for "negotiations" it launched an artillery attack in Koh Thom, situated on the lower Tonle Bassac River, South of Phnom Penh. This was followed by four regiments of Vietnamese infantry assisted by tanks, helicopters and fighter aircraft. On February 5, 6, 7 and 8, Vietnam continued to launch its attack in this area and many other places in Svay Rieng Province. Thus while Vietnam makes proposals for negotiations with Kampuchea it still continues to attack us. For what does Vietnam want Kampuchea to negotiate?

Democratic Kampuchea has never rejected the principle of negotiation with Vietnam. This was made clear on December 31, 1977 and in other official documents since 1975.

In June 1975, despite the Vietnamese occupation of Koh Way (Kampuchean Island) and our many internal difficulties, the Secretary, Deputy Secretary of the Central Committee of the Communist Party of Kampuchea and the Deputy Prime Minister in charge of Foreign Affairs led a delegation to Hanoi for negotiations on the border problem. In May 1976, Democratic Kampuchea invited a Vietnamese delegation to Phnom Penh to continue these negotiations. At the same time, Democratic Kampuchea desirous to obtain a peaceful solution has striven to maintain regular contacts with Vietnam through Liaison Committees at the central, regional and district levels. But Vietnam has not taken into consideration the good will of Kampuchea and has adopted an attitude contrary to Vietnamese statements made in 1966 and 1967, which had recognized the present borders of Kampuchea and promised to respect the border. It used to open contacts through Liaison Committees to carry out subversive activities, incitement to riot and stage attempted coup d'etats in September 1975, April 1976, September 1976, April 1977 and September 1977.

On June 18, 1977 in the midst of such a tense situation, Kampuchea proposed that the two sides:

- (1) Avoid armed conflict along the border,

both land and maritime;

(2) Resolve not to engage in spying, territorial violation, and subversion and interference in each others internal affairs.

(3) Not to station troops at a distance less than 500 to 1000 meters from the present border, in orders to avoid armed conflict; and

(4) To educate soldiers and peoples to be fully aware of the principles of friendship and solidarity, mutual respect, equality and of non-interference in each other's internal affairs.

These Kampuchean proposals were designed to create an atmosphere of détente and mutual confidence favorable for a fruitful further meeting. Once again Vietnam was non-responsive. On the contrary at the beginning of July, 1977, Vietnam escalated its acts of aggression against Kampuchea. Kampuchea never publicized these acts of aggression for it wanted to solve the existing problems through peaceful means and with sincerity. But as for the Vietnamese side, it has carried out diplomatic actions designed to slander and isolate Kampuchea in the international arene.

If the current border conflict was just an ordinary border conflict, why at the end of 1977 was the Vietnamese army up to 30 kilometers inside Kampuchea? Why did the Vietnamese army destroy the organs of Kampuchean Government and establish their own puppet administrations wherever they could? Why has Vietnam engaged in many activities aimed at overthrowing the present government of Democratic Kampuchea? The answer to these three questions is that Vietnam wants its "Indochina Federation". Vietnams' actions are nothing new as far as Kampuchea is concerned. Imperialists, colonialists and Vietnamese feudalists and reactionaries have annexed many "tens of thousands" of square kilometers of territory, a good example being Kampuchea Krom. Our people know this but are prepared to let "bygones be bygones".

All they want to do is live in peace, honour and dignity being sovereign of that territory that has

been clearly defined in historic documents, texts and maps. During the negotiations between Kampuchea and the National Liberation Front of South Vietnam in August-September 1966 and in solemn statements issued by the NLF on May 31, 1967 and the Government of the Democratic Republic of Vietnam issued on June 8, 1967, Vietnam declared that it recognized Kampuchea's border and promised to continue respecting this agreement. Once again why, at present does Vietnam refuse to carry out its promises?

The Government of Democratic Kampuchea in its statement of December 31, 1977 clearly stated that the present conflict could only end if Vietnam ends its acts of aggression, and annexation of Kampuchean territory, subversion and if Vietnam respects with concrete acts the independence, sovereignty and territorial integrity of Democratic Kampuchea and the right of the Kampuchean people to decide by themselves their own destiny. From this a genuine friendship would be surely established, successively strengthened a small country, sparsely populated and with no troops in foreign counties. Kampuchea needs time and peace for national construction to improve the people's living standards. There is no reason to create trouble, Kampuchea needs peace not war.

However, let there be no mistake, while Vietnam refuses to adopt a policy of détente, Kampuchea is ever vigilant. In defending its inalienable and vital interests, Democratic Kampuchea is also fully aware of its responsibility and duties towards the non-aligned movement. It is convinced that its present struggle is a modest contribution to strengthening the independence, sovereignty and peace of Southeast Asia and the world against the ambitions of the imperialists, expansionists and their followers. This struggle also ialists, expansionists and their followers. This struggle also plays a role in enhancing the principles of non-alignment.

Statement form IENG SARY, Deputy Prime Minister in Charge of Foreign Affairs.

THE NEED TO DISTINGUISH BETWEEN PATRIOTISM AND TREASON

D30277

Phnom Penh home service 1 100gmt 10 Apr 78
Text of talk in the "Education Program"

It is absolutely necessary to draw a clear line between ourselves and the enemy and stand on our side to make the revolution. First of all, let us determine who are "ourselves"? "Ourselves" means our nation, people, worker-peasant class, revolution, collective system of the proletariat, co-operatives, trade unions, revolutionary army and CPK. The "enemy" includes the imperialist aggressors and lackeys of all stripes; the enemy which has the intention of annexing and swallowing our territory; the enemy which is planted within our revolutionary ranks; the enemy in the form of the feudal-capitalist and landowner classes and the other oppressor classes; the enemy in the form of the private and individualist system; and, particularly, the expansionist, annexationist Vietnamese enemy. Therefore, it is imperative to draw a clear distinction between patriotism and treason, between love for the nation and people and betrayal of the nation and people, between the worker-peasant class and the feudal-capitalist landowner and other oppressor classes, between revolution and counter-revolution, between the collective system of the Party's proletariat and the private system of other anti-proletarian classes, and between the CPK and other anti-national and counter-revolutionary sham parties. It is necessary to draw a clear-cut line in terms of political, ideological, organizational, emotional and traditional views and stands. This is the initial and fundamental stand necessary to conduct the revolution through to the end.

First, why is it necessary for us to build up and strengthen the stand of drawing a clear line between us and the enemy? Each of us has joined

the revolution in order to fight against the enemy of our nation, people, class and revolution. This does not mean that all of us know the enemy clearly and have drawn a clear distinction between ourselves and the enemy. Many joined the revolution at first and later switched to the enemy's side against the revolution. This is because of the weakness in their stand of drawing a firm and clear line between ourselves and enemy. To know the enemy well is to have a resolute political, ideological and organizational stand geared towards fighting the enemy to the end. To know the enemy without having the determination to fight him to the end is useless.

For example, we are now fighting against the private system and private ownership. We know our goal well. However, sometimes our political, ideological and emotional stand is not resolute enough, as we have not yet made a clear-cut distinction between ourselves and the enemy. Many of us in the case will certainly not make it to the end and will fall prey to the propaganda launched by the enemy both inside and outside our ranks, to discredit the proletarian collective system and Party and to extol the private ownership and private system. They may be taken in by the enemy's propaganda and lose both their faith in and allegiance to our cause. Both the opinions and political views of such people can be won over by the enemy. This means that they can be used by the enemy to attack their own nation, people, worker-peasant class, revolution, proletarian collective system and CPK.

Another example can be cited; in the past, enemy running dogs of all stripes planted within our co-operatives sabotaged the target set by our Party and co-operatives of three tons per hectare.

This was possible because some of our cadres and comrades did not pay enough attention to weeding out enemy elements. In other words, the movement whipped up to wipe out the enemy planted within the co-operatives was not seething enough. This has allowed him to carry on his activities. The explanation for this phenomenon is that the stand of drawing a clear line between the co-operatives and the enemy planted within them is not firm and resolute.

We should also have a profound understanding of the revolution. It is noteworthy that we are [words indistinct] our people, worker peasant class, revolution, proletarian collective system, co-operatives, trade unions, revolutionary army, CPK, and the political, ideological and organizational line of our Party. We should be repeatedly reminded that we must devote everything to our side; we must stand on our side, stay on our side and must not stand on the enemy's side. Some of our comrades might have thought that if they stood on the enemy's side, the enemy would cease to be an enemy. They were all wrong. This cannot be true, as the enemy will always remain the enemy. However, there are many cases in which our stand can be damaged and shaken, not as a direct result of enemy activities but by various other objective factors. If you do not adhere firmly to our side, you may very well become alienated and won over to the enemy's side.

For example, when you compare our revolution with other countries' revolutions, you will see that there is a great difference between us and other countries. For example, other countries still have a currency, a wage system, market places and private property. In a word, we are not like other countries. In this case, should you stand on our side or the side of other people? If you opt for the latter, willingly or not you have deserted our side. So, without a clear line between ourselves and other people, little by little, the enemy's view and ideology will creep

into your minds and make you lose all sense of distinction between ourselves and the enemy. This is very dangerous. It is possible that several of our comrades have fallen into this trap.

We must be careful to maintain the political and organizational stand between ourselves and other people and deal with all other objective factors. Therefore, it is imperative for all of us to stay on our side. We must stay on our side vis-à-vis both the enemy and other people. We must stick to our side in dealing with all objective factors as well. Otherwise, we cannot clearly recognize the true nature of the enemy's force or our revolutionary force. Only by clearly recognizing the force of the revolution and particularly the force of the workers and peasants can we mobilize all our revolutionary strength to smash and defeat the enemy. Only in this way can we successfully lead the revolution from one stage to the next in accordance with the political line of our party.

Second, how do we build and strengthen this above-mentioned stand? Under no circumstance in times of weal or woe, temporary setback or victory should we stop strengthening this stand. We should build and strengthen the stand of clearly distinguishing between ourselves and the enemy and staying on our side to make the revolution at all revolutionary stages. In order to keep this political stand strong, everlasting, unequivocal, clear-cut and resolute, we should constantly keep the following in mind.

First, why do we make revolution? We have not come to make revolution blindly. Nobody has forced us to make it. We have consented to all sacrifices for this cause because we want to shake off the domination, oppression and repression of the enemy and to help liberate our worker-peasant class. For this reason, we have joined other people to carry out the revolution under the leadership of the Party.

Second, whom do we strike against in this revolution? It is the enemy of our nation, people,

revolution, class, proletarian collective system and Party. In no way will we join the enemy to attack our own nation, people, class, revolution, system and Party. Otherwise, we should be branded as traitors to the nation, people, class, revolution, and collective system of the proletariat and Party.

Third, what is the aim of the revolution? It is for the liberation of the nation, people, oppressed classes and particularly the worker-peasant class, for the betterment of the people's livelihood, and for the building of socialism into communism to make the nation powerful, prosperous and glorious. It is not for the sake of personal glory, rewards, positions, rank or personal gain. The goal of our revolution is to secure happiness and harmony for the collective society of the proletariat as a whole.

Fourth, who does the revolution serve? The revolution serves the nation, people and especially the worker-peasant class under the leadership of the Party.

The above mentioned points of this concrete stand should be constantly built, nurtured and sharpened. If this stand is well sharpened and clarified, it will enable us to feel the following. First, a constantly seething hatred for the enemy; second, profound revolutionary sentiments towards the oppressed classes; and third, powerful love for the nation, revolution, collective system and Party, these three emotions constitute the basis of the daily fighting spirit.

In order to secure a constantly simmering daily fighting spirit, one must have a constantly seething hatred for the enemy, strong revolutionary sentiment and profound love for the nation, revolution, class, collective system and Party. Will you stay alert in your efforts to weed out and exterminate the enemy planted within the co-operatives, trade unions and units and will you completely succeed in the effort to solve the problem of people's livelihood by making every effort to fulfill the targets of three tons per hectare and six tons per hectare

ordered by the Party, and by endeavoring with constantly seething enthusiasm to carry out all tasks entrusted by the Party.

Experience shows that without a firm revolutionary stand, all efforts to fulfill tasks important or insignificant cannot be completely successful. Past experience in our revolutionary movements of all ages shows that the tendency toward private ownership and especially towards Left or Right opportunism is frequently the result of an unclear distinction between ourselves and the enemy. It is thus easy for the enemy to turn those who are unable to distinguish between the two against their own nation and revolution. Even though they are not entirely won over to the side of the enemy, these elements are not useful to the revolution and the Party, as they are incessantly concerned only with their private, individual interests. They are opportunists, for they are not fully committed to the revolution and can advance, withdraw and sidestep to the Left or Right with ease. Such a stand should be regarded as very dangerous to the revolution and should be exterminated at all costs.

In today's world, the enemies of all stripes - imperialism, expansionism or the annexationist Vietnamese - are resorting to all kinds of tactics to scuttle our stand of drawing a clear line between ourselves and them. Among these tactics are many overt and secret, legal and illegal manoeuvres and schemes designed in the form of agreements to provide this or that assistance, and even the use of the "unlimited great friendship" label for the purpose of aggression against other countries and to swallow up other nations. We should, therefore, uphold revolutionary vigilance against both the external enemy and the internal enemy running dogs of all stripes, and strive to strengthen the stand of drawing a clear line between ourselves and the enemy and stay on our side to carry on the revolution along the political, ideological and organizational line of the CPK.

DO NOT WANT GRATITUDE

Vannak Sok

The ideology of Democratic Kampuchea made Khmer Rouge cadres controlling villages, sub-districts, and districts cruel. They cut off relations with their parents, relatives, and siblings, following a Khmer Rouge slogan "if you do something, you must take responsibility." However, there were several kind cadres such as Kong Sim, 52 years old, who was born in Domnak Trach village, Toul Ampel sub-district, Kong Pisey district, Kompong Speu province.

Sim stopped studying in grade 9 after the 1970 coup against King Sihanouk. His family's living standards were poor so he farmed with his parents. In 1972, after the Khmer Rouge armies took control of his village, Sim volunteered to serve the revolution as a Khmer Rouge guerrilla with other people in Domnak Trach village, Toul Ampel sub-district. In 1973, Sim ran into the Maqui forest to join the Khmer liberation movement that was fighting the Lon Nol forces. Although the Lon Nol forces had modern weapons, the heroism and loyalty of the Khmer Rouge armies toward Angkar led them to victory on April 17, 1975. Nevertheless, the war resulted in the deaths of thousands of soldiers and civilians.

Not long after taking power, the Khmer Rouge

leaders organized the structure and management of the country along new political lines by promoting workers and peasant classes, purging feudal class, destroying markets and cutting off the media network. Some cadres who had worked for Angkar were regarded as enemies and Angkar arrested and executed many people. Those cadres with ties to the Lon Nol regime were removed from their positions. For example, Angkar moved Sim to the base area after it was discovered that his relative had worked as government officer during People's Republic of Khmer. Sim was responsible for supervising 40 boys, most of whom were around 10 years old. They were ordered to cut water plants to make fertilizer and carried water to the rice fields.

In July, 1977, Angkar arranged for Sim to get married; he had no right to choose the woman he loved, and neither he nor his relatives had seen his wife before. During the marriage ceremony, Sim and other 30 to 40 couples were required to promise to follow Angkar in front of sub-district and district cadres.

On 8 July 1977, 36 couples who had just gotten married were ordered to gather at Takeo province.

There were many people coming from Kompot, Kompong Speu and Takeo provinces. In the morning, a cadre told Sim that there was a big meeting to be presided over by a Khmer Rouge leader. Later, Ta Mok arrived and said, "I noticed that some cadres in Battambang province had been betraying Angkar, thus only you who just got married can build our country." The following day at 10, Sim and his wife took a train to Battambang province; there he was appointed to work for a district hospital. On 11 July, Ta Mok once again came to open a meeting. This time he said, "All male and female comrades



in Battambang province have to work hard for Angkar." Then he introduced Ros Nhem, a friend who had struggled with him since he was in the forest. They shook hands and laughed and the meeting ended quietly. Half month after the meeting the situation in Battambang province became chaotic because Ros Nhem, Ta Sou, Ta Vong, and some other base cadres were arrested. At region 4, many villagers were executed or starved to death.

In 1978, Man, the wife of Nol, the cooperative chief at Prey Totoeng, region 4, brought a boy called Pheoun to Sim. Sim wondered and asked "Where did this boy come from?" She replied, "Although I am Nol's wife, I dislike my husband behavior. This boy's father was a base person; he passed away. Later his mother was accused of doing something against morality and killed by my husband." Man felt sorry for this innocent boy, so she asked Sim to feed him. After hearing that, he allowed that boy to stay with him.

In 1979, when the Vietnamese armies reached Cambodia, the Khmer Rouge cadres and villagers returned their hometowns. Sim took his wife and Pheoun to the Khmer-Thai border. Along the way Sim met a girl looking for her parents and he asked her, "What is your name?" She said, "My name is Ry." Sim asked her where her parents were, and she replied, "They might have died, because when I ran from the children's unit to the village, I could not find them, and now I do not know where to go." Seeing her plight, Sim decided to invite the girl to come with him. There were many difficulties along the way, yet Sim and his wife and the two children reached Srah Keo camp.

At the camp, no international organizations had arrived so Sim entered Thailand to find a job. There he collected corn and was paid 5 baht a bag. Sim tried to work hard to make a living; he earned 25 to 30 baht a day. Later, French people set up a place to feed orphans, so the two

children asked Sim to go there because they did not want to add to his responsibilities. Sim did not refuse their suggestion, yet his wife did not want them to leave because she loved them as her own children. Sim explained his wife, "Please do not think too much, the two children will have happiness if they go there. The Khmer Rouge armies have gathered again and they are going to fight with the government forces; we do not know our future yet." He added that he was only thinking about children's future, he did not look for gratitude, and he only pitied and loved them because they were orphans whose parents died during the cruel regime.

