

Justice: A Foundation for Reconciliation

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December 12-15, 2011

When it comes to the Khmer Rouge (KR) era, the Cambodian people express that the regime completely stripped them of their fundamental rights and freedoms. The survivors endured the severest living conditions while nearly two million people perished in an extrajudicial system between 17 April 1975 and 6 January 1979. The



Villagers take queue at the entrance of the court-room

KR leadership decentralized the decisive power of smashing any 'anti-revolution elements' to its cadres at the zone, region, district, commune, cooperative, group, and unit level. Most victims were captured, tortured, interrogated and executed without knowing any reason that implicated them. Former low-level KR cadres have clearly realized that they were coerced to terrorize the people. This wanton killing marked one of the worst human rights encroachments in the world's human history. The complete absence of the rule of law ultimately led the KR rule to the point of self-destruction. The state of lawlessness put the population at great risk, as often did the rank-and-file KR cadres

themselves during the KR period. Now that the Extraordinary Chambers in the Court of Cambodia (ECCC) has worked to achieve justice for the Cambodian people, the question can be raised about whether this process will help them achieve a sense of relief and reconciliation.

The Wheel of Justice

The role of a court is to judge, but not to compromise, whether or not a specific wrongdoer committed a crime. This requires the presentation and cross-examination of testimony and evidence and the punishment of the guilty in

accordance with the law. At this time the ECCC has put on trial senior KR leaders and those most accountable for the serious human rights violations committed during the Democratic Kampuchea (DK) regime, and it is hoped that this process will leave a valuable legal legacy for Cambodia's judiciary as well.



Participants attend pre-hearing meeting at DC-Cam

During the ongoing court-hearing against Nuon Chea, Ieng Sary and Khieu Samphan, the general public has followed the court proceedings closely. Everyone expects to hear some kind of truth from the mouth of these KR leaders, while there is a concern that the ideology-like testimony might influence the

thinking of the younger generation. In many cases, the people, including former low-level KR cadres, express their dissatisfaction with the KR leaders, who continue to vehemently deny their involvement in any decision-making processes, especially in the evacuation plan.

It is evident that in regard to the evacuation plan, Nuon Chea managed to stress that he had no knowledge of the plan, and instead pointed to party secretary Pol Pot and zone secretaries. Based on his testimony it sounds like only Pol Pot and a few members of the Standing Committee knew about the plan, while Nuon Chea, Ieng Sary and Khieu Samphan had not known or were not informed at all. Nuon Chea even underscored that he knew little about the role and responsibility of Ieng Sary and Khieu Samphan, by saying that Pol Pot instructed him not to care about intellectuals, but to focus on education and training of the KR cadres. Nuon Chea provided the reason that Ieng Sary was in Beijing, China, while Khieu Samphan had another different task. He continued to explain to the judges that: "I would like you to let me clarify further. In the internal affairs of the party, everybody minded his/her own business. I only minded my own business...I did not ask about anybody's business and affairs. That's the principle of secrecy. Even after the liberation, the secrecy of the Party still existed."

To many people, Nuon Chea's remarks sounded incomprehensible to hear that the three men had nothing to do with the evacuation plan and did not know about the tasks of the others. Mr. Tuy Aom, seventy years old, of Malai District, Battambang Province, was not convinced by the KR leaders' testimonies before ECCC. Mr. Aom, who spent his entire youth being a soldier of the KR movement, observed that their answers seemed distant from each other. They refused to any direct

contact or to work with each other. To his opinion, they were the top leadership of the DK regime. They were within one cycle. As a KR soldier, Mr. Aom even used to provide security protection to the three KR leaders while they were visiting refugee camps in the early 1980s inside Thai territory. No matter how hard they try to escape the truth, he believes that it will be impossible for them. The mass executions and genocide on the Cambodian people were so serious and cannot be hidden.

