



DOCUMENTATION CENTER OF CAMBODIA
VOICES OF GENOCIDE: JUSTICE AND THE KHMER ROUGE FAMINE

DC-Cam Community Radio Program (Episode #4):
Famine in Democratic Kampuchea and Case 002 at the Khmer Rouge Tribunal
(formally known as Extraordinary Chambers in the Court of Cambodia: ECCC)

Topic: Famine and Genocide

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In collaboration with VOA Record Studio in Phnom Penh, June 2013

This is the fourth episode of a ten-episode radio series which explores the historical and legal aspects of the famine that took place in Cambodia under the Khmer Rouge from 1975-1979. The goal of this program is to better inform Cambodian people about a critical part of their shared history while encouraging active participation in the transitional justice process. The Documentation Center of Cambodia welcomes feedback about the program, including contact from people who would like to share their own experience of the famine under the Khmer Rouge or people who have questions for the Center about the Khmer Rouge famine or international law.

This episode focuses on the topic of the crime of genocide and its applicability to famine, both in Cambodia and generally. Very often the Khmer Rouge period in Cambodia is described as the “Cambodian genocide” and thus, this episode will discuss how appropriate the label “genocide” is to describe the Khmer Rouge period famine and also whether famines can ever constitute genocide.

Updates from the ECCC

As reported previously and widely in the media, ECCC Case 002 accused person Ieng Sary died in March. Following this development, co-accused Nuon Chea again filed motions with the Trial Chamber claiming that he is currently unfit to continue standing trial due to his various physical ailments and general weakness due to his advanced age. Following a hearing, the Chamber found Nuon Chea fit to continue standing trial, though it noted that various steps need to be taken to accommodate Nuon Chea’s frail health. The Trial Chamber also issued a decision concerning the scope of the first trial in Case 002 after the Supreme Court Chamber previously held that the Trial Chamber needed to provide additional reasoning for its decision to

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sever Case 002 into a series of trials on specific issues. The Trial Chamber essentially decided to sever Case 002 along the same issues as its previous severance decision in its new decision, the Trial Chamber ruled that the first Case 002 trial will address only one of five country-wide criminal policies for which the former senior Khmer Rouge leaders are accused of responsibility: crimes related to the forced transfer of the population of Phnom Penh beginning on April 17, 1975, the subsequent forced transfer of hundreds of thousands of Cambodians to the north of the country between late 1975 and 1977. The remaining charges addressing worksites and cooperatives, security centers, execution sites, forced marriage and genocide were left by the Chamber for uncertain future cases.

Following these two decisions, the Chamber resumed hearing evidence in the Case which now involves accused Khieu Samphan and Nuon Chea following the death of Ieng Sary and the finding that Ieng Thirith is unfit to stand trial due to suffering dementia brought on by Alzheimer's disease.

Introduction: The Definition of the Crime of Genocide

The crime of genocide was created in 1948 when the Genocide Convention was drafted and adopted by the United Nations. The Convention was largely the result of the efforts of one man, Raphael Lemkin, who created the term "genocide" by combining Latin terms for "race" and "killing." This term, which means to intentionally kill a race or group of people, was created because at the time there existed no crime that fully described the attempts of the German Nazi Party to eliminate Jewish people from all of Europe. As a result of this focus on the crimes committed by the Nazis against the Jews, the crime of Genocide has developed into highly specialized law that only applies to situations that are extremely similar to the Nazi situation.

The crime of genocide is very specific and requires three main elements to be satisfied:

1. the commission of one of five specific acts;
2. the acts must specifically target members of one of four specific types of groups; and also
3. the person or people committing the acts must have committed them with the goal of destroying either the entire targeted group or a substantial part of the targeted group.

The five types of acts which can qualify as genocidal acts are:

1. killing members of the group;
2. causing serious bodily or mental harm to members of the group;
3. deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
4. imposing measures intended to prevent births within the group; and
5. forcibly transferring children of the group to another group.

Any one of these five acts can qualify as genocide as long as the other two requirements (that the acts are committed against a specific group and committed with the intent to destroy at least a substantial part of that group) are satisfied.

The four groups that qualify as potential victims of genocide are:

1. national groups;
2. ethnic groups;
3. religious groups; and
4. racial groups.

First, genocidal crimes can be committed against a group of people targeted because they are all part of a national group. For example, if another country attempted to kill all citizens of Cambodia, this would be a genocide.