In 1996, the Khmer Rouge forces intergraded with the government, ending the war. Sim returned to Boeng Raing village, Boeng Raing sub-district, Komreang district, Battambang province. There, Sim became first deputy sub-district chief. Today he has 7 children: 3 girls, four boys. Nonetheless, he and his wife still miss the two children; they are now about 30 years old. Sim said "I do not need anything from them, I only want to know how are they." He added that if the two children see this article, to please let them know how to reach him.

Vannak Sok is the Team Member of Promoting Accountability



Communal eating

MY TRIP TO ANLONG VENG DISTRICT

Jared L. Watkins

During the week of 16 June 2008, I was fortunate to accompany the DC-Cam Promoting Accountability Project Team on a field trip to Anlong Veng district, Oddar Meanchey Province. The team consisted of Dany Long, Chhay Khin, Vannak Sok, and Theany Hin. This diligent, collegial group was kind enough to allow Randle DeFalco and me to accompany them, which is no small gesture when this entails squeezing two big bodies into an already full backseat of a SUV for an eight hour drive through rural Cambodia. The purpose of the trip was to document good deeds undertaken by lower-level Khmer Rouge cadres from 1975-1979, and afterwards.

For Randle and me, the trip represented a unique opportunity to sit down and converse with Khmer Rouge cadres about their experiences. Not only would it provide our first face-to-face encounters with so-called "perpetrators," but discussions would focus on acts of kindness rather than the atrocities for which the regime is notorious. In addition, all of this interaction was to occur in Anlong Veng district, the mountainous Northwest Thai border region where Khmer Rouge fighters fled following the regime's collapse in 1979, and which is menacingly referred to as "the last stronghold of the Khmer Rouge."

Over the course of a week, the team conducted formal interviews with eight people, and had numerous informal introductory conversations with other former cadres usually "too busy," too skeptical, or both to go on the record. The interviews took place in various venues including an English school, commune offices, and homes. But these often very basic physical spaces belied the difficult decisions, emotional conflict, and nuanced perspectives that the cadres shared with us.

One of the first people we interviewed was X.

A soft-spoken man of 53, X was made to join the KR revolution in late 1970 at the order of his village chief. He was 15 years old at the time. In 1973, he was sent to join a military unit at Phnom Pros Phnom Srey, Kampong Cham Province and was promoted to platoon chief the following year. When the Khmer Rouge took Phnom Penh on April 17, 1975, he spent two weeks in the city at Wat Phnom. From there he was dispatched to work at Kampong Som dock, where he oversaw a worker unit loading and unloading cargo from Chinese ships.

The good deeds that X spoke of primarily related to giving food to hungry villagers both prior to and after 1979. Nevertheless, even as an early member of the revolution and a KR cadre, his experience under the regime was by no means easy. In 1977, while working selling goods at the Cambodia-Thai border, his unit was ordered to return to Phnom Penh as part of Regime's effort to eliminate imagined internal enemies in the Northern Zone who had betrayed the Angkar and the party. After that, X was forced to do hard labor on a rice field until January 1979. Yet still, he opted to flee into the jungles near Anlong Veng when Vietnam toppled the regime. When I asked him why, he explained that while the Khmer Rouge had done bad things to people, he could not accept living under foreign enemy rule. Instead, he chose to remain in the jungles well into the 1990s, even refusing his mother's pleas to put down his gun and return to his village. And as the rain beat down on the tin roof of the dimly lit schoolroom in which we sat, it occurred to me that X had spent more than half of his life at war.

The seven other people interviewed occupied a variety of positions under the regime and afterwards including KR soldier, district chief, hospital chief,

medical personnel, and factory chief. Their ability to commit good deeds under the regime seemed to depend on their level of authority. Almost all of them mentioned sharing food with starving people. Others who occupied higher level positions such as District Chief were able to assist more people. For example, Y, a 65-year-old woman who served as District Chief spoke of defying orders from the DPK Central Committee to meet food production quotas in order to increase food rations for the hungry people in her district. She also refused two requests from the Region Committee to arrest and transfer two men in her district whom she believed were innocent of the crimes of which they were accused and who would almost certainly have been killed otherwise. Although she claimed that significantly fewer people died in her district under her leadership and that the people no longer suffered, one staff member at DC-Cam who lived in her district vehemently

disagreed with her upbeat characterization.

At the outset of our trip, I expected to spend the week talking with monsters. I expected to listen to the lies they tell themselves to assuage their guilt for their roles in this dark chapter of Cambodian history. While I was certainly left sifting through myriad half-truths and inaccuracies cadres had ingrained as memory with the passage of time, I was most struck by the unapologetic, matter-of-fact manner in which they shared their stories. Instead of confirming my preconceived notions of evil embodied, the interviews left me grappling with a highly complicated historical reality in which the line between perpetrator and victim is often more blurry than clear.

Jared L. Watkins

Brooklyn Law School

DC-Cam 2008 Summer Legal Associate



Dam construction

AN ANALYSIS OF CORRUPTION, BIAS, AND THE HIGH PRESUMPTION OF IMPARTIALITY IN THE EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA

Christopher Dearing

International law recognizes that everyone accused of a crime has a right to a fair, independent, and impartial trial. This principle forms the bedrock of democracy and it is every court's duty to inspire confidence in its judgments by adhering to these principles. From its birth, the Extraordinary Chambers in the Courts of Cambodia (ECCC) has committed itself to these values. For example, the Court's Internal Rules provide that "ECCC proceedings shall be fair and adversarial and preserve a balance between the rights of the parties"; every person "shall be presumed innocent as long as his/her guilt has not been established"; and ECCC judges shall recuse themselves in the event that they have or have had a personal or financial interest in the case or an association which might objectively affect his or her impartiality or "give rise to the appearance of bias."

Notwithstanding these provisions, a review of the Court's circumstances and its pre-trial decisions causes one to wonder how history will judge the ECCC. Every court must suffer public critique of its independence and impartiality. Informed criticism is the hallmark of a vibrant democracy. And it is with this principle in mind that this article analyzes three general areas of ethical concern at the ECCC: (1) corruption, (2) bias, and (3) the presumption of judicial impartiality.

I. Corruption

Allegations of corruption surrounding the ECCC raise concerns that demand the international community and the Cambodian government's utmost attention.

The starting point for these allegations is the Cambodian legal system and culture, around which allegations of and concerns for corruption abound.

According to the Berlin-based organization Transparency International, out of 180 countries, in 2007 Cambodia ranked among the highest--163rd--in terms of government corruption. And according to a World Bank study, "[W]hen private citizens have contact with the courts, there is a 68 percent chance that they will have to pay a bribe." Given Cambodia's status as a developing country and its relatively recent emergence from a violent past, this is not altogether surprising. One source states that criminal justice receives only a fraction of a percent of the national budget and judges are paid as little as \$20 per month. Also not surprising is the negative effect that such corruption has on the public's confidence in their legal system.

Corruption in Cambodia reportedly works in many ways. National court staff (and allegedly sometimes even judges), are said to obtain their position with the understanding that they will pay money to their sponsor. Candidates seeking a desirable government position solicit a loan from third-parties or sometimes the hiring agent to obtain or rather purchase a desired position. A financial obligation then exists informally between the employee and the hiring agent or third-party and can sometimes extend over long periods of time, depending on the type of employment and the employee's personal situation. This practice raises serious questions for the independence of the legal system as a whole. Not surprisingly, it has been alleged that this culture has infected the ECCC--if not its actual independence then at least its appearance of independence in the public's eyes.

In 2006, allegations surfaced that Cambodian staff of the ECCC were required to give part of their

salaries to their bosses. On January 31, 2007, the Khmer-language paper *Voice of Khmer Youth* published a story claiming that "Cambodian ECCC officials--including judges--were paying 30 percent of their salaries to government officials to secure their positions" and the Open Society Justice Initiative called for an investigation and was temporarily banned from the office of the Court's head administrator, Sean Visoth. Unrelated to these developments, the United Nations Development Program (UNDP)--the UN body responsible for dispensing left over UNTAC mission funds to the Cambodian-administered side of the Court--brought in Cadide Consulting, a Malaysia-based audit company to conduct an internal audit and performance review between January and March of that year. The internal audit report was shared with the Cambodian side, but it was not initially published due to its sensitive nature. With regard to the kick-back allegations, the report stated that because the allegations of payments pertained to persons beyond UNDP's mandate, a full investigation had not been conducted into the allegations.

In a subsequent public statement on the audit, the head of the UNDP office in Cambodia said that

"there has never been any issue with regard to the management of the ECCC's financial resources" and that there were "no questionable financial transactions, no misallocated resources, and no incomplete or missing documentation in support of disbursements made by the ECCC." Nevertheless, key findings of the audit included:

- ♦ Staff hired without meeting the minimum job requirements;
- ♦ Low response rate to job vacancy announcements;
- ♦ Short-listing of applicants and interview of candidates not properly documented;
- ♦ Discrepancies in the selection of candidates;
- ♦ Weaknesses in the performance evaluation process; and
- ♦ Ineffective monitoring and oversight by the project's board.

Kick-back allegations emerged again in 2008, and on August 6, 2008, UNDP announced that it was suspending payment of the funds it is responsible for transferring to the Cambodian side of the Court. The allegations were submitted to a U.N. official in Cambodia and were reviewed by the U.N.'s oversight



and investigative services. On August 13, Keo Thyvuth, the Cambodian chief of personnel, was removed from his office. Tribunal press officer Reach Sambath stated that Keo was "transferred back to the Council of Ministers" but declined further comment. Helen Jarvis, head of public affairs for the Cambodian side of the Tribunal, claimed that it was a routine rotation, suggesting that it had nothing to do with the allegations.

Cambodian officials consistently deny the kick-back allegations and on August 19, the head Cambodian administrator at the Court, Sean Visoth, pledged his resignation if any corruption allegations were proven true.

The Tribunal has set up an instrument for reviewing such claims. Tribunal spokeswoman Helen Jarvis and one of the Court's judges, Kong Srim, President of the ECCC, head this new corruption watchdog group. However, because the committee is made up of high level Cambodian administrators at the ECCC, who may have a conflict of interest, it does not have the appearance of impartiality. Moreover, the Cambodian authorities have requested that the original complaints be given to "the competent authorities" in Cambodia, calling into question the safety of complainants' identities. On December 9th, UN and Cambodian officials reportedly came to an agreement on the need to enhance human resources management, including the anti-corruption measures of the tribunal, but the substance of the

agreement is unknown.

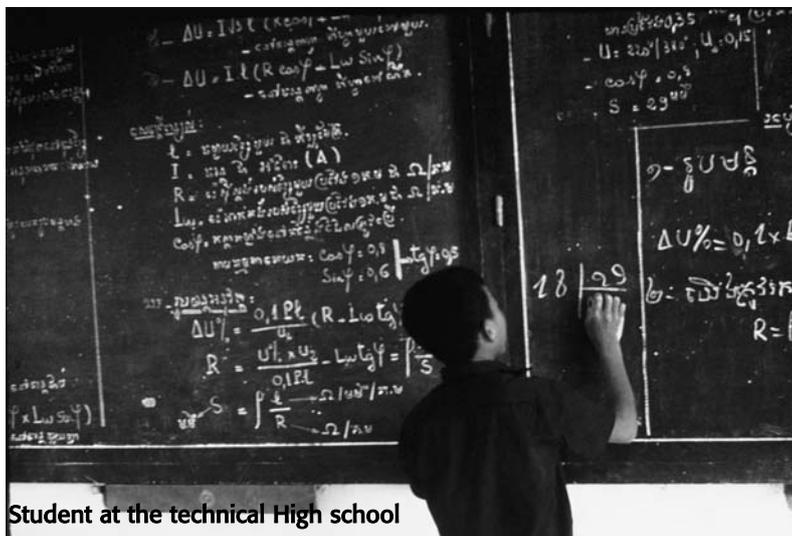
Silvia Cartwright, an ECCC Supreme Court chamber judge from New Zealand, has called on the Court to spare no effort in dealing with any future corruption issues. At a planning meeting for the body, Cartwright described corruption as "one of the major issues that has been troubling for all the judges."

Probably the most disturbing development, yet one that has received little recent attention, is the allegation that one of the Cambodian judges selected to sit in the ECCC Trial Chamber has admitted to accepting bribes in Cambodian domestic cases prior to his appointment to the ECCC. On a PBS special, a reporter sat with Judge Nil Nonn. "He admits that, yes, he does take bribes--of course--but only after a case is over. After all, he earns only \$30 a month, not nearly enough to provide for his family... What else is he supposed to do?"

While the full scope of the corruption allegations within the ECCC remains unknown to the public, the circumstances surrounding such repeated claims demand the utmost attention. The Court must not only investigate these issues but set up transparent and independently-reviewed mechanisms for preventing their reoccurrence and ensuring that there is no taint on the Court as it moves into the trial stage of proceedings.

II. Bias

Because the ECCC is a hybrid (international and Cambodian) court, it is necessarily rooted in a Cambodian legal system that was decimated under the Khmer Rouge and is reportedly governed by patronage. Following the fall of Democratic Kampuchea in 1979, the Cambodian legal profession no longer existed. By 2002, according to a PBS report, less than half of the country's judges had graduated from high school, let alone law school. Of the 171 judges and prosecutors working in Cambodia in 2000, only 33 percent had received any formal legal training. In this context, it is not unsurprising that "who one knew" became an important determinant of



Student at the technical High school

upward mobility and placement into the key judicial positions.

Within this experiential vacuum, the executive branch has reportedly demonstrated a willingness to influence judicial decisions. Indeed, former Secretary-General Kofi Annan has noted that: "...there are continued problems related to the rule of law and the functioning of the judiciary in Cambodia resulting from the interference of the executive in the independence of the judiciary..."

The independence of the Cambodian judiciary is affirmed in the Cambodian Constitution and guaranteed by the King and the Supreme Counsel of Magistracy (SCM). However, in 2005 the SCM Secretariat was dissolved and SCM management was transferred to the Ministry of Justice. The stated purpose of this move was to allow the Justice Minister Ang Vathana a clear path for dealing with corruption in the judiciary, since all complaints regarding judges, prosecutors, and those investigating them would now go through the Ministry. However, the Ministry is controlled by a member of the Cambodian People's Party ("CPP"), which creates the appearance that the true intention of this move was not to increase the efficient investigation of such complaints, but to obtain a stronger grip on how such complaints were handled.

If Cambodian judicial officials are not independent, it is possible that they will not rule on the basis of law, but in support of the political preferences of the government. For example, the government might expect them not to act against the interests of the former Khmer Rouge cadre now employed within the government. Because so many government personnel had ties with the Pol Pot regime, it is not unreasonable to believe that the Cambodian government has a strong interest in the ECCC investigations and the outcome of the trials. It is likely that facts could surface that could prove embarrassing to such individuals or their friends. While this point alone raises some concern, when placed in the context of a Court that is struggling with allegations of corruption, one cannot help but

wonder whether such suspicions are more than just plausible.

Certain U.N. officials would appear to agree. "When asked if the UN-Cambodian government agreement would provide judicial independence, UN Under-Secretary-General for Legal Affairs and Legal Counsel, Mr. Hans Correll stated: 'As an international civil servant I have been given the task to negotiate this text and I have done so to the best of my ability. My personal opinion is a different matter.'" More recently, in August 2007, the UN expressed concern that "the [Cambodian] government's promotion of one of the Chambers' Co-Investigating Judges, J. You Bun Leng, to the presidency of the Cambodian Court of Appeals could threaten efficiency and the perception of judicial independence at the ECCC." Yash Ghai, the UN secretary general's special representative for human rights in Cambodia, and Leandro Despouy, special rapporteur on the independence of judges and lawyers issued a joint statement criticizing the appointment as both a violation of the Cambodian Constitution and an interference with the Cambodian judiciary. According to the UN officials, the judge's appointment was done at the request of the executive branch and outside of the constitutionally-mandated procedures, inferring government interference in the judiciary. In addition, there was concern that this promotion (or transfer) implicated the ability of the Cambodian government to transfer ECCC judges who did not toe the government line.

It is also important to consider the position of the ECCC Cambodian judges in the context of Cambodian history and society. They must bear the weight of dealing with crimes that hit very close to home. As noted by the Group of UN Experts considering the establishment of a Khmer Rouge court, "[O]wing to the scale of the Khmer Rouge's atrocities, it might well be impossible to find a judge free of at least the appearance of prejudice. It is our sense that, if not himself or herself a victim of the Khmer Rouge, each candidate would have friends or relatives who had been its victims." A 2005

epidemiological report revealed that as a consequence of the Khmer Rouge era and subsequent fighting, "81% of Cambodians experienced violence, 40% suffer from anxiety disorders, 28.4% suffer from post traumatic stress disorder, and 11.5% suffer from mood disorders." Given the extent of post-traumatic stress that still exists in Cambodian society today, one can presume that no Cambodian judge is entirely isolated by the horrors linked to the accused. This begs a question as to what extent a judge so close to the factual circumstances of a case can be expected to be impartial and presume innocence.

Taking into account the circumstances of Cambodian society and the role of the judiciary and its relationship to the regime, it is not surprising that allegations of bias have already come to the attention of the Pre-Trial Chamber (PTC). While it is unfair to criticize the Court for the circumstances in which it must work, it is quite fair to critique the Court's decisions in handling such circumstances. The PTC's decision on the Nuon Chea Defense motion to disqualify Judge Ney Thol speaks loudly for the problematic circumstances that the ECCC will have to contend with during its proceedings. Moreover, its ruling in this situation raises some concern.

On January 28, 2008, the Defense for Nuon Chea filed an urgent motion to disqualify Judge Ney Thol on the basis of (1) his position as an officer in the Royal Cambodian Armed Forces (the "RCAF"); (2) his "apparent willingness to inappropriately employ his judicial power at the behest of the Cambodian People's Party (the 'CPP')"; and (3) his membership on the CPP central committee. On February 4, 2008, the PTC denied the motion, deciding that there would be no apprehension of bias by an objective observer informed of all relevant circumstances of the matters regarding the questioned judge. These circumstances include the facts that he sits in his personal capacity and not as an RCAF officer, and that that impartiality is one of duties that Judges swear to uphold.