As for Ieng Sary, he preferred not to directly answer any questions and provide testimony before the court. Rather he authorized his lawyers to defend him. The third defendant, Khieu Samphan, spoke at length in his statement about his past background such as his reluctant decision to join communism in France and then the



Ms. Phlang Nhan, an ethnic Phnorn, at ECCC

communist group in Cambodia and his roles and responsibility in the Communist Party of Kampuchea (CPK). He said originally his involvement in communism in France was inspired by his eagerness to fight for Cambodian independence. During the Sangkum Reastr Niyum led by the then Prince Sihanouk, Samphan was appointed to hold a number of high

government posts, most notably Secretary of State at the Ministry of Commerce. However, he even mentioned that he never forgot his goal to undertake Cambodia's economic reform. Years later, Samphan was dismissed because the price of beef went up. He then fled into the jungle for fear that he was under arrest for inciting unrest in Samlaut. Within the Communist cycle, Samphan said Pol Pot, General Secretary of CPK, appointed him as Prime Minister, Minister of Defense, and General Commander of the Army without portfolio. He continued to add that he had no authority over any military unit. What Samphan intended to present was to show his powerless position in the CPK and thus deny that he did any criminal acts.

Most KR survivors quickly believed that these KR leaders' testimonies made their efforts to paint a good picture of themselves, but worried that the younger generation might be influenced by the nationalistic-like testimonies. It is true that in 1998 the political and military organization of the Khmer Rouge had dissolved and integrated within the nation. However, there should never be an underestimation of the situation during the KR regime.

Nevertheless the public should realize the nature of the legal proceeding. Now these leaders have the chance to present or manipulate historical scenarios to the public. Whether or not their testimonies reflect the historical facts of the DK regime requires further subsequent cross-examination of the co-prosecutors, civil party

lawyers, and also defense lawyers. There will be a portrayal of the chain of command through public documents, hand writing, etc. These legal experts will cross-check all evidence and ultimately conclude its verdict to prove whether the accused are guilty or not guilty. During the trial on December 12, 2011, nineteen people from different backgrounds made a very consistent argument for the comprehensive practice of the rule of law, which means that “the doctrine that every person is subject to the ordinary law within the jurisdiction.”¹ So these KR leaders will be judged and punishment will be meted out to them if they are found guilty. The entire case file will provide the public, researchers, students and other relevant individuals with a clear scenario of the KR leaders’ murderous rule.

Justice: Is Reconciliation Possible?



Ms. Nhranh Bora, an ethnic Phnornng, at ECCC

The nature of the court, as discussed above, is designed to punish the wrongdoers. Most people believed that the punitive measure would bring them a certain degree of relief. Therefore, explaining as to how reconciliation would be possible for the people, John Paul Lederach wrote that: “Reconciliation recognizes the need to give time and place to both justice and peace, where

redressing the wrong is held together with the envisioning of a common, connected future.”² The justice approach should be launched in a post-conflict society where peace and stability are at great risk. Despite some serious concerns over a possible re-ignition of civil war if the ECCC has to go ahead with its work, Cambodians have remained steadfast to put on trial the senior KR leaders.

Mr. Aom Chun, a commune chief in Siem Reap Province, said: “If a person has done anything wrong, a court of law should be a single solution. We can’t reconcile or compromise, especially the serious crimes such as genocide and crimes against humanity.” Similarly, Ms. Meas Channa, forty-nine years old, of Kampot Province, said that justice was conducive for unity and solidarity, while the people noted that they were equal before the law. However, Ms. Nhranh Bora, an ethnic Phnornng from Mondul Kiri Province, reiterated that reconciliation was not always possible despite the success of the court. While the survivors hold different views about justice, the trial sets a good legal precedent for Cambodian society.

¹ Bryan A. Garner, *Black’s Law Dictionary*, (St. Paul: West Group, 1999), p. 1332.

² John, Paul Lederach, *Building Peace: Sustainable Reconciliation in Divided Societies*, (Washington, DC: United States Institute of Peace Press, 1997), p. 31.

Ms. Heng Keak, a former KR cadre, staunchly supported the retributive justice measure against the KR leaders in the hope that the younger generation would fully understand the KR's crimes. She even said that if the KR leaders do not speak the truth, that this would have an adverse effect on our society. It was to note that Keak used to stay at Ta Mok's house in Takeo Province and saw Khieu Samphan visiting Office K-6 located near the Olympic Stadium in Phnom Penh. However, she would like to appeal to the KR leaders to disclose the truth. Ms. Uk Him, whose husband was killed during the KR regime, said: "I want the KR leaders to give an honest answer."