Second are ethnic groups. Ethnic groups are groups of people who share a common history and other factors, such as unique languages, traditions, and other social characteristics. For example, the Jarai, Kampuchea Krom and other ethnic groups in Cambodia would likely qualify as an ethnic group and could be victims of genocide. Also, the majority Khmer people of Cambodia would qualify as an ethnic group and could be victims of genocide if they were targeted for destruction.

Third are religious groups. For example, in Cambodia, Buddhists and Cham Muslims would be considered religious groups, along with other smaller religious minorities. Often religious and ethnic groups overlap and as an example, Cham Muslims would likely qualify as both a religious and ethnic group under the Genocide Convention definition.

The fourth and final group is race. Again, racial groups can be overlap with ethnic groups, but are usually defined as being based on physical characteristics a group is believed to share. For example, if people who all had the same color of skin were targeted for destruction by another group with a different skin color, this could be a genocide.

These are the only groups that qualify for genocide and therefore if victims are targeted and killed because they are considered political enemies or part of an unpopular certain social class within a society, a genocide does not occur, although other crimes would probably be involved, such as crimes against humanity.

Finally, all of the acts just discussed only qualify as genocide when the person or people committing these acts are doing so with the specific goal of destroying the targeted group or at least a substantial portion of that group. Therefore, if large groups of people are killed and many of them are of the same religious group, it is only a genocide if the people doing the killing have the goal of to killing a substantial portion of that religious group. Thus, if the perpetrators are killing many

Buddhists, but are doing so because the people are considered class enemies and not because of their religion, this is probably a crime against humanity, but is not genocide.

The International Criminal Tribunal for Rwanda or "ICTR" dealt with many of these complicated issues surrounding the definition of genocide when dealing with the killings in Rwanda that happened in 1994. In Rwanda, the killings were found to be a genocide, because it was a case where one ethnic group (the Hutus) were killing another ethnic group (the Tutsis) with the goal of destroying the Tutsis as a group completely in Rwanda.

Genocide and Famine Generally

Extremely deadly famines, like the Khmer Rouge famine in Cambodia, which kill a large portion of a population are sometimes referred to as genocides. This is likely because outside of courts, the word genocide is often used to describe extremely terrible events involving huge losses of lives. This use of genocide however, can be a problem because it can lead people to believe that if a crime is not labelled as a genocide, that it is somehow less serious and this is not true.

For famine situations, it is possible that famines can form an important part of a genocide, but this is not always the case. Whether a famine is actually a genocide does not depend so much on how bad the famine was or how many people it killed, but instead depends on whether the people who caused the famine did so with the intention of using famine to destroy a national, ethnic, religious or racial group.

Therefore, the answer to the question of whether extreme famines can be genocides is that they can sometimes be genocides, depending on the motivation of the people who cause the famine. The Genocide Convention establishes that one way the crime of genocide can be committed is by "deliberately inflicting conditions of life calculated to bring about physical destruction in whole or in part" of a national, ethnic, religious or racial group. Thus, if one of these groups of people is targeted for destruction and this destruction is to be brought about by starving a large portion of the group, this situation would be a genocide.

However, if a powerful group, such as a central government, simply imposes living conditions that kill large numbers of people but which are not part of a design or plan to eliminate a specific group, this situation would not be a genocide.

Genocide and the Khmer Rouge Famine

When the definition of genocide is applied to the situation in Cambodia under the Khmer Rouge, it appears that the Khmer Rouge famine was not a genocide.

This is because the Khmer Rouge leaders created policies, explained in previous episodes of this program, that placed agricultural production and the needs of the revolution above the needs of the people to survive. The leaders made everyone work and eat communally and famine spread throughout most of Cambodia under their control as work hours were too long and food rations were not enough. There is no evidence however, that the Khmer Rouge leaders created their famine causing policies with the goal of destroying a national, ethnic, religious or racial group in Cambodia specifically by starving them to death in large numbers. Instead, it appears that the leaders wanted to maximize production of rice and other cash crops at all costs and simply did not care if many thousands of people died in order to do so. While this lack of caring for human life is shocking, it does not appear to be the required targeted goal of destruction for genocide.

The fact that the Khmer Rouge famine does not appear to have involved genocide against the Cambodian people shows how specialized the Genocide Convention is and how narrow the definition of the crime of genocide is. This fact does not however, excuse the acts of the Khmer Rouge in enforcing a famine on the civilian population during the reign in power which cost hundreds of thousands of lives and severely harmed virtually every person in the country. This only means that if the Khmer Rouge period famine was not a genocide, it may be a different crime, such as a war crime or crime against humanity. Furthermore, while genocide is sometimes called the "crime of crimes" there is no official ranking of international crimes according to the law. The only element that sets genocide apart is the special intent to destroy a group of people required for the perpetrators. It is often the case that periods of time when extremely terrible crimes were committed are labelled "genocides" by the popular media. Therefore, while according to the law, the Khmer Rouge famine was probably not a "genocide", it was still a period of great suffering and mass death that the regime forced on the people and in this way, the popular non-legal understanding of genocide clearly applies to the Khmer Rouge famine.