It appears that the Chamber held the defense to the burden of proving "actual bias" because, based

on the circumstances, it seems quite reasonable that there could be an objective appearance of bias. First, Judge Ney Thol has been in the Cambodian army since 1979; he holds the rank of general; and while sitting as head of the RCAF Military Court, he was a member of the CPP central committee. From these factors a reasonable observer could objectively apprehend that Judge Ney Thol may be predisposed to following the orders of the Cambodian executive branch. In fact, a reasonable observer could likewise apprehend that unpopular decisions made while sitting as an ECCC judge might lead to a punitive reaction by the executive branch in terms of altering his pay and promotion potential.

Second, while the opinions expressed in one case do not usually give rise to an appearance of bias in another case, the Chamber unreasonably isolated some questionable decisions by Judge Ney Thol from the range of circumstances of which a "reasonable observer" would have knowledge. For example, Judge Ney Thol convicted Prince Norodom Ranariddh, leader of the opposition Funcinpec Party, for conspiring with the Khmer Rouge to overthrow the government after his ouster by the CPP. Associated Press reports alleged that the trial was mainly an attempt by the CPP (of which J. Ney Thol was a member) to neuter its main political rival. Likewise, Judge Ney Thol convicted opposition Sam Rainsy Party lawmaker Cheam Channy of organized crime and fraud for creating an "illegal armed force." The trial was criticized for falling far short of international standards and was viewed by many as a political attack on opposition to the CPP. In addition, Judge Ney Thol was involved in the over eight year detention of KAIING Guek Eav (alias "Duch") before Duch was transferred to ECCC custody.

All three of these cases received intense international scrutiny and condemnation. In particular, many viewed the trials of Norodom Ranariddh and Cheam Channy as proxy political actions to manipulate the Cambodian political landscape. Nevertheless, the ECCC Pre-Trial Chamber dismissed "much of the evidence produced by the Defence [as] that of

commentary from third parties" that does not relate to an "apprehension of bias by Judge Ney Thol in this case." Indeed, the Chamber went even further and said that "[t]hese general observations and assertions are no evidence in respect of an apprehension of bias," despite the fact that the cited third parties (rumored to be the UN officials, Amnesty International, and various foreign embassies) pointed out that these cases involved biased procedures, violations of due process, and politically-driven judicial decisions on the part of Judge Ney Thol.

The Pre-Trial Chamber is correct that such third party observations are "no evidence" of actual bias; nevertheless, they are relevant to a reasonable observer's apprehension of bias. Appearance refers to the outward observable aspects of a person or thing. If the legal question is: "What is Judge Ney Thol's appearance?" then third party observations are relevant to this question, even if they are based on his behavior in other cases.

The third allegation of bias? Judge Ney Thol's membership on the CPP central committee? is less dispositive because he resigned this position upon his appointment to the ECCC. Nevertheless, combined with the other factors it lends weight to a reasonable observer's apprehension of executive branch influence on the judge.

Disregarding Judge Ney Thol's connections to the military, the executive branch, and the CPP, the PTC based its decision on a hollow assumption that "personal" and "official" duties can be easily distinguished and placed in separate boxes, as if a loyalty to one's military and political regime can be isolated from one's oath to judge the case on its facts. Perhaps in some cases, certain judges might possess this unmeasured skill of divorcing one societal role from another; but that is beside the point. The standard in this case was not proving "actual bias" but whether a reasonable observer informed of all the circumstances would apprehend bias.

In its decision, the PTC simply states the standard and renders its ruling, providing insufficient explanation for how it arrived at its judgment. Perhaps if the Chamber explained its analysis more fully, its decision would not appear so unreasonable. As it is, critics could say that the decision reached was not one based on the weight of the circumstances, but the weight of political considerations this situation invoked. This observation would comport with the awkward speed by which the ECCC ruled on this matter, refusing to even receive *amici curiae* opinions that may have led to greater inquiry and controversy over the matter.

Disqualification of Judge Ney Thol in this case presumably might have opened the "flood-gates" to a wave of motions to disqualify the other Cambodian ECCC judges. Even if none of the other ECCC judges possess similar backgrounds, the consequence of allowing this motion would probably have been an in-depth inquiry bringing potential embarrassment on the Court, or at least a period of distraction that the Court could ill afford.

A third troubling point in the Chamber's decision is its view that the ECCC is a "separate and independent court with no institutional connection to any other court in Cambodia." This statement would not be problematic if it was only stated as an affirmation of the Court's *de jure* grant of legitimacy. However, it was not stated in this manner; rather it was stated as a dispositive fact related to Judge Ney



Children in Southeast

Thol's circumstances. In effect, the Chamber extended a legal assertion describing an institution to an individual within that institution whose factual circumstances are arguably contrary to the assertion.

This perspective, at best, suggests an indifference to the societal context the Court sits within and the background of the Cambodian judges. At worst, it calls into question whether the ECCC is willing to fully address circumstances suggesting bias and corruption. While courts prove their fairness, independence, and impartiality in their adherence to rules of procedure and evidence, these principles must operate not as mere presumptions but also standards. If the Court presumes independence as a dispositive fact, then what is next if evidence of actual bias proves contrary?

III. The Presumption of Independence and Impartiality

The Pre-Trial Chamber's Ney Thol decision was based on the principle that "the starting point for any determination of a [bias] claim is that 'there is a presumption of impartiality which attaches to a Judge.' This presumption derives from their oath to office and the qualifications for their appointment [...], and places a high burden on the party moving for the disqualification to displace that presumption'." According to the Appeals Chamber of the International Criminal Tribunal for the Former Yugoslavia (ICTY), this high presumption is intended to prevent unfounded and unsupported allegations from undermining confidence in a court and the fair administration of justice. For that reason, it must be "assumed that [the judges] can disabuse their minds of any irrelevant personal beliefs or predispositions."

Based on the circumstances of the ECCC and the Cambodian judges, this presumption requires, if not a reconsideration, then at least greater scrutiny. The presumption of impartiality rests on (1) the oath to office and (2) the qualifications for appointment. Should the presumption of impartiality hold such a high threshold when the judge's qualifications and experience are in question? Should the presumption of impartiality hold such a high threshold when the judge has been cited for judicial impropriety in past decisions?

The ECCC presumes that:

[J]udges shall be persons of high moral character, impartiality and integrity who possess the qualifications required in their respective countries for appointment to judicial offices. They shall be independent in the performance of their functions and shall not accept or seek instructions from any Government or any other source.

In the overall composition of the Chambers due account should be taken of the experience of the judges in criminal law, international law, including international humanitarian law and human rights law.

While these criteria serve a value for describing the judges that should occupy the ECCC, strong allegations of corruption, political influence and associations, together with questionable judicial decisions in past cases, should compel the Court to reconsider the high presumption of independence and impartiality.

The ECCC is dedicated to bringing justice, national reconciliation, and peace to the people of Cambodia. In this pursuit, it must adhere to the principles of fairness, independence and impartiality, not as unquestioned presumptions but as standards applied on the basis of sound reasoning and sufficient facts.

Ultimately, the ECCC's circumstances raise difficult questions for international law. To what extent must international standards of judicial competence be lowered in order to include national judges in a hybrid tribunal? To what extent can a court look past local circumstances and judicial histories without sacrificing international standards of impartiality? Equally important, one must ask: Is it realistic to expect the utmost adherence to international standards in a post-conflict society still dealing with the effects of war and atrocity? While these are not easy questions, they strike at the heart of how history will judge the Extraordinary Chambers in the Courts of Cambodia.

Christopher Dearing, DC-Cam Summer of 2008 Legal Associate, Seattle University School of Law 2010

JOINT CRIMINAL ENTERPRISE AND THE KHMER ROUGE PROSECUTIONS

Dr. John Ciorciari

On December 5, pre-trial judges at the Extraordinary Chambers in the Courts of Cambodia (ECCC) will rule on an appeal by the Canadian and Cambodian Co-Prosecutors in the case against Duch, who once headed the infamous Tuol Sleng Prison in Phnom Penh. The appeal deals with a number of issues, but one of the most important is the prosecution's request to apply a controversial legal doctrine known as joint criminal enterprise. As this brief article will discuss, the judges' decision on whether to grant that request will likely affect the trials of many or all Khmer Rouge defendants. It could also set an important precedent for future international and hybrid criminal proceedings.

What is JCE?

Joint criminal enterprise, often abbreviated "JCE," is a legal doctrine that a court can use to convict a defendant of certain crimes committed by others in furtherance of a common plan or purpose. According to most legal scholars, there are three basic types of JCE. First, defendants can be found guilty if they intentionally act as part of a group carrying out a common criminal plan or design. This type of JCE is the least controversial. It builds on the notion—long recognized in most domestic legal systems—that accomplices or co-conspirators can be held responsible for crimes even when they did not pull the trigger. Although the Nuremberg Court did not use the term "joint criminal enterprise," it was the first international tribunal to invoke a similar theory, using the concept of conspiracy as grounds for convicting some Nazi officials.

Under the second form of JCE, defendants can be found guilty for crimes committed at a penal institution-like a prison or concentration camp-if they helped maintain the facility by performing

essential functions. Defendants need not inflict torture, commit murder, or perpetrate other crimes to be held guilty if they played a critical role in running an institution that did.

The third form of JCE is the most expansive and most controversial. It allows a court to find a defendant guilty for crimes that were not part of a common plan or design but were "natural and foreseeable" consequences of the plan. Thus, a defendant can be convicted even for crimes that he or she did not commit, did not intend, and did not aid or abet. The theory behind this expansive form of JCE is that defendants should assume the risk that entering into dangerous criminal plans can have unintended adverse consequences.

Why Does JCE Matter?

JCE matters largely because it would expand the universe of acts by Khmer Rouge defendants that could constitute crimes. Consequently, it would raise the likelihood of convictions. The law governing the ECCC says nothing about JCE but does provide a number of ways in which defendants can be held liable. As one would expect, it gives the court the right to try defendants for crimes that they committed personally. It also allows the court to try defendants for crimes in which they didn't pull the trigger or inflict abuse directly. Khmer Rouge defendants can be held liable if they planned, instigated, or aided and abetted crimes. Further, they can be convicted if they occupied positions of authority and either ordered abuses or failed to prevent crimes by their subordinates.

The first form of JCE probably does not add much to the prosecution's arsenal, because the court can already find defendants liable for planning or aiding and abetting crimes. The second form of JCE

could have a somewhat more meaningful impact on the course of the trials. It would allow the court to hold defendants liable for certain activities at prisons like Tuol Sleng that were not criminal but helped those bone-crushing facilities function. The prosecutors probably do not need that authority to build their case against Duch. Since Duch ran the facility, prosecutors can accuse him of ordering abuses, planning them, or failing to prohibit or punish the acts of his subordinates. The relevance of this second form of JCE will depend largely on whether other defendants are accused of performing critical functions in the Khmer Rouge penal system.

The third, "extended" form of JCE is the most important for the Khmer Rouge trials. It potentially opens the door to a wide range of prosecutions based on the notion that Khmer Rouge leaders planned certain broad policies at a high level and should be held liable for their bloody consequences. Prosecutors at the International Criminal Tribunal for the former Yugoslavia (ICTY) used this variant of the principle in an effort to hold Slobodan Milosevic and other Serbian leaders responsible for crimes committed by military units that were not directly under their commands. In cases against Khmer Rouge defendants, this "JCE-3" form of liability would reduce the prosecution's need for smoking-gun evidence, neatly documented chains of command, and clear indications of the specific criminal intent of particular defendants.

Given the time that has passed since the end of the Pol Pot era and the limited nature of surviving documentation, JCE could play a vital part in a prosecution strategy. When the Co-Prosecutors submitted their recent appeal to the Pre-Trial Chamber, they were doubtlessly thinking as much about other defendants as they were about Duch. The former Tuol Sleng chief is relatively closely tied to myriad well-documented crimes; known evidence against the other defendants varies in strength.

Why Is JCE Controversial?

Debates surrounding JCE revolve on two

major axes. The first is the question of whether the principle is fair to defendants. Almost all legal systems require two basic elements to convict an individual of a crime: a prohibited act and some form of criminal intent. Under JCE-3, a defendant can be convicted of crimes that the court believes were "natural and foreseeable" consequences of a plan. Critics of JCE believe the doctrine effectively eviscerates the requirement of criminal intent and leaves jurists too much discretion to fudge the issue when the conviction of a despised defendant hangs in the balance. JCE-2 raises similar questions. In a prison where torture is commonplace, is it fair to hold the electrician liable for the same offenses as the whip-wielding interrogators down the hall? IN a recent brief to the ECCC, human rights scholar and lawyer Kai Ambos argued that JCE-2 needs to be applied narrowly to avoid catching relatively innocent functionaries in an overly broad net of criminal culpability.

Few international lawyers would deny the challenges of applying JCE fairly, but many nonetheless support the doctrine. Advocates of JCE argue that this principle appropriately holds leaders accountable for the plans they set in motion and incentivizes them to behave responsibly. Proponents of the principle also acknowledge another reason for the doctrine-without it, convicting top dogs can be difficult. JCE developed largely as a way to satisfy powerful moral and political interests in holding venal leaders responsible for their misdeeds, which are often obscured by the scale and complexity of abuses. The pre-trial judges at the ECCC will have to weigh these competing interests in determining whether to allow JCE, particularly in its most expansive "third form."

ECCC judges will also need to resolve a second difficult legal issue. One of the most basic tenets of criminal law is that a defendant cannot be convicted of a crime that did not exist when the defendant undertook the act in question. This raises the question of whether the various forms of JCE existed by 1975.

Clearly, the term had not been used by 1975. Was the principle nonetheless part of customary international law?

Scholars have taken different views. In a recent brief to the ECCC, former ICTY jurist Antonio Cassese answered in the affirmative. He argued that all three forms of JCE had become customary international law by 1975 based on precedents set at Nuremberg and in other international trials. However, Cassese was one of the key figures responsible for the development of JCE in the Yugoslav trials, leading some analysts to question his impartiality. Defense lawyers for Ieng Sary even tried (unsuccessfully) to exclude his brief for bias. Lawyer Silke Studinsky, who represents civil parties at the ECCC, responded to Cassese and argued that JCE-3 was not a part of customary international law in the 1970s. Other scholars have split on the issue. Again, there are credible arguments on both sides.

How Will the Court Decide?

The ECCC pre-trial judges face an important legal decision, and the likely outcome is not at all obvious. They could agree to admit all forms of JCE or permit the prosecution to invoke some forms of JCE but not others. If the judges accept at least some forms of JCE, they will need to determine the scope of the principle. They could also reject the doctrine altogether, arguing that it does not appear in the law governing the ECCC and was not a settled principle of customary law as of 1975.

Historically, international and hybrid criminal tribunals have not been shy about pushing the envelope and creating new theories of criminal responsibility. When the Nuremberg Court convicted Nazis of conspiracy, some scholars argued that it violated their rights; critics contended that no such crime had existed in international law during the Second World War. The ICTY faced similar attacks when it used an expansive form of JCE to prosecute Milosevic and his henchmen.

Judicial activism in international criminal forums can be a good thing. If the Nuremberg

Court and ICTY had not been as progressive in their interpretation of the law, they would not have set valuable precedents that have helped international criminal law emerge from its infancy. They also would not have been able to bring some vile perpetrators to book. However, if judges are seen as creating the law, they feed perceptions that international or hybrid tribunals are more about achieving a desired outcome than holding fair trials. Justice is not all about retribution. It also means holding fair trials, and applying the law fairly sometimes requires gritting one's teeth and allowing heinous defendants to benefit from the very protections they denied to others.

The ECCC judges have to steer carefully to manage these competing objectives. The path of least political resistance is probably to allow two- and possibly all three-forms of JCE in the interest of convicting Khmer Rouge officials and advancing a progressive vision for international criminal law. However, from a strict legal standpoint, the issue is much less clear. Permitting JCE, and especially JCE-3, would elicit praise from prosecutors but would also generate significant debate within the halls of the ECCC and among outside observers.

If the judges do approve all forms of JCE, they need to provide a clear and compelling legal justification to address the legitimate critiques summarized above. If they reject the prosecution's plea, the judges will send a powerful signal that the ECCC is following a somewhat more conservative judicial approach than some of its predecessors. Again, clear legal justifications will be needed. Measures that are perceived as benefitting the Khmer Rouge defendants are not necessarily wrong, but they will not be popular. Regardless of how the ECCC judges decide, the court would be well advised to emphasize that justice requires pursuing both accountability and fairness.

Dr John Ciorciari is a senior legal advisor to DC-Cam.

JURISDICTIONAL HEARING OF IENG SARY BEFORE THE PRE-TRIAL CHAMBER OF THE ECCC REGARDING ISSUES RELATED TO AMNESTY AND PARDON

Randle DeFalco

Questions relating to the 1979 in absentia genocide conviction entered against Ieng Sary by the People's Revolutionary Tribunal ("PRT") and his 1996 pardon and amnesty were discussed in oral hearings before the ECCC June 30-July 3, 2008. The Pre-Trial Chamber ("PTC") heard submissions regarding double jeopardy and issue preclusion as well as the jurisdictional effect of the amnesty and pardon. The pardon was granted for the death sentence entered against Ieng by the PRT. The amnesty protected Ieng from prosecution under the 1994 Law Outlawing the Khmer Rouge ("1994 Law") and was granted to facilitate Ieng's defection from the Khmer Rouge.

I. Double Jeopardy and Waiver of Fair Trial Rights

The Pre-Trial Chamber asked for oral submissions regarding what effect, if any, Ieng's acceptance of the 1979 in absentia genocide conviction would have on non bis in idem or "double jeopardy" issues. Considering the large number of due process flaws in the conduct of the 1979 trial, the Chamber wanted to know whether Ieng could waive the right to a fair trial by accepting the verdict, and what effect such waiver would have on the ECCC's ability to try Ieng for criminal acts for which he was previously prosecuted.