These views alert the public that the court proceeding is not an educational center to provide a full picture of Cambodia's socio-political facts. It should be best described as a case file that would bring to light a piece of historical and legal facts. Thus, the verbal expression of the KR leaders requires the people to keep a close watch on the entire process. By doing so, they will understand about whether the KR leaders made the right or wrong points in their testimonies.

Conclusion

The trial of former KR leaders has remained one of the decades-long demands to bring to light the nature of the criminal acts of the KR regime. Most Cambodians have anticipated a precise answer to the question of why the KR regime set out a series of policies, ideologies, and governing structures that are blamed to have



Mr. Tuy Aom at ECCC

caused the death of nearly two million people. Since the commencement of the trial on November 11, 2011, the people have yet to hear what they have wished for over three decades. Rather, the three KR leaders have touched different topics and done their utmost to present their innocence, nationalism, and patriotism. While some people have expressed

their great concern over the fact that the younger generation might be influenced by the leaders' art of speaking and ideologies, most believe that the ECCC has its own mandate to present all facts to get the accused to acknowledge their guilt and that the survivors will be satisfied with the wheel of justice. In the meantime, the ECCC is not an educational or healing center that everyone should be absorbed in or convinced by their ongoing oral testimonies. While the ECCC is designed to ensure

that the rule of law has been fully practiced, it may be able to provide a core foundation for reconciliation.

APPENDIX

List of People Invited to the ECCC Hearing on December 11, 2011

No	Name	Sex	Story
1	Uk Him	F	Uk Him and her husband, Norng In, were arrested and sent to Kraing Ta Chan Security Center, one of the sites under investigation in Case 002. Unfortunately, Ms. Uk's husband was killed at Kraing Ta Chan after severe torture, and Ms. Uk was later freed when the Vietnamese troops entered Phnom Penh in 1979. Ms. Uk's son, Norng Sam-oeun, who was in bad health, was also injected to death by a KR medic. Ms. Uk and her husband were accused of being the enemy of the KR <i>Angkar</i> . Before 1975, they used to live in Phnom Penh and her husband used to work in the agricultural sector in Phnom Penh.
2	Sann Roun	M	Mr. Sann's two older brothers, Sann Toam and Sann Moul, were killed by the KR in 1976. Sann Toam was killed because of stealing potatoes. Sann Moul was killed after being accused of supplying food to the enemies of the KR <i>Angkar</i> . Under the KR leadership, Mr. Sann lived in Kraing Russei Commune, Mong Russei District, Battambang Province. In his village, Cham Muslim people were not allowed to practice their religion, and were forced to have pork as their food which was against their religious practice. If someone dared not to follow the KR order, they would face execution.
3	Chann Ke	M	In 1976 an elderly man named Chheng, a commune chief, appointed Chann Ke's brother, Nhem Bech and sister-in-law, Khuon Soth unit chiefs in Prey Khla Village, Reap Commune, Pea Reang District, Prey Veng Province.

Then during the purge of Eastern Zone cadres, Angkar called up his brother and sister-in-law to live in another village. In fact, they both were taken and detained in Wat Kraing Pisey Security Center. Chann Ke learned of this incident from an escaped prisoner named Chhoeun.