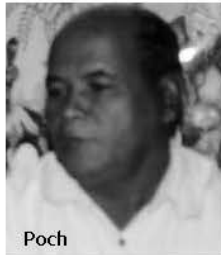
This concludes episode 4 of the Documentation Center radio series on famine under the Khmer Rouge. The next episode will discuss international crimes against humanity and how these crimes can be applied to famine situations, including the Khmer Rouge famine in Cambodia.

ARE ALL THE KHMER ROUGE CADRES BAD?

Bunthorn Som

17 April 1975 was victory day for the Democratic Kampuchea regime. After taking power, they began ordering regional cadres to search for hidden enemies burrowing inside the party, causing the entire population to live in fear and under constant pressure. Most of those who were accused had the same fate: they were tortured, forced to work extremely hard, and were sometimes killed. The Khmer Rouge can be considered an atrocious regime for killing nearly two million of its own people. Nevertheless, there were some cadres that had good relations with villagers. For instance, Poch, a former district chief of Democratic Kampuchea, helped release many accused people from prison and provided adequate food for villagers.

Poch has four siblings. His hometown is located in Monorom sub-district, Thpong district, Kompong Speu province. In 1965, Poch was ordained as a monk in Taing Khmao pagoda to study Buddhist morality and literature. Two years later, Poch left the Buddhist monkhood and his father arranged him to marry a woman living in the same village.



Poch

The Liberated Base

In 1971, after hearing the call from Prince Sihanouk to enter the Marqui forest and join the struggle to liberate the country from Lon Nol regime, Poch and many other villagers volunteered to serve the National United Front army. At first Poch was assigned to supervise farmers in Veal Pon sub-district unit. In 1974, Poch was moved to another unit in Kantaok sub-district, Kandal Steung district, Kandal province. There, Poch was required to educate people coming from the cities about revolutionary policy and to coordinate food production for the

population of Veal Pon sub-district by buying corn, rice and fish from villagers living next to the river and organizing the villagers to do the farming. Poch recalled that one day when the Khmer Rouge forces and the Lon Nol soldiers were fighting with each other, a little girl and a lady named Mom looking for their relatives at northern Ang Snuol sub-district were captured by the Kandal Steung district liberated army. Because they used to live in enemy (Lon Nol) area they were accused of being hidden enemies burrowing from the base area. Because Poch had known both of them and realized they would be subject to cruel torture, he went and vouched for them.

Angkar's Appointment

After its victory in 1975, Angkar appointed Poch deputy chief of Sa-ang district where he was responsible for supervising farmers. Meanwhile, because his wife had passed away, Angkar arranged Poch to marry a new wife named Sol who came from Kandal Steung district and they had a baby. Seven months later, Angkar sent Poch to Taing Kok district, Region 42 of the Central Zone. Although Angkar required Poch to note down the names of 17 April people who stole potatoes and rice, or who came to work irregularly, Poch never reported their names to the regional rank or central rank cadres. Because all of them had been evacuated from different places he was not able to distinguish their background clearly and was afraid of accusing innocent people.

As a consequence, Poch's position was downgraded to deputy chief. Then he was assigned to control the farmers. Surprisingly, in just a short period of time Poch's unit produced hundreds of thousands of tons of rice for the whole sub-district. Poch was not strict; he usually advised lower-ranking cadres that "the higher-ranking cadres only order us to investigate those who have acted against Angkar,

not to punish people for their small mistakes." The day after Poch learned that Krel sub-district militias had arrested female and male youth while they were stealing rice and chickens, he called the Khmer Rouge militias and cooperative chiefs together and told them, "When you are hungry, you can eat, yet when they were famished and stole something to eat, you arrested and threatened them, next time please do not do that." Later, Poch held a meeting and told the villagers, "You are 17 April people, but that does not mean you always have to make mistakes. To avoid making them, just try not to say anything related to Angkar."