The Prosecution argued that the right to a fair trial protects both the accused and the legitimacy of the legal process and therefore may not be waived. Furthermore, respect for international due process rights demands that the judgment entered by the PRT be considered null and void, as it was inherently flawed due to bias, lack of meaningful representation of the Ieng's interests, lack of Ieng's participation in the process and lack of appellate review as well as other crucial process flaws. The Civil Parties joined

the submissions of the Prosecution and reminded the Court that Ieng only acquiesced to the PRT conviction after being pardoned. According to the lawyer for the Civil Party, the convenient timing of Ieng's acceptance of the judgment puts his sincerity into serious doubt.

The Defense countered by arguing that the right to a fair trial is similar to other, waivable rights such as the right to be present at trial and the right to counsel. In support of this position the Defense noted that the nascent Lebanese Tribunal gives the defendant the option to accept or reject the results of a trial in absentia. Furthermore, according to the Defense many jurisdictions, such as the United States, allow defendants to plead *nolo contendere* or "no contest" and accept punishment without admitting guilt, thereby waiving their right to a trial without pleading guilty.

The Defense further argued that the KRT prosecution covered all acts of Ieng during the period of Democratic Kampuchea. As discussed below, in its view all alleged criminal acts committed by Ieng were included or subsumed by his genocide charge. Therefore prosecution for these acts by the ECCC would violate the principle of double jeopardy.

II. Issue Preclusion and Applicable ECCC Law

The Court also heard submissions from the parties on the related question of *res judicata* or "issue preclusion," a doctrine that bars further litigation of an issue once a final judicial decision has been made. The parties discussed whether the Cambodian or international law definition of issue preclusion should apply in this case. The ECCC law requires the Court to apply Cambodian procedures, but also requires that the Court abide by minimum international standards. The Cambodian Criminal Code

("CCC") bars cumulative prosecutions of the same criminal acts. In contrast, the International Covenant on Civil and Political Rights ("ICCPR"), the controlling international human rights instrument, bars cumulative prosecutions of the same crimes.

The Prosecution, joined by the Civil Parties, argued that international law and the "same crime" test must control for two main reasons. First, the nature of international crimes not only allows, but also commands, multiple prosecutions for the same acts in order to properly reflect and condemn their seriousness. Second, there was no valid final acquittal, the triggering mechanism for *res judicata*, which differentiates it from double jeopardy. The Civil Parties argued that the CCC does not clearly and completely define *res judicata* and thus, as prescribed by ECCC law, international law must be used to fill in this lacuna or "gap" in the law.

The Defense argued that there is absolutely no difference between an acquittal and a conviction for the purposes of *res judicata* and that to create one would frustrate the underlying purpose of the doctrine, which is to allow parties to rely the finality of legal decisions. Furthermore, the Defense argued that there is no ambiguity in CCC law, and that therefore the "same act" test for *res judicata* must be applied. Additionally, the Defense argued that the plain language of the CCC indicates that the doctrine of *res judicata* should be applied to any and all acts of Ieng that were prosecuted as criminal by the PRT.

III. Jurisdictional Effect of the Amnesty and Pardon

A. The Submissions of the Defense

The Defense argued that the amnesty and pardon are both legal and valid. In support of this position, the Defense noted that no party, except the Civil Parties in passing, had challenged their legality under Cambodian law. Furthermore, the Defense submitted that granting an amnesty and a pardon to Ieng were necessary for ending thirty years of civil war in Cambodia and ushering in an era of peace and prosperity.

The Defense submitted that the pardon and

amnesty both cover all of Ieng's actions as a member of the Khmer Rouge up to 1996, including the period from 1975-79 that constitutes the jurisdiction of the ECCC. The Defense argued that the amnesty was intended to provide total immunity for any crime Ieng may have committed prior to 1996. This is in opposition to the Co-Investigative Judges' interpretation of the law in its order on provisional detention, which found the 1994 Law to encompass only a handful of enumerated domestic crimes.

In support of its interpretation of the scope of the amnesty, the Defense argued that the 1994 Law must be read in light of its "object and purpose," which, according to the Defense, was to entice the Khmer Rouge to put down their weapons and integrate into Cambodian society. For this enticement to be meaningful it had to be fully retroactive and inclusive. Moreover, the preamble of the 1994 Law, in particular its condemnation of Khmer Rouge's commission of crimes including "genocidal acts" and its notation that these crimes were "characteristic" of the Khmer Rouge since "April 1975," shows that the law was intended to subsume all crimes allegedly committed by Ieng.

B. The Submissions of the Prosecution and Civil Parties

The Prosecution argued that the amnesty and pardon do not excuse Ieng from the jurisdiction of the ECCC. Moreover, they are two separate issues, which must be addressed individually before the Court and not conflated into one topic. The Civil Parties largely joined the submissions of the Prosecution. In addition, the Civil Parties argued that the pardon was invalid as an improper exercise of power by the King, as the Constitution only grants him the power "to lift guilt," which is technically different than granting pardons.

I. The Amnesty Relates Solely to the 1994 Law and the Pardon Merely Vacated the Sentence Entered by the KRT

The Prosecution argued that the amnesty was intended solely to immunize Ieng from prosecution for specific violations of the 1994 Law outlawing the Khmer Rouge. Likewise, the pardon was solely

applicable to the death sentence entered against him in absentia by the PRT. The only reason the pardon was granted was to facilitate Ieng Sary's defection while keeping open the possibility of future trials. Therefore, the effect of the pardon was only to vacate the sentence passed by the PRT, not to excuse any of his underlying criminal activity.

2. Alternatively, (1) Domestic Authorities Cannot Excuse International Crimes, or (2) the ECCC May Disregard the Amnesty and Pardon

The Prosecution argued in the alternative that a national government has no authority to pardon or provide an amnesty for serious international crimes. This inability is especially clear for crimes that violate just cogens norms ("peremptory norms from which no derogation is permitted") like the crime of genocide. In support of this argument, the Prosecution cited to the International Court of Justice's finding in the Barcelona Traction case that the prohibition against genocide is a just cogens norm. Following logically from this is a duty on all states to prevent and punish the crime. Therefore, the pardon and amnesty granted to Ieng for the crime of genocide is invalid as it violates the international law obligations of the Cambodian government.

For further support, the Prosecution cited the case of *Prosecutor v. Furundzija*, which held that domestic law has no effect on the applicability of jus cogens norms. It also noted that the International Criminal Tribunal for the Former Yugoslavia ("ICTY") only considers the effect of pardons if the accused has served a significant portion of the sentence, whereas Ieng has never been subject to any punishment whatsoever. Finally, the Prosecution pointed out that courts applying international criminal law - in particular Special Court for Sierra Leone ("SCSL") and the International Criminal Tribunal for Rwanda ("ICTR") - have regularly set aside domestic pardons as irrelevant to the determination of an accused's rights.

As a second alternative argument, the Prosecution submitted that the ECCC is an internationalized judicial organ divorced from the Cambodian

judiciary and is thus not bound to honor domestic amnesties or pardons, regardless of their validity either domestically and internationally. The Prosecution cited the case of *Prosecutor v. Kallon*, where the SCSL - a mixed national/international court like the ECCC - dismissed a national amnesty for the crime of genocide, giving it no weight whatsoever.

C. The Defense's Rebuttal

The Defense agreed that the prohibition against genocide is a jus cogens norm but argued that this did not automatically invalidate a pardon or amnesty given for a genocide conviction. According to the Defense, not all national amnesties or pardons granted for international crimes are null and void. For example, Ireland and Sierra Leone granted amnesties for international crimes in order to facilitate the peace process. In Sierra Leone, the United Nations even acquiesced to and signed the Lomé Agreement, though it did not agree to accept the negotiated amnesty. The Defense distinguished the SCSL's holding in *Kallon*, noting that the amnesty agreement between the government and the accused was only rescinded after the accused breached the terms of the agreement and continued fighting. For these reasons the Defense submitted that amnesties and pardons may preclude prosecution in some circumstances. Finally, the Defense disagreed that the ECCC is an internationalized judicial body, and argued that it is a domestic court that may look to international law only in the case of a lacuna in the law.

IV. Conclusion

The PTC adjourned after hearing the oral submissions of the parties. Substantive arguments by the parties regarding Ieng Sary's appeal of the Provisional Detention Order entered against him by the CIJs were scheduled for the following day. A decision by the PTC regarding jurisdictional issues relevant to Ieng's case is expected by mid-September.

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DE FACTO SEGREGATION OF ECCC PROVISIONAL DETAINEES

Annie Gell

The Office of the Co-Investigating Judges (OCIJ) at the Extraordinary Chambers in the Courts of Cambodia (ECCC) has imposed an unprecedented de facto segregation regime on the five provisional detainees since the beginning of their detention. The detainees are prohibited from interacting with each other with the exception of limited visits between the married couple, Ieng Sary and Ieng Thirith. This means that the detainees' options for human contact are limited to the prison staff and occasional OCIJ approved visits from lawyers and family members. This regime is not only detrimental to the Tribunal's work because it strains the detainees' health, but arguably legally impermissible in light of the ECCC Internal Rules and international precedent.

In determining the propriety of coercive measures imposed on provisional detainees, Rule 21(2) of the ECCC Internal Rules requires that the fundamental rights of the detainees be balanced with the necessity of the measure and the gravity of

the charged offense. This approach is mirrored in the Regulations of the International Criminal Court (ICC) and the Rules of Detention of the International Criminal Tribunal for the Former Yugoslavia (ICTY).

The limited precedent available from ICC and ICTY suggests that de facto segregation is rarely proper even in cases involving co-defendants accused of the gravest of crimes. For example, in the ICC case *Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui*, the Judge held that limitation of contact between provisional detainees is an exceptional measure requiring the existence of concrete evidence of attempted wrongdoing within detention to overcome the infringement on the detainees' right to "properly prepare their defenses." The *Delalic* case in the ICTY is the only case found where an international, hybrid, or ad hoc criminal tribunal sanctioned judicially ordered segregation of co-detainees. In this case, the Prosecutor requested



Ieng Sary

segregation because of concrete evidence that two co-detainees had been attempting to communicate via notes. The Court agreed to prohibit contact between the two subject to further appeals.

There are many factors weighing against a de facto segregation regime at the ECCC. First, unlike the cases of Ngudjolo Chui and Delalic, the ECCC Office of the Co-Prosecutors has not requested segregation of the detainees. Rather the OCIJ has imposed this regime on its own.

Second, although the OCIJ has expressed worry that the detainees will collude if allowed to interact, the OCIJ has not publicly identified any concrete evidence of attempted collusion as required under international precedent. The detainees were living freely for almost thirty years after their alleged crimes and had plenty of time then to collaborate on a shared defense. The OCIJ argues, however, that they did not have the same motive to collude then as they do now that they are charged. Yet according to the reasoning in Delalic, without concrete evidence of previous attempts to collude, the worry of collusion does not provide the sufficient necessity to overcome the strong presumption against infringements on provisional detainees' fundamental rights.

Finally, there are strong arguments that the segregation of the detainees is a punitive gesture that provides little if any benefit to the Tribunal. On the one hand, consistent, long-term segregation is likely damaging the psychological health of these already frail detainees and may harm their fitness to stand trial. Occasional visits from friends, family, and lawyers may not be frequent enough to compensate for the potential harm caused by their segregation. On the other hand, such visits provide the opportunity for the detainees to collude via third parties, thereby defeating the purported purpose of the detainee segregation regime.

This makes the segregation regime vulnerable to the criticism that it is a formalistic measure intended to make the provisional detainees uncomfortable rather than to protect the integrity of the proceedings. The Tribunal therefore must carefully consider the legal basis and consequences of a provisional de facto segregation regime, particularly as the Tribunal strives to adhere to the highest standards of human rights and justice.

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NUON CHEA DETENTION EXTENSION

Anne Heindel

On September 19, 2007, the Extraordinary Chambers in the Courts of Cambodia (ECCC)'s Co-Investigative Judges (CIJs) found that there were well founded reasons to believe that Nuon Chea committed crimes against humanity and war crimes and ordered his provisional detention "for a period not exceeding one year." On September 16, 2008, the CIJs extended Nuon's detention for an additional year. Nuon is appealing the order.

ECCC Internal Rule 63 allows persons charged with crimes against humanity and war crimes to be detained for an initial one-year period, which can be extended a maximum of two times. Therefore, if the required conditions continue to be met, Nuon can be held in detention without being formally indicted until no later than September 2010.

The ECCC Internal Rules require provisional detention orders to set out the legal grounds and factual basis for a Charged Person's detention. Rule 63(3) provides that the CIJs must have a well founded belief that a detainee committed the crimes with which he or she is charged, and must find detention

to be a necessary measure to:

- i) prevent the Charged Person from exerting pressure on any witnesses or Victims, or prevent any collusion between the Charged Person and accomplices of crimes falling within the jurisdiction of the ECCC;
 - ii) preserve evidence or prevent the destruction of any evidence;
 - iii) ensure the presence of the Charged Person during the proceedings;
 - iv) protect the security of the Charged Person;
- or
- v) preserve public order.

In its order extending Nuon's detention, the CIJs said that 23 new statements by Charged Person Kaing Guek Eav regarding Nuon's role in S-21 provide additional support for their well founded belief that he committed the charged crimes. They did not discuss the other five conditions, but found that "the reasons of the Pre-Trial Chamber in its Decision of 20 March 2008 remain valid."

Internal Rule 63(7) requires the CIJs to provide written reasons for extending detention. The



Nuon Chea

International Criminal Tribunal for the Former Yugoslavia has emphasized that review of detention is legally necessary so that a Chamber "can assure itself that the reasons justifying detention remain." This is more important the longer a Charged Person is held pre-trial. For example, the Inter-American Commission has found that "[t]he effectiveness of legal guarantees should be heightened in direct proportion to the growing length of time spent in preventative detention."

The jurisprudence of human rights bodies such as the Inter-American Commission, European Court for Human Rights, and Human Rights Committee disfavors pre-trial detention and places the burden on States to justified continued detention. In contrast, international and hybrid criminal courts have treated pre-trial release as the exception and in practice have placed the burden on the defense to show that release is warranted. Notably, neither the Special Court for Sierra Leone nor the International Criminal Tribunal for Rwanda has ever granted any accused pre-trial release. These courts have justified their more restrictive approach in part by highlighting the severity of the crimes they prosecute.

Despite their different starting points, both

human rights bodies and international/hybrid courts take a somewhat similar methodological approach to determining whether the factors justifying detention have been met. They look at each situation on a case-by-case basis and balance factors including those referenced in Internal Rule 63(3). Human rights bodies generally require that the factors justifying detention be discussed in a "clear and specific" and not "stereotyped" manner. On the other hand, international and hybrid criminal courts have tended to accept more generalized justifications for detention.

These sources suggest that in extending Nuon's detention the CIJs had an obligation to address how the five conditions in Rule 63 continue to be met, at least in a general way, and not merely to reference the decision of the Pre-Trial Chamber. Nevertheless, following international and hybrid court practice, the PTC will likely determine that the burden is on Nuon to convince them why his detention is no longer justified.

Anne Heindel

A Legal Advisor of the Documentation Center of Cambodia.



NEW REVELATIONS: GUNNAR BERGSTROM'S RETURN TO CAMBODIA FROM THE FIELD, KAMPONG CHAM, CAMBODIA

Sarah Jones Dickens

"I have a very strong feeling," Gunnar Bergstrom says to me in a hushed voice as we walk towards the main city street in Kampong Cham, Cambodia, a provincial city two hours away from the capital Phnom Penh. Bergstrom looks for the bus stop here he took a picture thirty years prior when he came to Cambodia for fourteen days on a Swedish delegation tour of Cambodia.

"This is more strange for me than when I was just in Phnom Penh yesterday," he confides, "because, unlike Phnom Penh, this city was completely empty when I was here."

Bergstrom, who returned on Sunday to Cambodia, is apologizing to the Cambodian people for his support of the Khmer Rouge regime. It's his first time back in over three decades.

He came to Cambodia in August 1978 to visit the country on a delegation tour with three other Swedes. Two Khmer Rouge cadres took the three others and Bergstrom to hospitals, schools, factories, and cooperatives. They even were wined and dined by Pol Pot and Ieng Sary in the Royal Palace and slept for two nights in the Royal Palace in Siem Reap, Cambodia.

According to Bergstrom, he witnessed no torture; saw no killings; and heard of no starvation while he was here. Armed with textbooks, songs, magazines, and hundreds of photographs and film footage, Bergstrom went back home to Sweden with visual, physical, and experiential proof that the Khmer Rouge was in the beginning stages, although imperfect stages, towards utopia for the Cambodian society. It was not until he saw thousands of refugees flood into Thailand that he realized he made a grave misjudgment.

We find the bus stop, which is now turned into a bustling market. The market is "alive"--

Bergstrom's words to describe the scene. It's a stark contrast to what he witnessed in 1978, an empty market and town save a handful of people drying corn and tending to children in an abandoned storefront.

"Thirty years ago," he explains, "I tried to speak to some women at the bus stop." Continuing he says, "I wanted to talk to the women on my own and tell them where I was from." Typically, a Khmer Rouge cadre would follow the Swedish delegates everywhere they went, acting as their "bodyguards," which Bergstrom later reasoned they were his spies. "The conversation didn't get very far," Bergstrom admits. "The women just giggled a lot."

He stands to take a picture in the exact same spot where he previously stood. It's an uncanny re-enactment.

We continue down the street together. "You know," he says, "I didn't think about this when I was here, but there was no type of public transportation, there was no one at the bus stop when I was there, so people had to go where the Khmer Rouge put them. They couldn't travel where they wanted to and had to rely on the Khmer Rouge."

"I don't know why I didn't think about that then," he professes.