In late 1978, he witnessed thousands of people being

			arrested and taken away by Southwest Zone soldiers every day.
4	Chuop Kep	M	<p>Under the Khmer Rouge regime, his sister's family, consisting of six members, were captured and brought to Office 8, located in Kbal Chheu Pork Village, Sya Commune, Kandieng District, Pursat Province. The arrest and detention took place after her husband was accused of being an enemy. The mother and children were put to work tirelessly, tortured, and starved. No prisoners were fortunate to survive the prison.</p> <p>During the early 1980s, when the committees of Khmer People's National Liberation Front (KPNLF) came and interviewed the people for their story under the regime, all the villagers, including Chuop Kep, I discussed among one another their suffering and their lost ones during the meeting.</p>
5	Lao Chantha	F	<p>On 17 April 1975, she and her family were evacuated from Phnom Penh City. They were forced to go along National Road Number 1. Later they were transported by truck back to Pursat Province. In mid-1976, her father was accused of being a capitalist and was later executed. In that same year, her sister named Lao Phatt Sany was accused of having a husband who held a high-ranking position during the Lon Nol regime and thus was targeted to be killed. In 1977 her mother became seriously sick and was sent to Dei Kha-vev Hospital. Because she saw her mother starving, Lao Chantha decided to take a potato to her. However, her mother was spotted by a medical staff and thus she was beaten for having private food. Since then, her mother's condition became worse and not long after she died. As for Lao Chantha, she was forced to overwork and later became sick. Because of illness, she could not perform her job and thus she was not allowed to eat for three days. Then the chief of the dining hall accused her of being Vietnamese and reported her to the cooperative chief. She repeatedly denied the accusation; however, still she was brought to the killing field four times. Very luckily, due to her firm denial each time, she was not executed. Instead, she was chained and detained. Later, she was released.</p>
6	Man Saut	M	<p>Man Saut's son named Man Sim was arrested and later executed in S-21 in 1976. His son joined the revolution</p>

			since 1973. When the KR came to power, his son became a soldier in Division 310. Because of missing home, his son went back to Kampong Thom. Unfortunately he was spotted along the way and soon he was arrested and sent back on a truck to Phnom Penh to be detained and executed in S-21 Prison.
7	Che Phen alias Phe	M	Che Phen was a committee member of Chhouk District, Kampot Province. Phen said that the KR had established a KR base in Stoeng Phe/ Anglong Ros at the KR liberated area in the Southwest Zone for a meeting between Ta Mok, Chou Chet, and Kang Chab with Vietnamese delegations (Tu Cam, Ba Son, and Thach Vann Loeung). According to Phen, in 1973 Vietnamese soldiers (Viet Cong) were forced to leave Cambodian territory after three years of cooperation. Phen further stated that the decision to push the Vietnamese soldiers out of Cambodia was based on two reasons: 1) for the sake of Cambodian territory; and 2) because the KR had sufficient force to work by themselves. Soon after the decision was made, in 1974, Vietnamese soldiers were all forced to leave Cambodia, and the KR revolution grew bigger and bigger. During the KR period of taking control the country between 1975 and 1979, Phen was appointed as a committee member of Chhuok District, where Sat was the district chief, responsible for military and politics, and Sri La-Mut was the deputy chief, responsible for economy and social and cultural affairs. Phen was responsible for three communes – Trapeang Reang Commune, Kha-pok Run Commune, and Sre Cheng Commune.
8	Heng Keakk	F	Keakk had lived in Sre Knong Commune, Kampot Province before moving to Phnom Penh with twelve other children in her village in 1977. Keakk said that in Sre Knong Commune where [Ta] Phen was the commune chief there were a lot of Chinese people evacuated from Phnom Penh to live there. Those Chinese people spoke very little Khmer language and hardly understandable Khmer accent. In 1977 before she was moved to work in Phnom Penh, Keakk had to spend four days at Ta Mok's house in Takeo Province in a meeting with Ta Mok. When Keakk arrived at Phnom Penh, she was assigned to work in the kitchen in Office K-6 located near Olympic Stadium. Lorn was the chief of Office K-6. There, Keakk used to see Khieu Samphan visiting and observing people working. Keakk

