

INTERVIEW WITH NATIONAL CO-PROSECUTOR CHEA LEANG

August 2, 2010

By Michael Saliba, J.D., and Tyler Nims, J.D., Center for International Human Rights, Northwestern University School of Law



National Co-Prosecutor Chea Leang

Ms. Chea Leang is the National Co-Prosecutor for the Extraordinary Chambers in the Courts of Cambodia (ECCC). Prior to her appointment at the ECCC, she served as a prosecutor in the Cambodian Court of Appeal. She was also involved in drafting the Cambodian penal code during her time as a deputy in the office of legal training at the Ministry of Justice. She received a Masters degree in law in Germany, and was recently appointed to serve as the general prosecutor at the Supreme Court, the highest judicial position in the Kingdom. On August 02, 2010, Ms. Leang spoke to the Cambodia Tribunal Monitor about the Duch judgment and other developments at the ECCC.

CTM: Many victim's groups and civil parties have expressed criticism over the length of the sentence and the possibility that Duch might walk again as a free man. Is there any chance, under Cambodian law, that he may be eligible for release before the expiration of the roughly 19 years he has left to serve?

LEANG: It is the view of the Co-Prosecutors that the provisions of early release under Cambodian criminal law do not apply to the Duch case. Under the ECCC law and the Internal Rules, the Government of Cambodia is not permitted to seek a pardon or early release of Duch. This had been agreed upon even before the verdict was decided and applies to other defendants in front of the court as well.

CTM: In view of what many consider a light sentence, will the prosecution appeal the verdict?

LEANG: We have not decided whether we will appeal the verdict. We are currently reviewing the facts and findings of the judgment and will make a determination of whether we will exercise our right of appeal.

CTM: Do you share the opinion of civil party lawyers that the reparations awarded by the court were far too limited?

LEANG: The Tribunal has the authority to award moral and collective reparations. It is the first court of its kind to do so and this has created a lot of difficulty for both the civil parties and the sitting judges. It is understandable that the civil parties feel like they were not given enough, but the judges have limited power. Let's imagine that they were to award a memorial commemorating the victims - who will fund it? The government, a non-government organization, or another body? Furthermore, if the government was mandated to execute an award, and they did not have the money, the court would not have the jurisdiction or the power to enforce the award.

CTM: Will the Duch verdict have an impact on the Cambodian national courts?

LEANG: From a legal perspective this is a good judgment. Not only did the court find Duch guilty of crimes with which he was charged, it also adequately protected his rights. For example, it awarded him a credit of five years for his illegal detention at the hands of the military. A trial such as this one that was conducted in conformity with proper standards of due process will have a positive impact on the national courts. However, while this was the right outcome from a legal perspective it is understandable that the victims may feel displeased with the outcome. Part of our job is to work with public affairs to disseminate information and explain that the concept of justice includes respecting rights of defendants.

CTM: There have been well documented disagreements between the national and international co-prosecutors with respect to additional indictments after Case 002. How will the national and international side cooperate if additional indictments are issued?

LEANG: The investigation from the Office of the Co-Investigating Judges should be conducted by both the international judge as well as the national judge. Currently only the international judge is conducting an investigation and I do not think that the Trial Chamber could conduct a trial with an indictment that is only signed by the international co-investigating judge. We objected to the filing of additional introductory submissions and we will object to any closing order that is not signed by both judges. We did not participate in the preliminary investigation, so how can we accept an indictment where neither my office nor the office of the national co-investigating judge was involved in gathering evidence?