It was another revelation about the Khmer Rouge that Bergstrom discovered on his trip back to Cambodia.

Prior to their trip, the Swedish delegation was conscientious of past delegations to other genocidal regimes and openly warned each other not to be fooled by the things they saw and were shown. "We told each other we would look critically at everything we saw," Bergstrom explains. But, in the end, the delegates too fell into the trap. Bergstrom weeded out "the things he didn't want to see." He calculated

that the positive things about the revolution outweighed the bad.

Kampong Cham Seminar: Apology the Cambodian Way

On Thursday, monks, women, men, and children from all ages gathered inside the tent at Wat Boeung Kok in Kampong Cham, Cambodia to listen to Bergstrom speak about his delegation tour. It's the second stop on Bergstrom's whirlwind tour to backtrack his steps from his previous delegation tour. Large, white banners pictured with Bergstrom's photographs hung from the trees lining the complex, rippling in the wind.

A photograph depicting Bergstrom at the Kampong Cham bus stop thirty years prior hangs outside the complex, catching attention of the passerbys. A few policemen gathered under a tree near the tent, keeping their distances far enough to be inconspicuous but close enough to hear his story.

The atmosphere has a very casual, yet powerful feel.

During the discussion, Bergstrom explained to the Cambodian audience about the reasons he came to the country and explained why he supported the Khmer Rouge in the first place, citing Maoist ideology as his rationale. He detailed his trip, telling participants about the places he went and things he saw: smiling children, people working in the fields, and communal living. But he also explained the things he ignored: the empty streets, the lack of monks, and the evacuated cities.

Participants eagerly asked questions about a range of topics, Bergstrom's trip sparking discussion about other events surrounding the Khmer Rouge regime then and now. One person simply asked for a better explanation of Maoist ideology while another villager wanted to hear Bergstrom's opinion of the upcoming tribunal. In fact, one monk encouraged Bergstrom to participate in the tribunal and present his testimony to the court while another monk pleaded with him to ask the tribunal to hasten.

A few others, on the other hand, still could not fathom how Bergstrom could have not put the

pieces together. "How could you have been in the country," one monk asks, and "not see the killings? How could you not see the torture?" he continues.

In the end, Bergstrom apologized to the Cambodian people for his endorsement of the regime, saying he was gravely sorry for his wrongs.

Towards True Reconciliation: A Genuine Apology

The seminar indeed sparked discourse among the villagers and monks, but it also perhaps presented Cambodians with something they have never received—a genuine apology from someone of "high status" who once supported the regime.

While other low-ranking Khmer Rouge cadres have apologized for their wrongdoings, Bergstrom may arguably be the first person of a higher political and ideological standpoint to take full responsibility for his actions. Furthermore, Bergstrom's apology may perhaps be the first apology that Cambodians have publically received from a foreigner.

Both Khieu Samphan, former Khmer Rouge head of state, and Nuon Chea, Pol Pot's chief political theorist and second-in-command, publically apologized in 1998 to Cambodians, but the two never admitted



Villagers are watching Gunnar's exhibition

that they were personally responsible for their actions or ideas.

In the press conference in 1998, Khieu Samphan called on Cambodians to "let bygones be bygones" and to "forget the past," and in the end, he evaded responsibility. Arguably, it was Khieu Samphan's ill-conceived ideas of economic prosperity that caused millions of Cambodians to suffer from 1975 to 1979. Samphan's apology, "sent an uproar throughout the Cambodian community," Chhang explains, "because no one believed him."

Bergstrom, on the other hand, has accepted responsibility for his grave misjudgment and blames no one except himself for his blind eye. On Tuesday and then again on Thursday, Bergstrom told Cambodians that he partially blamed the Khmer Rouge for fooling the delegates, but he ultimately blames himself. "We had our Maoist glasses on and we saw what we wanted to see."

When pressed on Thursday to explain how Maoist ideology influenced his thinking, Bergstrom stated that his beliefs on the ideology "does not excuse me, it only explains my support."

"The refugee stories we heard before our trip should have been enough to renounce the regime," Bergstrom admits.

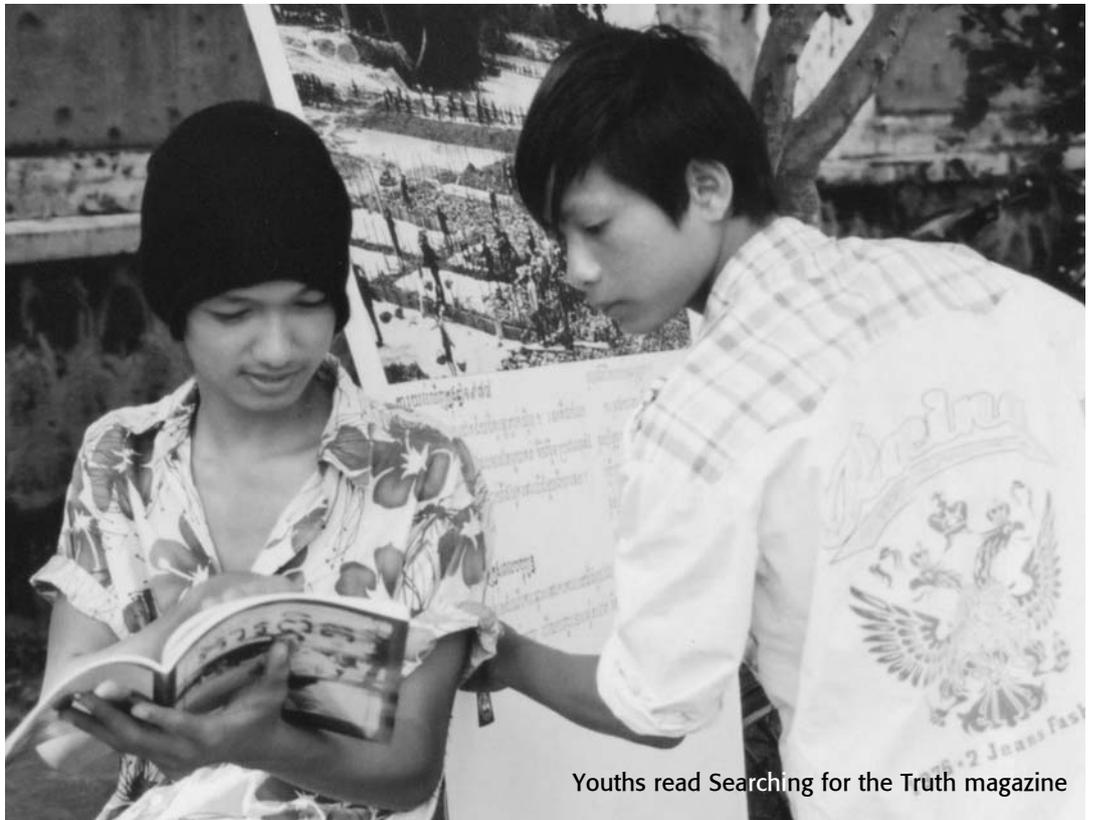
According to Chhang, an apology in Cambodian society has a deeper, more humbling affect than it does in Western cultures. In Khmer, the words *som a-phey-toh*, or sorry, is as if "one asks the other person to 'please reduce my guilt, please pardon what I did to you.'"

But the fact that the apology comes from a foreigner also carries added weight, Chhang explains. "It's like the boss apologizes, or reduces himself, to the worker. the king reduces himself to the peasant." "It's noble act by Gunnar," Chhang concludes.

It's a noble act indeed.

How ironic it is that Gunnar Bergstrom will witness Khieu Samphan on trial when he travels to the Extraordinary Chambers in the Courts of Cambodia on December 4, 2008 to attend Khieu Samphan's pre-trial hearing, wrapping up his trip to Cambodia.

Sarah Jones Dickens is a US Fulbright Student.



Youths read *Searching for the Truth* magazine

INTERNAL AND EXTERNAL ENEMY: THE VIETNAMESE EXPERIENCE DURING THE KHMER ROUGE PERIOD

Elizabeth Do

The Vietnamese minority in Democratic Kampuchea (DK) remains an understudied population. The academic community has provided some brief, macro-level information about the Khmer Rouge's policies towards ethnic Vietnamese in DK, but the subject has rarely been the main focus of scholarly investigation. Considering the specially charged historical, political, and racial relations between Khmer and Vietnamese people, the Vietnamese community in DK warrants closer examination. This paper aims to carry out two functions related to sharing the Vietnamese story: (1) to present the existing literature about the Khmer Rouge's relationship with the Vietnamese government and people, and (2) to share the personal stories of seven Vietnamese families who lived under the Khmer Rouge regime.

Historical Background

Vietnam and Cambodia share a tightly intertwined and tumultuous history. Scholars have discussed the many past injustices perpetrated by both Khmer and Vietnamese leaders. In one incident in 1751, the Khmer king commanded his subjects

to carry out the mass murder of all Vietnamese people in Cambodia. In another incident, Vietnam's Nguyen Dynasty emperor, Ming Mang supposedly "bur[ied] [Khmers] alive and allow[ed] only their heads to show to be used as a stand for their braziers." Centuries later, the Khmer Rouge wrote about the atrocity in their September 1978 publication of *Black Paper: Facts and Evidences of the Acts of Aggression and Annexation of Vietnam Against Kampuchea*. The document referred to Ming Mang's act as a "barbarous crime" and the Vietnamese as "Yuong torturers." Such derogatory terms as "yuon" to describe the Vietnamese appeared throughout *Black Paper* and exposed the Khmer Rouge's lingering resentment towards Vietnamese past wrongdoings.

Kampuchea and Vietnam have also engaged in territorial disputes over the Vietnam Mekong Delta, a region Cambodians believe Vietnam stole from Kampuchea. The Khmer Rouge addressed this thievery in *Black Paper*, recalling the Vietnamese seizure of Prey Nokor (now Saigon) and the lower Mekong area (Kampuchea Krom) as evidence of the

Vietnamese acting as the "aggressor, annexationist and swallower of territories." According to Southeast Asia scholar, Alex Hinton, such territorial disputes eventually led Khmer nationalists to render the Vietnamese as the "evil 'other, and "While both the Thai and the Vietnamese had 'swallowed' Cambodian lands, the Vietnamese were perceived as particularly dangerous." Eventually, Cambodians came to view the Vietnamese as the "historic enemy."



Vietnamese prisoner at Tuol Sleng



Vietnamese prisoner at Tuol Sleng

The historical migration and settlement of Vietnamese people into Kampuchean territory also led to class tensions between Khmer and Vietnamese residents. Some Vietnamese people in DK worked as financial lenders, an occupation that some Khmer people associated with the exploitation of the poor. Many ethnic Vietnamese also served as prominent leaders in the Kampuchean government and army, which further deepened class divisions between Vietnamese and Khmer people. The Vietnamese minority in Cambodia even faced state-sponsored massacre. In the years prior to Khmer Rouge rule, ethnic Vietnamese suffered several attacks at the hands of the Lon Nol government. From March through April of 1970, Lon Nol executed pogroms that specifically targeted ethnic Vietnamese in Cambodia and resulted in four thousand deaths. According to Norodom Sihanouk, former king of Cambodia, "In 1969 there were more than 400,000 ethnic Vietnamese in Kampuchea. After [Lon Nol's 1970] coup [that deposed Prince Norodom Sihanouk], Lon Nol and his supporters eliminated or banished to South Vietnam at least half of these Yuons." Indeed, the Khmer-Vietnamese relationship was marred by distrust, hostility, and violence.

Political Relationship Between the Khmer Rouge and Vietnam Workers' Party

The Khmer Rouge and Vietnam Workers' Party (VWP) also shared a tumultuous political relationship. With Cambodia and Vietnam both under the control of communist parties, there seemed to be hope for an Indochinese alliance. Even before the Khmer Rouge rose to power, VWP Central Committee Secretary Hoang Anh expressed an interest in Cambodia and announced at a 1971 committee meeting, "We [the VWP] should strengthen the revolutionary base in Cambodia and guide this country along the path of socialism. Here is the policy of our party." Anh's statements reflected the VWP's desire for a strong partnership between Vietnam and the Khmer Rouge. The VWP wanted to develop an Anh-Em, or "Older brother-Younger brother" relationship with the Khmer Rouge, in which it

could act as the Khmer Rouge's older brother. Khmer Rouge leaders and their CPK organization (Communist Party of Kampuchea) seemed to share in the VWP's hope. Speaking at a 1975 meeting of Vietnamese journalists, Pol Pot declared:

"Only when such a friendship and solidarity [between Democratic Kampuchea and Vietnam] are strong, can the revolution in our countries develop adequately. There is no other alternative. That is why, honoring these principles, we [the Khmer Rouge] consider that both parties and we personally should aspire to maintain this combat solidarity and brotherhood in arms and make sure that they grow and strengthen day by day."

Despite such optimistic projections for an Indochinese brotherhood, relations between the VWP and Khmer Rouge broke down during the years of the Khmer Rouge rule. Resentful of their Vietnamese "anh" and his seemingly paternalistic agenda, the Khmer Rouge sought an independent revolution for DK. Pol Pot fervently argued that the "interests of 'Vietnamese brothers' should not dominate in the determination of CPK policy." In fact, Soviet Union archival documents reveal that Pol Pot only made his 1975 promising speech to the Vietnamese journalists in order to "relieve pressure" from Vietnam loyalists in the CPK and to "fool" the Vietnamese into believing the Khmer Rouge would follow their command. The Khmer Rouge's plans for self-determination became clear to the Vietnamese in early 1977, when Pol Pot refused to attend a Cambodian-Vietnamese leaders' meeting suggested by Vietnamese Deputy Minister of Foreign Affairs Hoang Van Loi.

Political strife soon turned into armed conflict. In mid-1977, mutual border attacks broke out between DK and Vietnam. Although border skirmishes had occurred for many years before, the border dispute in 1977 escalated into a large-scale battle between Vietnam and DK. By May 1978, DK leaders made a public radio announcement urging "Khmers to kill thirty Vietnamese [soldiers] for every fallen Cambodian." The Khmer Rouge also used propaganda

literature to broadcast their anti-Vietnamese campaign, such as in their 1978 paper entitled, *Black Paper; Facts and Evidences of the Vietnamese Acts of Aggression and Annexation Against Kampuchea*.

Although the border dispute dealt a powerful blow to the already crippling DK-Vietnam relationship, the Khmer Rouge maintained that it was the VWP's "annexationist" intentions that ultimately caused the breakdown:

"The cause of the conflict between Kampuchea and Vietnam is not an ordinary border problem. The root of this conflict lies in the policy of expansion and annexation systematically carried out by the Vietnamese who have used all kinds of methods: seduction and peaceful method by grasping the party, the army and the State power, and cruel and barbarous military method, like those they are carrying out at present in Kampuchea."

The Khmer Rouge's statements revealed their long-felt suspicion that the Vietnamese were using the guise of an Indochinese Federation to invade Cambodia and oppress it. Pol Pot warned that an Indochinese Federation would bring "hundreds of thousands" of Vietnamese swarming into Cambodia and diminish the Khmer population to a "national minority". A Khmer Rouge document voiced the same concerns, writing "The Vietnamese will bring in one or two million of their people into our country every year, and then we shall lose our territory and our race will be completely swallowed up." From such statements, we see the tremendous urgency the Khmer Rouge felt to protect both its border and its race.

Eventually, the Khmer Rouge's tensions with Vietnam abroad translated into paranoia within its own CPK party. Fearing the possibility of Vietnamese infiltration into the CPK, the Khmer Rouge began to purge many of its "pro-Vietnamese" and suspected renegade party members. Other victims included people "who had professional training, extensive residence overseas, or contracts with non-Khmers." The Khmer Rouge even conducted background checks on their current and incoming party members.

In a 1978 statement to the Communist Workers Party of Denmark, Khmer Rouge Deputy Secretary Nuon Chea explained that such extreme party cleansing was a top priority for the Khmer Rouge. Chea announced, "We are not worried about the external, military aggression. We worry most of all about the enemy inside."

Paranoia reached a climax during the 1978 Eastern Zone massacres. Prior to the massacres, the Khmer Rouge were facing continual Vietnamese attacks along the Eastern border. The losing battle against Vietnam eventually provoked Angkar (a term used to refer to the Khmer Rouge organization) to accuse the Eastern Zone officers of colluding with the Vietnamese. According to Pol Pot, "The Eastern Zone units collaborated with the Yuon and allowed the Yuon to enter. So, only after we make war in the rear to purify ourselves will we be able to win the war at the front. Anyone and everyone who collaborate with the Yuon must be arrested." To punish the Eastern Zone officers for their betrayal, Angkar carried out a massive purge of the 1.5 million Eastern Zone people who were deemed to have "Khmer bodies with Vietnamese minds." The purge resulted in countless arrests and deaths, as well as many Khmer Rouge fleeing to Vietnam.

Vietnamese Minority in Democratic Kampuchea

The political tensions between the Khmer and Vietnamese people presented problems for the ethnic Vietnamese living in DK. When the Khmer Rouge came to power in April 1975, it orchestrated the mass purge of over 150,000 ethnic Vietnamese from Cambodia. The purge brought thousands of Vietnamese refugees into the Dong Thap, An Giang, and Tay Ninh provinces. By September 1975, the regime had successfully rounded up most of the Vietnamese living in Cambodia and deported them to Vietnam. In *Black Paper*, Angkar rationalized their purge of the Vietnamese people by writing that "Vietnamese nationals had secretly infiltrated into Kampuchea and [were] living in hiding [among] the population." Southeast Asia scholar Ramses Amer sets the Vietnamese population after the 1975

purge at 30,000, whereas Alex Hinton believes only 10,000 Vietnamese remained in DK. The few ethnic Vietnamese people left in *DK most likely remained because they wanted to stay with their Khmer spouses or didn't want to leave the country where they were born and grew up their whole lives.* These people were subsequently subjected to Khmer Rouge targeting and abuse.

