



GENOCIDE

WHO ARE THE SENIOR KHMER ROUGE LEADERS TO BE JUDGED?

The Importance of Case 002

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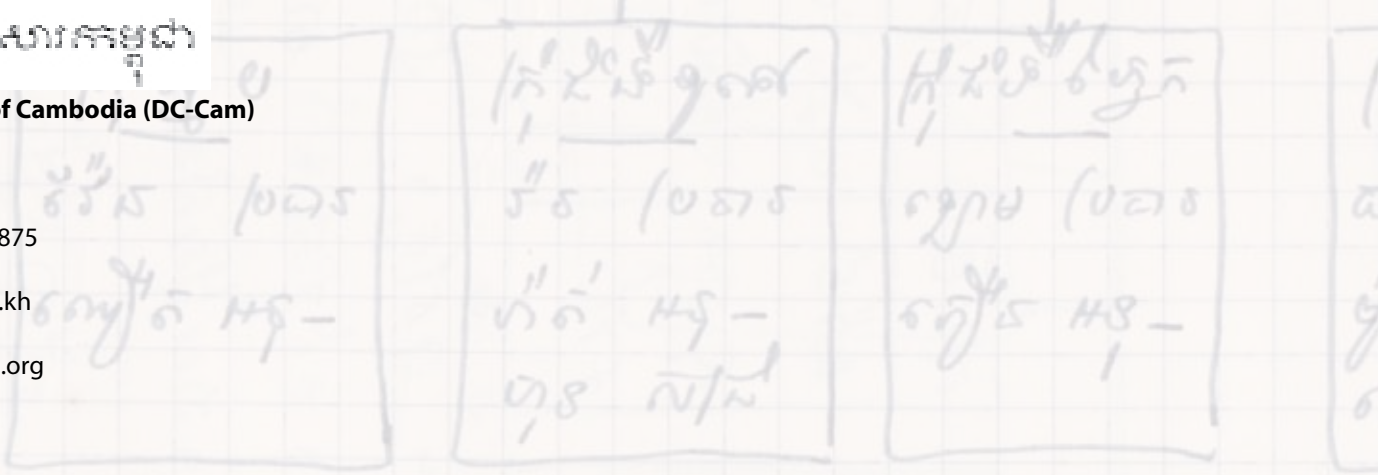
ស្វែងរកការពិត ដើម្បីការធន់ចាំ និងយុត្តិធម៌

Searching for the Truth: Memory & Justice

មជ្ឈមណ្ឌលឯកសារកម្ពុជា

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Who Are the Senior Khmer Rouge Leaders to Be Judged?: The Importance of Case 002

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This material is used for a traveling exhibition across Cambodia's provinces and universities, in America, and in Europe. The exhibition, designed by Youk Chhang, is titled, "The Resistance to the Khmer Rouge Genocide: Arms and Emotion."

The Most Important Khmer Rouge Trial: Historic Case 002

Case 002 is the most important Khmer Rouge trial because it involves the four most senior leaders who are still alive: Nuon Chea, Ieng Sary, Ieng Thirith, and Khieu Samphan. Many questions about Democratic Kampuchea's (DK) three-year, eight-month, and twenty-day rule have not been answered. These leaders have not admitted any responsibility for the crimes of that period but instead blame the lower cadre and others. Their trial offers an important chance to show that the DK regime made decisions that caused the deaths of nearly 2 million Cambodians.

The Khmer Rouge Tribunal finished investigating the senior Khmer Rouge leaders at the end of 2009. Their trial in "Case 002" will start in late 2010 or early 2011. There is a lot of information that can be used in court to show that these leaders are guilty, including many documents that describe what they did and witnesses who can come to court and talk about what the leaders did. This case could provide answers to many questions that Cambodians have about the Democratic Kampuchea era, as well as an opportunity to bring some justice to the Cambodian people by punishing those responsible for their suffering and for the deaths of their loved ones.

Youk Chhang

Director, Documentation Center of Cambodia



Nuon Chea

BIOGRAPHY

Nuon Chea was born on July 7, 1926 in Wat Kor village, Wat Kor commune, Sangke district, Battambang province. He went to high school and took law classes in Bangkok, where he joined the Communist Party of Thailand. When he returned to Cambodia in 1950, he joined the local Communist Party and by 1960 he was a senior member.