New Duty

In 1977, Poch was sent to Baray district, where he took charge of canal construction at Kom Peuy village, Chang Daung sub-district. Over ten thousand people were working at the construction site. Because the workers were able to complete their work in conformity with the regional and zone plan, every ten days Poch allowed all villagers to visit their houses. Once when Poch was working at the construction site, his deputy held a meeting and said, "Those who break the ploughs, farming tools, carts, and those who do not go to work are Angkar's enemies." This speech scared all the people. After hearing about it, Poch met with the approximately 600 villagers in the sub-district and explained to them that "the lack of potatoes and rice is because we are poor; the plough breaks because it hits rocks and wood inside the earth; we are not guilty." He added that "any of you can grow plants such as corns, potatoes, vegetables or raise animals in your own house so that you can eat when you are hungry." The villagers appreciated his words. For this reason, they all tried to work hard and produced a surplus. Many villagers loved Poch, but some cadres did not like him, so they reported all Poch's action to the higher-ranking cadres. However, Poch completed all his work in accordance to Angkar's plan so he was not charged.

Once Poch discovered that some people in his group were former teachers. He gathered them

together and trained them about the Angkar's policies, and then he permitted them to go back. Poch reported a few guilty people's names to his supervisors, but no matter how big villagers' mistakes, Poch never reported them to his supervisors. For example, when Poch discovered those who had stolen rice, potatoes and Angkar's equipment, and made palm juice secretly, he only warned, "Do not do that again; you can drink palm juice but not too much, so in case the regional cadres find out we can tell them that we drank it for curing diseases." Another time, Poch saw about ten villagers in O Suosdey village, Baray sub-district praying for their relatives who had passed away. He did not blame them but instead stopped his motorbike and told them, "You all know about the situation now, be careful with incense; if Angkar notices the smoke all of you will be accused." He added, "You can pray for the dead body, but you need to close the door, and as soon as you finish, bring your relatives' bodies to bury."

In meetings, Poch always suggested that the upper ranking cadres should not accuse male and female adults because of what they said. Every year Angkar called for districts, and regional chiefs to have a meeting in Phnom Penh presided over by Noun Chea. The meeting was about why the cooperatives were created and committee's principles. In the meeting, Noun Chea said, "Leadership is just like separating twisted fibers. We can not use the scissor or the knife to break them; if we do so it will cause more trouble." Poch used this opportunity to express his idea that "the practices in each region and zone are different from Angkar's principle, if we often charge and kill the villagers, it may affect their relatives who are not guilty."

Order from Upper Ranking Supervisors

In 1978, Poch ordered a messenger to distribute rice to people who were didn't have food. Later, regional cadres visited and asked him, "Why did not you dismiss the old cadres?" Poch responded, "All the cadres have managed the villagers well and never acted against Angkar; if you don't believe me,

you can ask my deputy and other lower ranking cadres." Because Poch did not pull out the cadres in accordance to Angkar's orders, higher ranking officials came to remove Denh and his deputy named Chhorn from Baray district, telling them that "the two of you will be sent to a new region, supervised by Oeun."

In early 1979, Poch brought his family and relatives to Boh Pong forest, Baray Leu district. Soon afterward his wife, Sol, and two of their children died of malaria. Then Poch was appointed Baray district chief responsible for receiving KR forces from various sub-districts. After seeing numerous injured and dead soldiers, Poch announced, "Those who are not able to tolerate the conditions here can go back, and those who can stand the situation can stay." In 1980, Poch was assigned to control the forces in Kampong Cham and Kampong Thom province. Afterward, Ke Pauk came to supervise the soldiers himself and selected Poch to be his under-

secretary. Poch also became responsible for persuading people to join the Khmer Rouge forces.

In 1987, while Poch was fighting on the battlefield in O'Angkrang village, Khvav sub-district, Chikreng district of Siem Reap province, he stepped on a mine and was sent for treatment at O'Trav Ko 7 Camp. As a result he lost a leg. After recovering, he was appointed to manage seventeen families of Khmer Rouge soldiers. Eventually, his commander was captured by the government's forces, so Poch fled to live with the villagers. Because Poch had done good deeds, some people gave him rice, dried and salted fish, and helped to hide his background as a former Khmer Rouge cadre. To date, villagers in Baray and Taing Kok districts still visit him sometimes.

Bunthorn Som is a staff writer for Searching for the Truth magazine.

If you have any comment or question, please send your letter to Mr. Men Pechet, an organizer of DC-Cam's radio program, at house number 66, Preah Sihanouk Blvd, Phnom Penh, or send to P.O Box 1110, Phnom Penh, or call to 023-211-875 or fax to 023-210-358. Email: truthmpechet@dccam.org. Thank you.

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