Starting in mid 1976, Angkar forbade Vietnamese people from leaving the country. When the border conflict began in mid 1977, the Khmer Rouge intensified their policies against ethnic Vietnamese in DK and eventually *“launched a campaign to eradicate the remaining Vietnamese.”* On April 1977, the Khmer Rouge issued “Directive from 870.” The order called for the arrest of “all ethnic Vietnamese, and all Khmers who spoke Vietnamese or had Vietnamese friends.” Ethnic Vietnamese also faced the threat of death. The Khmer Rouge carried out mass executions of whole Vietnamese communities and families. In one massacre at Kompong Chhnang Province in mid May 1977, about 420 Vietnamese adults and children were murdered. In another massacre at Kratie in 1978, the Khmer Rouge targeted anyone with Vietnamese blood, family members, or any Vietnamese association. The Khmer Rouge even commanded husbands to kill their Vietnamese wives.



Personal Stories*

As discussed above, ethnic Vietnamese faced serious dangers while living under the Khmer Rouge regime. Considering their unique circumstances, research organizations such as the Documentation Center of Cambodia (DC-Cam) have undertaken projects aimed at shedding light on the ethnic Vietnamese experience. Although most Vietnamese died or escaped DK during the Khmer Rouge period, DC-Cam has been able to conduct dozens of interviews with Vietnamese survivors or their surviving Khmer family members and friends. The majority of DC-Cam's interviews were conducted in Pochen Dam village of Svay On Torng commune, Prey Veng district, Prey Veng province. Located in Eastern Cambodia along the Cambodia-Vietnam border, Prey Veng province was home to many ethnic Vietnamese people during the Khmer Rouge period. In August 2008, I conducted some follow-up interviews with the Pochen Dam families. In addition to the Pochen Dam families in Prey Veng province, I was also able to locate additional Vietnamese survivors in Svay Rieng province, also located in eastern Cambodia. In this section, I share the personal stories collected through both DC-Cam's and my own interviews.

Sum San

In a 1998 interview with DC-Cam, a Khmer man named Lach Ny shared the story of his Vietnamese wife, Sum San. Ny remembered that in July of 1977, the Khmer Rouge began to investigate who was Khmer and who was Vietnamese in his village. At that time, his wife, his seven children, and he lived in Pochen Dam village. Ny explained that although his wife was ethnically Vietnamese, she had lived in Cambodia for such a long time that she could speak Khmer fluently and with a perfect accent. Despite this, Ny believed that the Khmer Rouge knew his wife was Vietnamese (he

suspected that San's light skin made her look Vietnamese and someone from his village informed the Khmer Rouge). Ny tried to persuade the Khmer Rouge that his wife was Chinese, but they didn't believe him. In fact, the Khmer Rouge tried to separate Ny from his family by arresting him and putting him in prison for nearly two months in another village.

After Ny was released, a relative told him that the Khmer Rouge had captured his wife and children. DC-Cam's interviews with Sin Chaorn, (a man who worked as a horse cart driver for the Khmer Rouge in Pochen Dam village), Chum Chhean (a woman who worked in the same unit and group as San), and Lach Nakk (San's sister-in-law) shed some light on what happened to San and her children. They remembered four Khmer Rouge district military officers coming to San's house during a work break. The officers told San that she and her children needed to be reeducated at another location. At that time, San's in-law family didn't oppose the Khmer Rouge's order, because they trusted the Khmer Rouge and were too scared to argue with them.

The Khmer Rouge was adamant about bringing San's children with her. At the time, San's oldest daughter was working and living in another village. Instead of leaving the oldest daughter, the Khmer Rouge ordered her to return to Pochen Dam village so she could join her mother and siblings. The Khmer Rouge then put San and her children in a horse cart, banded their hands behind their back, and drove them away. Ny later heard from the village chief, Loek Chhem, that the Khmer Rouge's determination to get San's oldest daughter reflected their unique policy towards the Vietnamese people. Ny said that in his village, the Khmer Rouge killed Vietnamese children of Khmer-Vietnamese couples based on which parent was Vietnamese. If the father was Vietnamese, the Khmer Rouge killed the father but spared the children. However, if the mother was Vietnamese, the Khmer Rouge killed both the mother and children.

The horse cart driver carrying San and her children later told Chaorn that the Khmer Rouge directed him to drive the family to Ou Kon Dol pagoda. When the driver dropped them off at the pagoda, the Khmer Rouge ordered him to immediately return to the village. Since that time, no one knows what happened to San and her children. Ny believed his family was transferred from Ou Kon Dol pagoda and killed at Krang Kor. He said that during his time in prison, he overheard Khmer Rouge cadres talk about Krang Kor as the killing field where they caught and tortured Vietnamese people. Ny said that Krang Kor was one of the Khmer Rouge's security centers and had executed between 40,000 and 50,000 Khmer and Vietnamese people. Ny visited the site after the collapse of the Khmer Rouge regime, and recalled that each mass grave contained at least 20 or 30, and sometimes up to 50, dead bodies. Ny remembered witnessing many murders at a killing site called Dey Klein in Pursat province and said he believed his family was killed in the same way the Khmer Rouge killed Dey Klein victims. At Dey Klein, the Khmer Rouge dug a massive hole in the ground. They then lined their blindfolded and hand-bound victims along the edge of the hole and used an iron stick to hit people behind their necks until they fell. Once the victims fell into their graves, the Khmer Rouge buried them, regardless of whether they were dead or not.

The last image San's family and friends held was the image of the Khmer Rouge hauling San and her children away on a horse cart. Nakk said that after the third day San hadn't returned, the family assumed she and her children were dead. Nakk also recalled a village meeting where the Khmer Rouge tried to dismiss people's concerns about the disappearance of Vietnamese people. At the meeting, the Khmer Rouge told the people not to worry because the Vietnamese situation had nothing to do with "us," meaning the Cambodian people. The Khmer Rouge made their resolve clear by saying that even the smallest child with Vietnamese blood would not be given any pity and

would be killed in order to eliminate the bad blood from Cambodia.

Chuy and Ngam

Chuy and Ngam, both 100% Vietnamese men living in Pochen Dam village, shared similar experiences under the Khmer Rouge regime. Chuy, a former Vietnamese army soldier, settled in Cambodia after marrying a Khmer woman named Doung Oeun. Together, they had a daughter named Kim Va, and two other children from Oeun's previous marriage. Ngam married a Khmer woman named Tech. They had 3 children, two of whom survived the Khmer Rouge regime and one who died during the period. Ngam and his family had lived in Pochen Dam village for more than 20 years before the Khmer Rouge took control. Both Chuy and Ngam spoke Khmer fluently, but one villager remembered that Chuy spoke Khmer with a different accent. When the Khmer Rouge took control, Oeun remembers some of Chuy's relatives advising him to escape to Dey Kra Horn. Sek Kroeung, a Pochen Dam villager, explained that Dey Kra Horn was located in Svay Rieng and was known as a safe place for Vietnamese people to live during the Khmer Rouge period. Kroeung knew someone who had escaped to Dey Kra Horn and was able to avoid Khmer Rouge abuse. Despite friends' and family's advice, Chuy chose to remain in Pochen Dam village.

When the Khmer Rouge took power, they organized people to work and eat together in cooperatives. Oeun's mother, Nut Ao, described a typical day under the Khmer Rouge as difficult because people didn't have enough food to eat. During the period, Chuy worked many jobs, including making manure out of cow waste and helping grow vegetables in the village. Ngam worked in the fields to build a canal and set up an irrigation system for the rice fields. Both Chuy and Ngam maintained these jobs until mid-1977, when the Khmer Rouge led them into the forest and they never returned.

Chuy's and Ngam's family and friends talk about the events leading up to their disappearance. Heng Huy, who had worked in the forest with Chuy

and Ngam, remembers that the Khmer Rouge initially treated Vietnamese and Khmer people in the village equally. However, beginning in 1977, the Khmer Rouge began to separate the villagers into different ethnic groups. Vietnamese people lived in the Vietnamese group; Chinese people lived in the Chinese group; and Cham people lived in the Cham group. Huy adds that the Khmer Rouge also divided people into three class groups: the first group included rich and middle class people; the second group included workers; and the third group included farmers. The non-Khmer and upper class groups lived separately from each other and away from the village. Being half Chinese and an upper class group member, Huy remembers living in an isolated area in the outskirts of the village. He also says that the Khmer Rouge purged many unwanted groups of people. In one incident, he remembers the Khmer Rouge transferring several Chinese business families to live in other villages.

Following the ethnic and class segregation, the village chief ordered all his subordinate group chiefs to select one man from their group to work in Tapeou forest in Or Kondol village, Dam Rey Puon subdistrict, Prey Veng district, Prey Veng province. With ten groups in Pochen Dam, a total of ten men were assigned the job. Huy remembers the workers included Khmer, Chinese, and Vietnamese men, including him, Chuy, and Ngam. Ngam's daughter, Ngang Kok, was only two years old at the time and didn't remember how the Khmer Rouge approached her father about working at Tapeou. Chuy's family remembered a cooperative chief named Chhem coming to Chuy's house and politely asking Chuy to work in the forest. Va says that Chuy agreed to go because the Khmer Rouge had acted without force and Chuy and his family trusted them. Ao remembers Chuy packing his clothes the next morning and asking her to please look after his daughter. By 7 a.m. that morning, Chuy, Ngam, Huy, and the other workers had set off on the 10 km trek to Tapeou forest.

While in the forest, the men developed a working routine. In the morning, they cut wood from the trees.

At midday, they cooked and ate lunch. After lunch, they returned to the forest and continued working until evening. The men maintained this routine for half a month, until the day Chuy and Ngam disappeared. On the day of their disappearance, Huy remembers the village chief biking into the forest. The chief instructed the men to return to the village. On the trip back to the village, the chief's bike broke in front of the Or Kondol pagoda. He asked Chuy and Ngam to stay with him to fix the bike, and instructed the rest of the men to continue walking. Huy says Ngam knew how to fix bikes, so it didn't seem odd to Huy that the chief kept Ngam behind. However, when Huy and the rest of the group waited for Chuy and Ngam at Or Kondol village, the two men never emerged from the forest. When the group returned to Pochen Dam, Huy heard about the Khmer Rouge's recent arrest of Lach Ny's wife, Sum San. He heard that the Khmer Rouge arrested San and her children because they were Vietnamese. He then came to believe that the village chief's bike incident in front of Or Kondol pagoda was no accident. Instead, he believes that the chief deliberately isolated Chuy and Ngam and killed them at the Or Kondol pagoda, which the Khmer Rouge were using as security center at the time. Huy believes the Khmer Rouge knew Chuy and Ngam were Vietnamese. Generally, high-level Khmer Rouge officials weren't very familiar with villagers. However, Huy believes the village chief, who lived and interacted with the local people, informed the top Khmer Rouge about Chuy's and Ngam's backgrounds. According to Huy, the Khmer Rouge policy to kill Vietnamese people came from top Angkar leaders, but the information about specific Vietnamese "enemies" came from lower-level officers such as the village chief.

After the disappearance of the Vietnamese people in Pochen Dam village, the Khmer Rouge held a meeting with the villagers. At the meeting, the Khmer Rouge tried to reassure people by saying that they had only brought the Vietnamese people to a village with more land. Despite the Khmer Rouge's attempt to comfort villagers, Ao says her family still

feared they would become targets for Khmer Rouge abuse. She remembers a villager recommending that Ao change Chuy's daughter's name from Kim Va to a less Vietnamese-sounding name such as Samin. Ao found it prudent to accept the advice, and since then, Chuy's daughter has gone by the name Samin.

Seng Huor

Half Vietnamese from her mother's side and half Chinese from her father's side, Seng Huor was born in Lonng Trea village, Prey Veng province. Her Vietnamese mother, Le Pi Hay, and Chinese father, Seng, worked as tailors and sold clothes. Huor had four siblings, most of whom disappeared during the Khmer Rouge period. The Khmer Rouge arrested Huor's older brother, Seng Van, and his three children in 1977. Van and two of his children disappeared, but one child was able to hide from the Khmer Rouge and survive the period. Huor's older sister, Seng Muoy, also managed to survive the Khmer Rouge period, and today lives in Chbar Om village. Huor's younger sister, Seng Tieng, and brother, Seng Ke, were arrested in 1977. Following the arrest of Tieng and Ke, the Khmer Rouge apprehended Huor, Huor's mother, and Huor's children. In a 2008 interview, Huor's husband, Khun Mon, shared what happened to Huor.

Prior to the Khmer Rouge regime, Huor and Mon lived peacefully in Svay On Torng village, Prey Veng province. Huor met Mon while he was a monk, and the two fell in love. In 1969, Mon gave up his monkhood, and the couple married. Huor was 17 and Mon was 28 years old at the time. They had 3 children, all boys: Chan Tha (born in 1970), Chan Thu (born in 1973), and Chan Thoeun (born in 1975). According to Mon, his family was the only Vietnamese family living in Svay On Torng village.

A resident of Svay On Torng and Mon's sister-in-law, Chiep Lorn, described living in DK. She said that after the Khmer Rouge took control of Svay On Torng, they began to collect all the Vietnamese and Chinese people in the village to send them back to their own countries. The Khmer Rouge made it clear

that this was the last time they were going to give “alien” people a chance to leave. During this time, Huor’s mother’s family came to Huor and Mon and tried to convince them to escape to Dey Kra Horn. Lorn remembered hearing many people talk about Dey Kra Horn as a safe place for Vietnamese people to live during the Khmer Rouge period. Despite the appeal of Dey Kra Horn, Huor and Mon refused to leave their village and remained in Svay On Torng under Khmer Rouge rule.

At that time, Huor worked in the rice fields and Mon worked in the mobile unit. Looking back on the early years of the Khmer Rouge period, Mon remembers that he and his wife worked separately during the day, but reunited at their home at night. He says that life wasn’t so hard, and work was simple: if the Khmer Rouge ordered something, the people would follow the orders and there were hardly any problems. However, in 1976, living and working conditions worsened. The Khmer Rouge forced people to work on the rice fields from 7 a.m. to 5 p.m. and didn’t provide people with enough food to eat. A former Svay On Torng commune chief, Pek Pach, stated that there was no freedom during the Khmer Rouge period. Family relations broke down because the Khmer Rouge never allowed people to visit their family members. Sometimes, even if one’s relative was sick, the Khmer Rouge still denied permission to visit him or her. In 1977, Mon was assigned to work in a different commune. Because of his new job, Mon only saw his family sporadically, sometimes once every ten days and sometimes once every few months. During those visits, he was only able to stay for only three or four days.

Mon remembers that the Khmer and Vietnamese people in his village had good relations with each other. He says that the Khmer Rouge initially treated Huor the same way they treated a Khmer person. Huor worked the same jobs as the Khmer people, and after work she was allowed to go home and live with her family like the Khmer people. However, a shift occurred in 1976. According to Pach, the Khmer Rouge began to round up Vietnamese people

and remove them from the village. Even though the Khmer Rouge told their families they were temporarily being sent away for “reeducation” or “work in the forest,” the Vietnamese people would never return. Pach explained that using covers such as “reeducation” allowed the Khmer Rouge to easily collect their targets, because people initially believed the cover stories and didn’t put up a fight. According to Pach, the Khmer Rouge’s hostile policies towards Vietnamese people derived from their belief that the Vietnamese were invading Cambodia. At that time, there were several meetings where the top Khmer Rouge officials informed low-level officers such as Pach that Vietnamese combatants were fighting and chasing Khmer Rouge cadres along the border. Such Vietnamese aggression stirred anger and paranoia within the Khmer Rouge.

Mon believes that the Khmer Rouge targeted his family based on their Vietnamese background. Mon remembers the village chief, named Ta Aok, telling the top Khmer Rouge officials that the Seng family was part Vietnamese. Khun Mut, Mon’s oldest sister who was living in Svay On Torng at the time, said the Khmer Rouge made a series of arrests against the Seng family. First, they took Huor’s sister and brother, Tieng and Ke. A few days later, two Khmer Rouge officers named Lim and Chhoeun told Huor and her mother that they needed to attend a meeting at Khlaov pagoda, and subsequently, carted the two women away. Huor, who was 25 years old at the time, left her children with her husband’s family and asked them to please take care of the children. After Huor and her mother left, the two women never returned home.

The next day, Mon returned home to the news of his wife’s and her family’s disappearance. Two more Khmer Rouge, Ta Aok and an officer named Horn, came to his home to collect his three children. His family pleaded with the officers to spare one child but they refused, saying that the children had to follow their mother. After the Khmer Rouge carted the boys away, they were never seen again. Mon believes the Khmer Rouge in Svay On

Torng also followed a special policy in which they only arrested and killed children belonging to Vietnamese mothers, but spared children belonging to Vietnamese fathers. Mon says he doesn't know why the Khmer Rouge practiced this policy and to what extent the policy was practiced in other villages. Pok So Khom, a former Khmer Rouge youth chief in Svay On Torng, confirmed that the Khmer Rouge had a policy to kill Vietnamese mothers and children in Svay On Torng. Khom said that the Khmer Rouge targeted the Vietnamese because they viewed them as the enemy.

After the disappearance of his family, Mon remembers the Khmer Rouge coming by his home and trying to collect his wife's belongings. Mon and his family resisted such attempts by telling the Khmer Rouge that his wife and her family hadn't left anything behind. Later, the Khmer Rouge took Mon to Thlav commune, where the commune chief named Chaem tried to reeducate Mon by telling him not to miss his wife or children. Mon lived at the commune for one year until the collapse of the Khmer Rouge. Mon's three sisters, Mut, Samit, and Min were also taken away to be reeducated and told not to remorse the loss of San's children.