			left Phnom Penh for Battambang when the Vietnamese soldiers entered Phnom Penh in 1979.
9	Meas Channa alias Na	F	Channa used to work building dykes at Koh Sla before moving to work in Phnom Penh in 1977 together with fifteen other children. [Ta] Dim was the village chief and was the one who selected her to go to Phnom Penh. [Ta] Phen was the commune chief of Sre Samrong Commune, Kampot Province. Teacher Thorn was assigned by the KR to look after the children sent to work in Phnom Penh. Before arriving at Phnom Penh, all the children had to meet Ta Mok at his house in Takeo Province. In Phnom Penh, Channa was appointed to work as a cook for Khieu Samphan and to service other foreign delegations. Channa used to see Chinese and Korean delegations at the Olympic Stadium meeting with Ieng Sary, Khieu Samphan, and Ieng Thirith. During the KR regime, Khieu Samphan lived in a house located at the West of the Royal Palace where King Norodom Sihanouk stayed. Frequently, Khieu Samphan visited the Royal Palace, and yet she did not acknowledge the purpose of the visit. Channa used to serve meals for Ieng Sary, Nuon Chea, Son Sen, and Pol Pot. Channa also knew that Khieu Samphan's wife was named Cheat.
10	Tuy Oam	M	After the coup d'état overthrowing King Norodom Sihanouk by General Lon Nol in 1970, Oam decided to join the Viet Cong military in Ba Phnom District. Oam's first assignment was to fight against Lon Nol soldiers in Kampong Trabek and Ka Andeuk, Prey Veng Province. Later Oam was recruited to lead a Communal Security Unit in Ba Phnom District. In 1975 he was promoted to be a deputy of Region 24 and a year later he was moved to Region 23 in Svay Rieng Province. In 1979, Oam fled to Malai where he was assigned to Division 450, led by Sok Pheap. Currently he lives in Sangke Village, Boeng Beng Commune, Malai District, Banteay Meanchey Province.
11	Chin Net	M	In 1972 Chin Net joined the KR revolution and was sent to the liberated zone, where he worked in a messenger unit. After the KR's victory in 1975, he served food to King Norodom Sihanouk at the Royal Palace. Later he was assigned to work as a waiter in Hotel Le Royal, which belonged to Ministry of Foreign Affairs. At the hotel, he served food to Chinese and foreign delegations. When the KR lost power, Net fled to Pailin, where he met Ieng Sary.

			After that, he moved to Malai.
12	Krauch Tim	M	After the coup d'état by Lon Nol in 1970, Krauch Tim was recruited to be a chief of Prek Bang Aong Village. In 1976 he was sent to work in Preh Net Preh District with Im Chem. A year later he was moved to work as a chief of Namtao Commune, Phnom Srok District. When Vietnamese soldiers came in 1979, he fled to Dangrek mountain and then to Malai.
13	Phlang Nhan	F	Nhan is an ethnic Phnornng. She was a prisoner at Phnom Kraol. She was assigned to work at the Phnom Kraol site. When the KR cadre found out that she had corrected her mistake and was devoted to the KR Angkar, Angkar arranged her marriage. Her husband was later killed by the KR fighting in 1980 or 1981. It should be noted that her brother was killed on the charge of being an intellectual in 1977. Her father was killed in 1978 because he was accused of having links with Vietnam.
14	Voeunh Hy	F	Hy is an ethnic Phnornng. She was evacuated to Construction Site No.2 of Norng Kiloek, Banet Office. She was injected to miscarry her baby as the KR Angkar said her pregnancy prevented her from eating cooperative food, which was mixed with Kduoch (a kind of fruit that could poison people if one has not put it in water hours before eating.) Later she was imprisoned at Phnom Kraol Prison on charge of contacting Vietnam.
15	Ngom Kres	M	Kres is an ethnic Phnornng. He was assigned to put up spikes along the Cambodian-Vietnamese border to protect the border from foreign encroachment. Later, he was accused of having a "Vietnamese Head with a Khmer Body" and was imprisoned at Phnom Kraol Prison in 1977. [He can understand Khmer language, but replies in Phnornng lanugage.]
16	Nhranh Bora	F	Bora is an ethnic Phnornng. Her brother was killed in Phnom Penh because the KR Angkar could trace down his background as a student and a soldier of the Lon Nol regime. Later her brother's wife was also killed when she cursed the KR revolution "You did not do a good revolution. You are the thief and kill the people."
17	Khsach Tan	M	Tan is an ethnic Phnornng. He is the only survivor of the KR regime, while all other members of his entire family were killed. He took a very strong interest in hearing these KR leaders answer the question of why they killed the Cambodian people.

Coordinators: Sokvisal Kimsroy, Suyheang Kry, Pechet Men, Sok-kheang Ly, and Dany Long

Photos by Nhean Socheat, Team Leader of “Searching for the Truth” magazine.