

IHT Rendezvous

The Tortuous Path to Justice in Cambodia

Mark McDonald

March 27, 2012

To watch the court proceedings, to hear the lawyers' objections, to sit through the delays and the quibbles and the endless parsing of words, it's enough to make a good number of Cambodians want to simply unshackle the prisoners and set them free. Game over.

But these prisoners — they're just three arrogant old men now — had once been the most senior leaders of the Khmer Rouge, the ruthless Communist regime that killed 1.7 million Cambodians. The court's *raison d'être* now seems to spin less and less around the horrors the men perpetrated and how much prison time they should serve; more to the point is how they are being judged by the United Nations-backed war crimes tribunal in Phnom Penh.

There has been an explosion of frustration over the tribunal in recent days, ever since another international investigating judge tendered his resignation. Laurent Kaspar-Ansermet of Switzerland said the court is now "dysfunctional," riven with petty intrigues and a carrying a political taint that keeps it from investigating well-documented crimes of well-known Khmer Rouge alumni who are living openly and freely in Cambodia.

Mr. Kaspar-Ansermet complained, for example, that a Cambodian fellow judge, You Bunleng, had questioned his authority and had blocked his access to cars and drivers. He said he would not let him use the court's official seal to stamp legal documents. His resignation statement is [here](#), although he was still at work on Tuesday.

Despite tens of millions of dollars in international funding — Australia kicked in an additional \$1.7 million on Monday — the tribunal has convicted only one person so far, the former prison warden known as Duch. His prison sentence was recently extended to a life term, even as he testifies in alarming detail against his three former superiors — Nuon Chea, Ieng Sary and Khieu Samphan. Video of his courtroom testimony, with good English translations, can be watched [here](#).

Nate Thayer, a journalist and author with deep knowledge of Cambodia and the Khmer Rouge, also has a deep disdain for the tribunal, which he told me Tuesday was "an insidious, dangerous mockery of the rule of law that sets an unacceptable new model for legitimizing a 21st-century version of a Stalinist show trial."

Mr. Thayer traveled with the guerrilla resistance after the fall of the Khmer Rouge, living rough, fording streams, camping in jungles. In 1997 he scored a major scoop: an interview at a remote Khmer Rouge camp with the fugitive Pol Pot.

His interview for the Far Eastern Economic Review was the first with the former “Brother No. 1” in nearly 20 years. (The piece can be found on Mr. Thayer’s Web site.) At the time, Pol Pot had already been denounced by his followers. He was in failing health, and died the next April.

Pol Pot said to Mr. Thayer: “Even now, and you can look at me: Am I a savage person? My conscience is clear.”

Mr. Thayer said “the judicial process is entirely under the control of former Khmer Rouge.” Referring to the Cambodian judge, he said, “The judge is bought and paid for in the most mockingly transparent manner. It is a scandal only that the U.N. allows itself to be a party to the farce.”

“The only thing the U.N. and donor countries can do to put some faith back into those who had relied on the system of international law is to pull out now,” Mr. Thayer said. “If the Cambodians want to hold a political show trial, let them do it without the support of the so-called properly organized world.”

Joshua Kurlantzick, in a commentary on the Web site of the Council on Foreign Relations, said he thinks “the KR tribunal is going from bad to worse.”

“For years,” he said, “I thought the K.R. tribunal was still worth it, despite its long delays, despite the fact that Pol Pot died in the jungle without any real trial, despite the possibility that many of the top K.R. leaders were so old that they would never do any real jail time, and despite the significant expense of the process (paid by foreign donors).”

“But now, with the tribunal becoming ever more of a farce, I’m starting to change my mind,” Mr. Kurlantzick concluded.

Youk Chhang has another view. He sees great value in the tribunal. Even now.

“The tribunal is all about better justice,” he told me over the phone on Tuesday from Phnom Penh. “For the first time in Cambodian history there’s a culture of debate here. It has reduced violence. It creates democracy. It makes the farmer the equal of the prime minister.”

It’s likely that nobody knows more about the atrocities of the Khmer Rouge than Youk Chhang. He is the director of the Documentation Center of Cambodia, a heroic private agency that since 1995 has been chronicling the crimes of the Communist regime that ruled Cambodia from 1975-79.

He was a teenager when the red-scarved maniacs came to power. He was pressed into farm labor, then escaped, made his way to a Thai refugee camp and resettled in Dallas before coming back to Cambodia. A 2006 profile by my colleague Seth Mydans is [here](#).

Youk Chhang has transcribed countless personal histories dating to the Khmer Rouge era, which is known in Cambodia as “Pol Pot time.” The fireproofed filing cabinets in his offices contain tens of thousands of interviews and documents that tell the story of that dark era — and which directly implicate more than a dozen former Khmer Rouge leaders.

He and his staff also have found and mapped some 20,000 mass graves, plus 167 former Khmer Rouge prisons, some of them larger than Tuol Sleng, or S-21, the regime’s main torture house that was run by Duch.

Youk Chhang has been a friend of mine over the years, and with all the horrors he has heard and chronicled, it’s a wonder he can sleep at night.

As he watches the court proceedings each day, he told me, his thoughts often wander back a generation, to the account he heard from a young peasant woman who had fallen in love with a Khmer Rouge fighter. She became pregnant — a serious violation of the party’s lunatic Stalinist code.

To save herself and her lover from being executed, she asked the local Khmer Rouge political chief for an abortion. She begged for the abortion, telling him she feared that the child was from the C.I.A.

“The case of that woman, it went against everything you know, that a parent loves their child,” said Youk Chhang. “Imagine, a woman willing to kill her own child. It breaks your heart.”