Mon never found out what happened to his wife and children. The image of his three boys being hauled away in a horse cart remains his last memory of his family. Khun Samit, Mon's younger sister, recalled how villagers feared the sound of the horse cart at night, because they understood it as the sound of the Khmer Rouge picking up someone to drive to the killing field. Mon later heard rumors that his wife and children were taken to Chamkar Kuoy village. When he asked villagers from Chamkar Kuoy about his family, the villagers said that all the Vietnamese people brought to be Chamkar Kuoy were killed. Later, when the Hun Sen government investigated the area around Chamkar Kuoy, Mon says the investigators found human bodies and bones and concluded that the place was a killing site.

Lorn recalls the secret manner of the Khmer Rouge, especially their secrecy about targets for

execution. According to Lorn, top leaders such as the district chief organized the list of people to kill by gathering information about villagers' backgrounds from subdistrict and village chiefs. The list was kept so secret that not even the horse cart driver who drove the people to the killing field knew the names of the victims in advance.

Meng Sim

The story of Meng Sim, a woman with some Vietnamese blood, begins in Angkor Yuos village, Preah Anteah subdistrict, Svay Peam Roup district, Prey Veng province. At Angkor Yous, Sim lived with her husband and six children, whose ages ranged from two months to sixteen years old. Sim and her siblings had some Vietnamese blood in them from a great grandmother, who was half Vietnamese and half Chinese. Sim's ethnic background, however, was mostly Khmer. Despite the relatively dilute amount of Vietnamese blood they had, Sim and all but one of her children had disappeared by the end of the Khmer Rouge period. Only two members of Sim's family, Sim's son, Peou Aong, and her husband, le Peou, survived the Khmer Rouge period.



Vietnamese prisoner at Tuol Sleng

According to Aong, who was about twelve years old at the time of the Khmer Rouge period, there were two incidents in which the Khmer Rouge targeted his family. In the first incident, occurring in January of 1976, Aong remembers hearing rumors that the Khmer Rouge were collecting all the Vietnamese people living in Cambodia and returning them to Vietnam. The Khmer Rouge told Aong's family that they looked Vietnamese and thus, would be sent back to their country. Soon after, Aong's family was taken from Angkor Yuos to Ka-om Kam No village, in Kandal province. The family traveled with five other part-Vietnamese families, each consisting of six to seven people.

After two days of traveling, they arrived at Ka-om Kam No. There, Aong remembers seeing about 100 other people waiting at the border village. Aong remembers there were people of all ages and that most of the people weren't 100% Vietnamese but rather, appeared to be only slightly Vietnamese. The Khmer Rouge had accused them of looking Vietnamese and forced them to the border. After three days of waiting, representatives and military from Vietnam arrived to survey the people. In order to test the people's Vietnamese ethnicity, the Vietnamese military asked the people at the border to speak Vietnamese. When the people couldn't speak Vietnamese, the Vietnamese military said they weren't Vietnamese and refused to accept them into their country. With no place for the people to go, the Khmer Rouge sent all the families back to their respective villages.

When Aong and his family returned to Angkor Yuos village, the Khmer Rouge there treated them as "new people," a term the Khmer Rouge deridingly ascribed to people with wealth and of different ethnic identities. The commune chief re-assigned Aong's two older brothers to the mobile unit and the rest of Aong's family to Thmey village, located three kilometers from Angkor Yuos. There, Aong collected wood for the village and caught mice from eating the village's vegetable plants. Aong and his family lived and worked at Thmey until the Khmer Rouge

again targeted his family.

Aong remembers the second incident occurred in early 1977, when the Khmer Rouge gathered his grandfather, Hao, and grandmother, Tab, to be reeducated. Aong says the Khmer Rouge used the term "reeducated" as a cover to secretly remove people from their homes and kill them. Peou remembered the Khmer Rouge then arrested many of Sim's siblings and their families to be reeducated, including her sister (Meng Muoy and her family), brother (Meng Seany and his family), and her three other sisters (Meng Tech and her family, Meng Sea and her family, and Meng Peou, who was single). Fifteen days later, in February of 1977, the Khmer Rouge came for Sim and her family. According to Peou, three Khmer Rouge military officers (named Yos, Sen, and Muon) arrived at his house and ordered his family to be reeducated. At first, the Khmer Rouge picked up Sim and her two older sons around 3 p.m. Three hours later, the Khmer Rouge returned for Aong and his younger brother and sister. Aong believed that the Khmer Rouge followed the same special policy as was mentioned in Pochen Dam and Svay On Torng village. At the time, Peou was quite ill with a swollen stomach, so the Khmer Rouge left him to recover at home. Even when he asked if he could join his family, the Khmer Rouge said that there was no need for him to go. By the end of the night, the Khmer Rouge had carted away Peou's wife, children, and the rest of the Vietnamese families from his village.

The Khmer Rouge brought Sim and her children to Preh Koam pagoda, which the Khmer Rouge used as a detention center. At Preh Koam, Sim worried about her sick husband being alone and asked Aong and his oldest brother to return to Thmey village. Aong's oldest brother said that he would stay with their mother and suggested that Aong return home to take care of their father. Later that night, the Khmer Rouge called Aong and his siblings to eat dinner, during which Aong slipped past the back door of the pagoda and headed home. Hours after his escape, he heard the sound of dogs barking and

knew the Khmer Rouge was searching for him. After traveling ten kilometers, Aong arrived at his father's house. However, Aong didn't dare enter the village for fear that the Khmer Rouge would find him. Aong hid in the forest for three days and three nights. During this time, he remembers starving through the day and, at night, having to dig potatoes from the ground to eat. Finally, Aong felt so starved that he went into his father's house. Peou then sent Aong to live with his aunt at Kampong Russey sub-district. After 10 days, Peou recovered from his sickness and retrieved his son from Kampong Russey. Together, they escaped to Pochen Dam village, where Peou's brother lived.

When father and son arrived at Pochen Dam in mid 1977, Peou's brother told the local leaders that Peou and Aong were evacuees from another village, avoiding any mention of Peou's Vietnamese wife. At the time Peou and Aong arrived in Pochen Dam, Peou remembered the Eastern Zone massacres were underway. Because the Khmer Rouge officials in Pochen Dam were so preoccupied with the Eastern Zone massacres, Peou and Aong were able to live in the village without notice. Even when the commune chief later accused them of being "new people" and threatened to send them away, Peou's brother vouched for them and the commune chief dropped the charges. Peou and Aong remained in Pochen Dam village until the overthrow of the Khmer Rouge in 1979. Although Peou and Aong didn't witness what happened to Sim and the rest of their family, Aong says he later heard that the Khmer Rouge transported his mother and siblings to another location where they were killed. Like many disappearances from the Khmer Rouge period, his family's disappearance still remains mystery.

Pheng Samai

Pheng Samai spent the Khmer Rouge period trying to hide from the regime. Samai's mother was 100% Vietnamese by blood, although she was born and raised in Cambodia. Samai's father was 100% Khmer. Her parents divorced when Samai was young, and Samai never knew her father. Growing up, Samai

lived with her mother and two older sisters. However, in the years leading up to the Khmer Rouge period, Samai's family was split up. In 1970, the Lon Nol regime forced Samai's eldest sister and her sister's Vietnamese husband to flee to Vietnam, where they lived through the Khmer Rouge period and remain today. Samai's other sister then traveled to Phnom Penh, after which Samai and her mother never heard from her again.

When the Khmer Rouge regime came to power, Samai and her mother moved from their hometown of Ba Daok village to Bung Kak village, Kam Chai Mea district, Prey Veng province. Samai says that her mother never considered escaping to Vietnam because she had lived in Cambodia all of her life. At Bung Kak village, Samai and her mother were able to live closer to Samai's cousin. There, they lived and worked with the other villagers. Samai remembers that initially there was no division between Khmer and Vietnamese people. Even when the local Khmer Rouge began to divide the villagers into different class groups and labeled Samai and her mother as "new people," the Khmer Rouge still treated them the same way they treated Khmer people. Samai's mother job was to feed the village pigs and collect human waste to later be used to make fertilizer. Samai's mother knew how to speak both Khmer and Vietnamese fluently, but she never dared to speak Vietnamese during the Khmer Rouge period. Despite Samai's mother's attempts at concealing her Vietnamese background, the Khmer Rouge accused Samai's mother of being Vietnamese in mid 1978. Samai believes her mother's light skin rose suspicions, and that some village informants exposed her. Later, the Khmer Rouge cooperative chief named Chham re-assigned Samai's mother to another work location where she would work to make fish paste. At that time, 20-year old Samai had just given birth to her first child, so the Khmer Rouge didn't approach her about leaving with her mother. Two days after Samai gave birth, the Khmer Rouge transferred Samai's 58-year old mother to the mobile brigade station and subsequently took

her mother to another unknown location. Samai never saw her mother again, but heard rumors that the Khmer Rouge had killed her.

Soon after, the Khmer Rouge returned to the village to search for Samai. Samai successfully evaded their attempts by hiding with her newborn daughter in mounds of hay. The Khmer Rouge continued to look for Samai, returning to her village several times a week and searching for her for up to an hour per visit. Samai remembers how she relied on her close family friend and Khmer Rouge group chief, Muon, in order to elude the Khmer Rouge. Muon and Samai had developed a good relationship while working in the mobile brigade together (Muon was the brigade chief and Samai was a group member). According to Samai, every time the Khmer Rouge sent word to Bung Kak about visiting the village, Muon warned Samai. With Muon's help, Samai had enough time to hide with her daughter in the haystacks. While they hid in the haystacks, Samai remembers having to breast-feed her daughter to keep the baby from crying. When Samai wasn't hiding, she resumed her life in the village. She remembers the Khmer Rouge installing loudspeakers to broadcast their town meetings to the public. During one meeting, she heard the Khmer Rouge refer to the Vietnamese as the enemy and invader of Cambodia. From this statement and her personal experience, Samai says that the Vietnamese in DK had to either hide their ethnic backgrounds or escape the country in order to survive the regime.

Himh Saman

In addition to the few surviving ethnic Vietnamese in Prey Veng province, DC-Cam and I were able to locate an ethnic Vietnamese survivor in Svay Rieng province. In a 2008 interview, Himh Saman shared the story of how she and her part Vietnamese, part Chinese family survived the Khmer Rouge period. Saman's father was 100% Chinese. He came to Cambodia when he was 18 years old and met Saman's mother, a 100% Vietnamese woman, at Mesar Chhang Aok near the Cambodia-Vietnam border. They married and had

four children named Ty, Savun, Savorn, and Saman. During the Khmer Rouge period, Saman's three older siblings lived apart from the family in the mobile brigade unit, where they helped build dams and canals. Saman and her parents stayed at their hometown of Prasot village in Kandiang Reay commune, Svay Rieng district, Svay Rieng province. Saman's parents and she spoke fluent Khmer, but Samai said no one dared to speak Vietnamese during the Khmer Rouge period.

Despite the perception that the Khmer Rouge hated the Vietnamese, Saman says the Khmer Rouge in her village treated the Vietnamese people in the same way they treated Khmer people. She remembers the harsh living conditions both groups endured: people were forced to do strenuous labor; there wasn't enough food to eat; and when people became sick, there weren't any hospitals or medicine to help them. Her father looked after buffaloes, and her mother cared for the newborn babies of mothers who worked in the rice fields. At the time, Saman was ten years old and worked in the children's unit. She remembers attending school for three hours in the morning, collecting human waste to use as fertilizer for the rice fields, and grinding rice through the afternoon. According to Saman, the Khmer Rouge assigned each child a quota of 105 kg of rice to grind every day. During the day, her parents and she worked separately, but at night, the Khmer Rouge allowed them to reunite and live in their own home.

Saman says the Khmer Rouge began to treat Vietnamese people differently when DK and Vietnam became embroiled in border disputes in 1977. She heard about cadres in nearby villages who collected and killed anyone with Vietnamese blood. Saman says that the people in her village did not act this way. In fact, even after 1977, the Khmer Rouge in Prasot still treated the Vietnamese and Khmer people equally. Saman believes that Vietnamese families such as hers were able to survive because of their local leaders. Before the Khmer Rouge came to power, Saman's family maintained

good relations with the cooperative and village chief, a man named Ta Yeoun. Saman believes that Yeoun did not disclose Saman's family's and other Vietnamese families' identities in order to protect them from outside Khmer Rouge officers. She explains that top Khmer Rouge officials compiled a list of people to kill through information they collected from local leaders. If the local village and cooperative chiefs did not report any Vietnamese families to the commune or district chief, then the Vietnamese residents of those villagers faced very little threat of being targeted. However, if the local leaders did report to the top leaders, then the district chief would send security officers to the village and arrest the Vietnamese people. Saman said Yeoun never spoke to her about protecting her family. However, Saman recalls many times when outside Khmer Rouge officers visited her village and believed her family was Khmer. Yeoun knew that Saman's family was Vietnamese, so Saman believes that he must have withheld the information from the outside Khmer Rouge. As a result, Saman's family and the three other Vietnamese families in Prasot (the Man Sin family, the Seng family, and the Em family) were able to survive the Khmer Rouge period.

Common Themes from Personal Stories

The previous accounts from survivors of DK represent a variety of experiences. Their personal stories give us a glimpse into the day-to-day relationship between the Khmer Rouge and ethnic Vietnamese in DK. From their experiences, we can also draw out recurring patterns. We see that the local Khmer Rouge held tremendous power in their interaction with both Angkar and ethnic Vietnamese villagers. Whereas Angkar operated at the top policy level, local leaders such as the village chief interacted with people at a personal level. Their local knowledge was often utilized by Angkar to locate Vietnamese villagers. In some cases, local leaders may have reported Vietnamese villagers to Angkar, whereas in other cases, local leaders may have withheld Vietnamese people's identities from Angkar. Local leaders could also directly aid or hinder Vietnamese

people. Some personal stories spoke about local leaders who arrested Vietnamese families, and other stories talked about local leaders who protected Vietnamese villagers by warning them about an imminent Khmer Rouge raid of the village. Local leaders also held some control over how they implemented Angkar's policies against the Vietnamese. The personal stories from Pochen Dam present an example of how local Khmer Rouge developed their own policy on which Vietnamese children to arrest, depending on whether their mother or father was Vietnamese.

From the personal stories, we also see that the Khmer Rouge often used people's appearances to judge their ethnicity. People with light skin were often accused of being Vietnamese. Some interviewees also mentioned speech as an important signal of a person's ethnicity. People who spoke Vietnamese, or people who couldn't speak fluent Khmer or spoke Khmer with a different accent were also vulnerable to Khmer Rouge targeting. Interestingly, the Khmer Rouge's treatment of ethnic Vietnamese in DK seemed to coincide with the Khmer Rouge's political relationship with the VWP. Many interviewees remembered 1977, when the border conflict between DK and Vietnam began, as a significant turning point in the Khmer Rouge's policy towards ethnic Vietnamese in DK. At that point, many people witnessed ethnic segregation, more Vietnamese disappearances, and more Khmer Rouge rhetoric characterizing the Vietnamese as the enemy. All interviewees who lost a Vietnamese family member or friend during the Khmer Rouge period also shared the common link of not knowing what happened to their loved one. In most cases, the Khmer Rouge used guises of "reeducation" and "arrest" in order to separate people from their families. As such, people generally shared stories about loved ones disappearing, and still today they remain unsure about their loved one's final fate.

Conclusion

From my document and interview research in Cambodia, it's clear that the Khmer Rouge executed

a harrowing policy of genocide and ethnic cleansing towards the Vietnamese community in DK. Their genocidal policies were not as overt or large-scale as those of Nazi Germany, but the subtlety does not diminish the horror of the outcome or the tragic plight of the victims. While my paper provides some insight into the Vietnamese experience, further research should be pursued. Further research should focus on Vietnamese people from different regions of DK. Additional research focusing on the western regions of Cambodia would allow us to conduct cross-comparison of western and eastern people's experiences. A closer investigation of Vietnamese survivors from Prasot village in Svay Rieng province (mentioned in Himh Saman's personal story) would also be beneficial. Because ethnic Vietnamese survivors are such a rarity, the Vietnamese survivors from Prasot could contribute a different perspective about the Khmer Rouge regime than people whose Vietnamese family members died or disappeared. Further research should also derive information from both villagers and former Khmer Rouge staff. By representing both sides of the issue, the next study could provide a more comprehensive account

of the Khmer Rouge's policy and treatment of ethnic Vietnamese in DK.

Additional research will finally give voice to the Vietnamese minority who lived under the Khmer Rouge regime. Not only will the information address past injustices, but it will also contribute to a broader understanding of the relationship between political and ethnic conflict. Information related to the Vietnamese minority in DK will also apply to the current prosecution of crimes being conducted in the Extraordinary Chambers in the Courts of Cambodia (ECCC). Perhaps with more information about the Khmer Rouge's systematic targeting and abuse of ethnic Vietnamese in DK, the ECCC prosecution could consider a genocide charge against the former Khmer Rouge leaders who instigated such policies. Indeed, current and future research about the Vietnamese minority in DK will hold implications for the academic, legal, and public communities.

Elizabeth Do is DC-Cam 2008 Summer Legal Associate, Stanford University School of Law.



Soldiers in 1979

MY REAL EXPERIENCE

Vanthong Svay

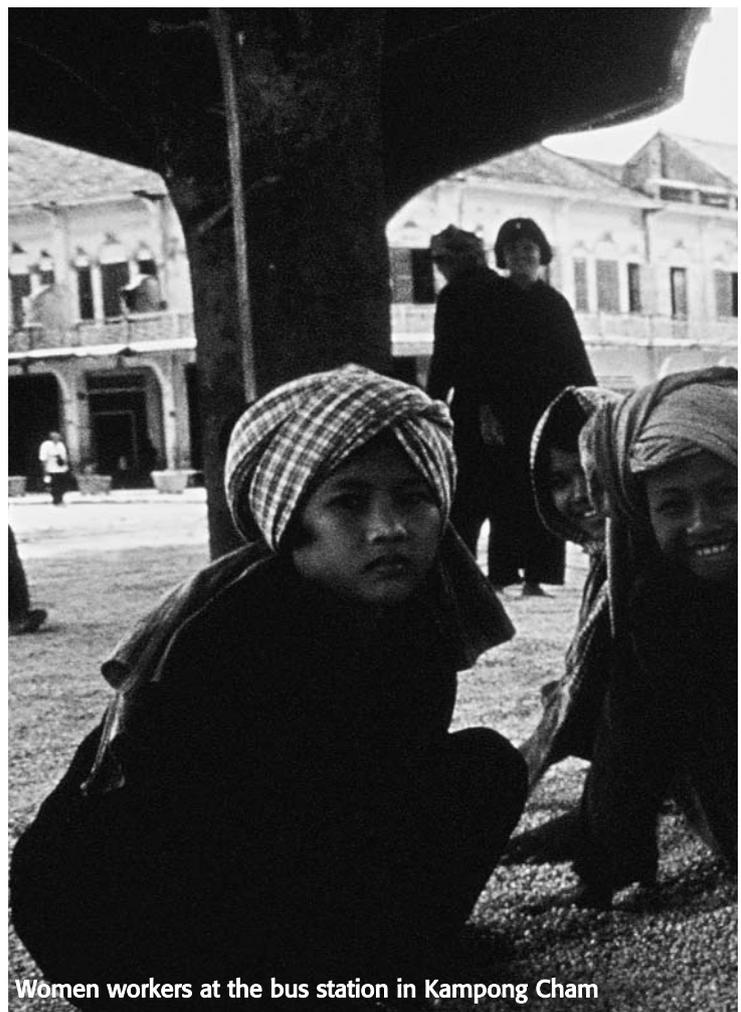
In 1975 when the Khmer Rouge captured Phnom Penh, the citizens shouted "Long live" and then applauded to welcome them. However, this pleasure ended immediately after the Khmer Rouge military evacuated people to leave their home. They would not allow them to come back until they destroy the enemy completely. At that time, we were called 17 April or new people. We were ordered to call each other comrade.

The Khmer Rouge forced people to the countryside. On April 30, 1975, my family reached Prek Sdey pagoda, while waiting for a boat to Chheur Khmao sub-district, we were given each given a package of rice and a place to rest. Meanwhile, some elder asked the Khmer Rouge about "when can we go back our house, comrade?"

Suddenly, the shooting rose up, and the Khmer Rouge military yelled that "Do not ask! Angkar has not annihilated the enemy yet. Once Angkar demolishes the opponent, you will be permitted to go back. Are you the enemies that make you dare to ask that?" Later, a horrified event happened, the Khmer Rouge sank the boat, causing many swimmers who could not swim to drown. The Khmer Rouge showed the discrimination toward the new people by saying that "the capitalized people do not know how to ride the boat, so they should drown". The Khmer Rouge compared the innocent people to rubbish.

Twelve families (35 members) including elders and adults were evacuated to Koh Touch village, Chheur Khmao sub-district, Koh Thom district. There, my family was granted a glass of powder to mix with water; we drank it instead of having a meal. This diet lead to countless 17 April people becoming ill and debilitate subsequently, for example, after delivering her baby, my sister-in-law was not able to provide the milk for him, and eventually he died. Afterward, we did not dare to go against Angkar

commands, so we could only float her baby's body on the water instead of being buried. Three years later, the Khmer Rouge soldier's collected the villagers' biography, and told them a lie that "Angkar search for the working people, those who are working can go back to their work place". After hearing that, numerous people admitted to Angkar in the hope that they could return their home. In the meantime, my father realized Angkar's plan, he thus went out to gather corn. At 1 am, those who had told their background as well as their relatives were all arrested. One of the forest wardens was also among them, disappeared and hasn't been seen since. The next day, the Khmer Rouge armies captured my third



Women workers at the bus station in Kampong Cham

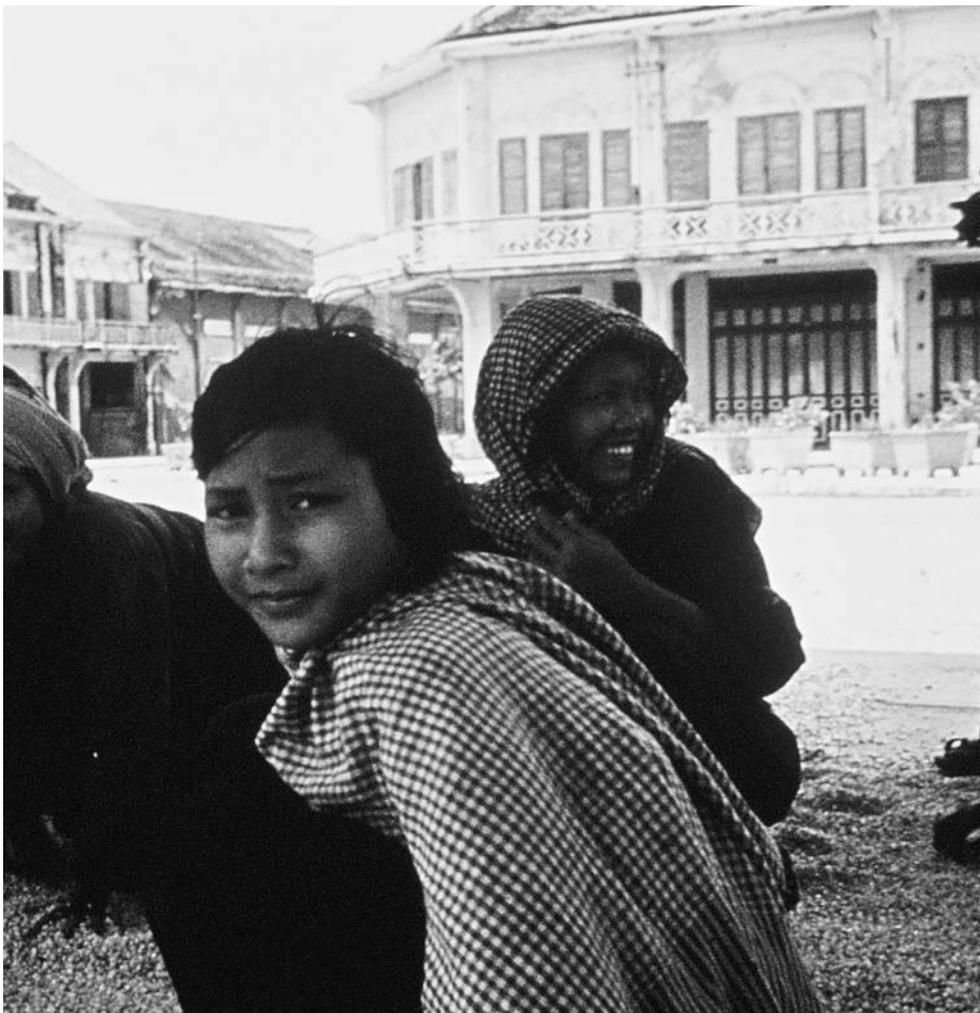
brother named Pech Dara and my cousin called Svay Bora to detain them in Wat Cheung Ek prison. Due to the brutal torture that was occurring, my brother decided to jump into the water with his hands still shackled. This information made us feel very hopeless. Moreover, my older brother died, younger brother was detained, and I the deputy village chief attempted to kill owing to my father used to be psychology doctor. Chok had attempted to kill me several times, but he failed to do so. He first sank a boat to let me drown; fortunately, I survived alongside comrade Daeng. Later, village chief figured out Chok wanted to kill me, therefore he replaced me to pull out the nut with female elderly. Once I met him on the way, he said that "you are lucky, if not you will be harmed".

In 1976, the 17 April people were appointed to Moung Reusey district, we have traveled by train

for plenty hours. At 9 pm, my family was selected to region 1, but we confused to take off card to region 2. Those who were appointed to Region 1 were the purged target, because the entire males were recruited to cut the trees at Thepdey Mountain or Pder Mountain, yet no one could come back. For Region 2, Angkar used a step-by-step killing method; first we were granted eight corn seeds to eat, and told that we should try to save Angkar property. 605 families of the 17 April people were sent to Tros village, Otaki sub-district, Battambang district, two families were allowed to stay in a cottage, divided in to two cells. After we finished preparing, unit and group chiefs ordered the villagers to work at the camps, leading all family to stay separately. Young children became Angkar's children, they lost sense from their parents and relatives; furthermore, they were taught to sing a song titled "we are children who love Angkar no limitation".

I differed from other children because I looked smaller than others but I was healthy, so Angkar appointed me to work for the special mobile unit which mostly there, I received a bowl of rice with fish soup. While I was eating, I noticed that the Khmer Rouge cadres always looked at me. I was doubt, so I ask that "comrade Chom, what are you looking at?" He then answered that "I looked for enemy who wanted to against Angkar". I stopped asking him anymore and thought what Angkar's enemy was? Were people who carried the earth be considered as enemy? I could not find the answer, so after finishing carrying the earth, I went back to the camp.

There was abundance of death in a few days, some of them died of snake biting, and others



were killed because of committing acts against morality such as they loved each other in secrete.

April 17, 1977 was the anniversary meeting of the victory day, so the Khmer Rouge permitted all the strugglers in the battlefield to visit their families for three days. At that time, I was so pleased, so all my tiredness went away, I walked, ran, and sang happily along the way. Once I arrived, I heard that the villagers had started to have meal collectively; moreover, all private possession was required to give to the cooperatives. Due the starvation, some people decided to steal potatoes and hunted the cats to eat. The 17 April people were forced to work extremely hard, leading their knees became bigger than their head. Furthermore, they did not dare to relax while they were ill, because the Khmer Rouge had created a proverb that meant "fever could cause the patient be killed". Due to this speech, all the people tried to work very hard.

Later, I was appointed to gather the fertilizer. There, I sometimes went to meet my father and walked behind him to collect snails. One day, the iron part of my father's plough dropped down, suddenly the Khmer Rouge guerrilla fired the gun toward my father, and I thought that he might pass away. Fortunately, my father got up and brought a small axe to fix his plough with his both hands shaking, and then he continued his ploughing. In the evening, we all had porridge together calmly in the cooperative, my mother, siblings, and other people could only showed their concern to my father by their eyes and faces.

In 1978, while the 17 April people were ill, the Khmer Rouge provided four tablets of Kinin to them, saying that two tablets in the morning and two in the evening. Many families in my cooperative were poisoned, and death in one night, over 300 families left only 37 included mine. My family was alive, due to my father used to be a doctor; he knew that we would died, if we took that medicine, because we did not have food to eat. Some of the survivors were ordered to dig the grave, while others were ordered to carry the bodies to the mass grave.

Later, my sister named Svay Vanthanh was poisoned by the Tadith vine. My granny who was ill and could not walk suggested for me to bring her the porridge. I felt so much pity for her, so I worked overtime for getting additional rice. Not long, I saved a can of rice, and I wanted to exchange palm water for my grandmother, sadly, a Khmer Rouge cadre noticed me, so he seized my rice, and warned my that "next time, if you are caught again, you will be executed due to Angkar rule." I was so scared of his speech, I thus walked home hopelessly. As soon as, I reached home, I told the entire story to my granny, she gave me two cases of her jewelries to exchanged rice from the base people, because she was extremely hungry. Following her speech, I hurry walked toward Sanh's house which was not far from my house. When I met him, I raised my hands to salute him and said "this is my granny's jewelries, can I please exchange 5 cans of rice?" Cadre Sanh did not reply me, he instead threw that jewelries back to me, and scold me that "these gold and diamond could eat, take it back now. Only two small case of jewelries, even you have a big case, I will not receive, because it could not be eaten."

While I was walking along the way home, I thought of my grandmother who had been waiting for my rice. I felt so disappointed; therefore, I headed for Steung Maong, then went up to the middle of a bridge and threw those jewelries down the water, because they were invaluable.

To fulfill my hunger, I often caught snails and crabs to boil and eat. I sometimes left the snail shells in the baskets. One day while my grandmother was so starved, she ate all that snail shells. When I came back, she was convulsing. Her Last speech was "Vanthong! I am starving, if I had little rice to eat, I would be appreciated." Not long, at 9am my grandmother passed away.

Four days later, some people came to carry my granny's body to the mass grave. I could not forget this event in my pen life.

In late 1978, the situation returned chaos due

to the Khmer Rouge cadres and the based people had suspicion in their mind, they always accused each other of betraying Angkar or being master of the traitors. This led to many arrest and execution. Northwestern people searched for traitors in Eastern zone; shortly, Southwestern cadres caught Northwestern people to kill in a place, about 500 meters far from cooperative's rice hall called secret hall.

The Khmer Rouge had arrested region chief named Chheub, his wife named Nget, his daughter called Chheut and her husband, and many other people to execute in the secret hall. For forcing region chief's son-in-law to admit he was KGB or CIA, the Khmer Rouge cadre scratched his body with the snail shell. A nurse called Nhanh was arrested; her body was buried upside down, at that time I saw her legs which had not been covered by the earth shook until for a few second. Another killing method of the Khmer Rouge cadres ordered the villagers to transport rice to the Cham Aram, yet none of them could come back.

One day, military chief's wife who was pregnant, named Kuy suggested me to massage her. The military chief called Yat. While I was massaging, I saw Kuy received an enemy purged reports from a messenger wearing black uniform with red pattern scarf on his head. This was the total report from Wat Chas, Ta Loas, Daun Try, Kh-ek Khtum, Sala Krao, Ou Kea Meav cooperatives, Kuy had to submit this report to the higher ranking cadre. In the report I noticed that on 25 October 1978, 15 people were purged at Wat Chas, whereas on 29 October 1978, 32 people were purged, totally 47.

Those who had purged less people were criticized by Angkar, and they were suggested to purge more enemies, so that Angkar could have more forces than the imperialism.

I was able to see that report because, at night, Kuy permitted me to sleep under her house, while in the afternoon I had to clean her house. Once I knew that I was so frightened, later I asked my Kuy to return my fertilizer unit. Kuy and Yat did

not refuse my suggestion; they just reminded me that I could visit her anytime.

Shortly, the Khmer Rouge's defeated soldiers pulled back. Uncle Cham Roeun, former military said "we should take this chance to escape for our lives, if we still follow them, we might be killed. Now, Phnom Penh and Siem Reap have peace, so we should go back."

Thirteen members including me raised our hands to pray for the mountainous spirit to hide us not to let Khmer Rouge armies saw us, and keep us from the death. The god really helped us, while we were traveling in fear, an aunt named Kong, who had lived in the same cooperative as we did, waved us to hide ourselves in the tree forest as the Khmer Rouge soldiers came. We all were so lucky, because the Khmer Rouge forces did not notice us.

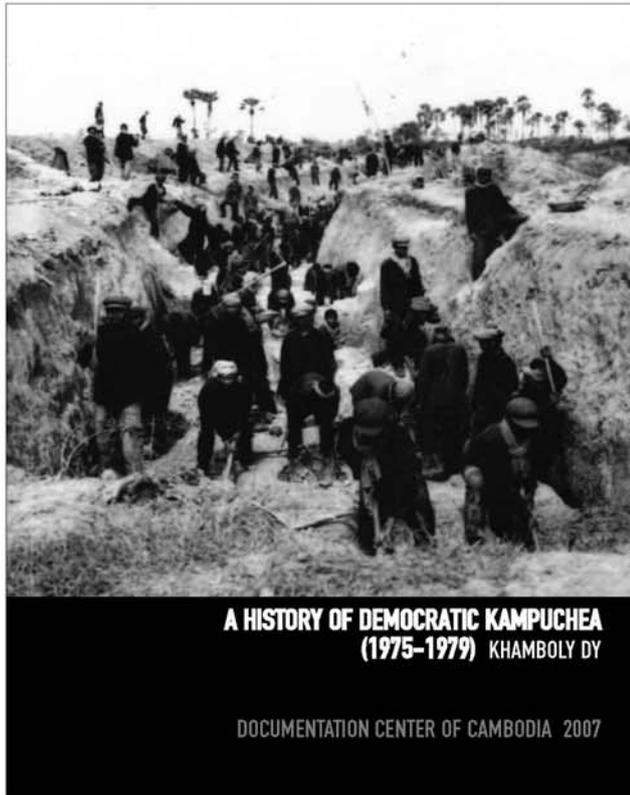
We continued to the national road, and then reached Svay At Village, we arrived Phnom Penh at 9am. Subsequently, we made up our mind to separate, and then I returned my hometown. On 17 April, 35 members of my family were evacuated; nevertheless, on 7 January why I went back alone?

On the way home, Vietnamese armies pitied me, so they provided me food and accommodation. Those forces could not speak Khmer fluently; they suggested me to help them in sharing medicine to people and military that had had chronic disease. However, I denied, and then I went to Ta Khmao. Once I got Kompong Samnanh village, I could hardly recognize my house, because it was destroyed and became the grave which had awful smell. I collected some remaining objects such as my father's bag, mother's shoes, and photos, lying on the ground.

Finally, I propose for the Khmer Rouge Tribunal to continue its trial for finding justice for victims and those who died in that regime. This trial could be regarded as history, so that this atrocity regime will not revise again.

Svay Vanthong is a survivor from the KR regime.

THE TEACHING OF "A HISTORY OF DEMOCRATIC KAMPUCHEA (1975-1979)"



A Tuol Sleng (S-21) messenger.


 The book has been reviewed by National and International Historians and the Ministry of Education, Youth and Sport's Working Commission on December 14, 2006.
 (Reference: Resolution of the Office of the Council of Ministers, No. 77SSR, dated 6 October 2006).
 The book is available at the DOCUMENTATION CENTER OF CAMBODIA
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Chinese Version



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Japanese Version



Thai Version



Vietnamese Version

OUTLINE OF MAIN TRAINING SESSIONS FOR 2009

- 24 national trainers will be trained by international and national experts on genocide education, DK History, other genocides, and international law. The training is conducted for five weeks. These 24 trainers will in turn train 185 provincial trainers.
- Bring 3,000 selected high school and secondary school history and morality teachers (two to three teachers from each school) nationwide to attend the five-week trainings.



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