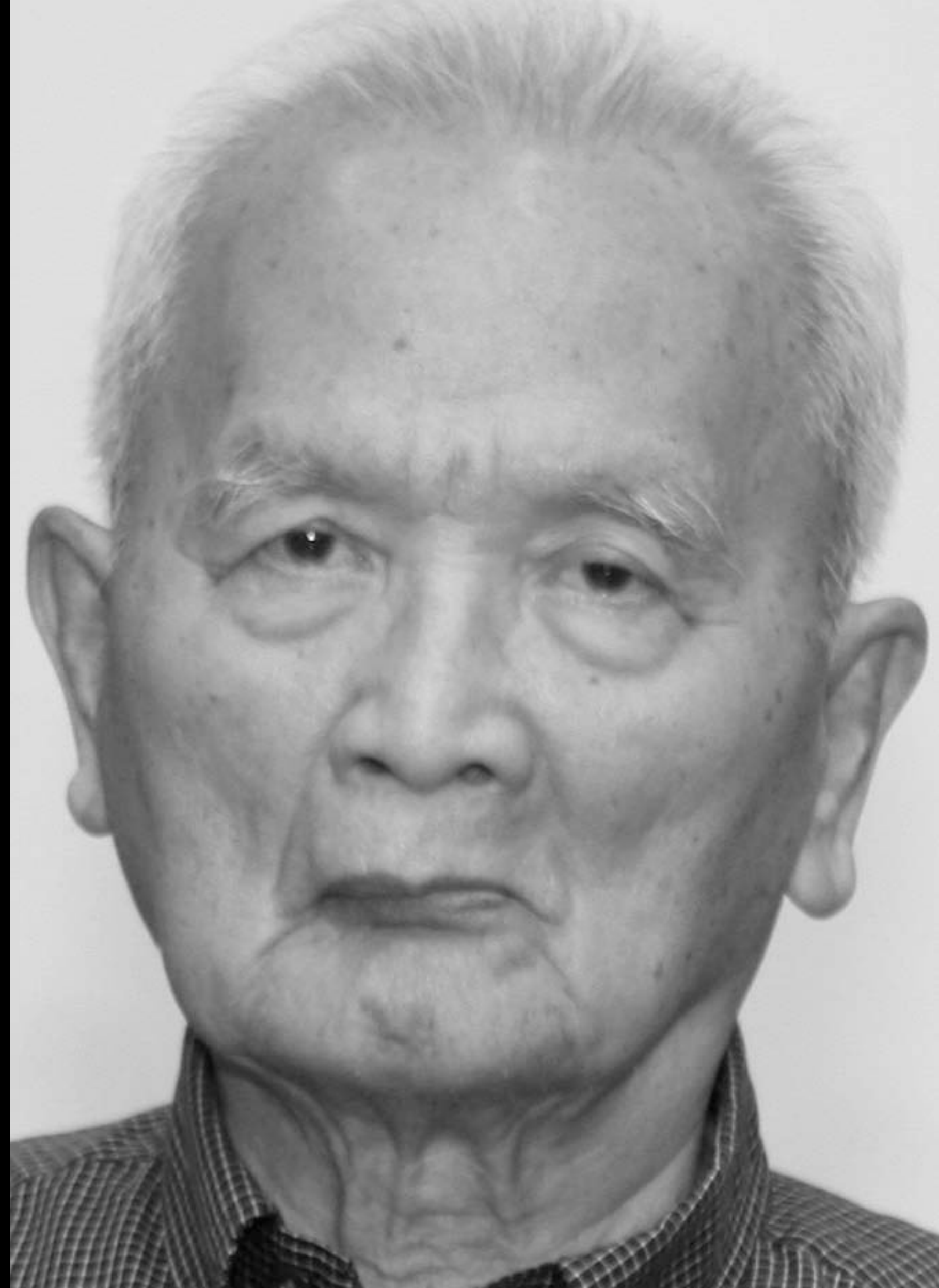
Nuon Chea was a senior leader of the Democratic Kampuchea regime and held important positions including Chairman of the People's Assembly and Acting Prime Minister. He was the second most powerful member of the DK regime, after Pol Pot. It is believed that Nuon Chea was in charge of the DK regime's prisons, including S-21 (Tuol Sleng). After Pol Pot's death in 1998, Nuon Chea started discussions with Prime Minister Hun Sen, who convinced him to leave the Khmer Rouge.

CRIMES CHARGED

At the Khmer Rouge Tribunal, Nuon Chea is accused of serious international crimes, including "genocide," crimes against humanity" (murder, torture, imprisonment, persecution, extermination, deportation, forcible transfer, enslavement, and other inhumane acts) and "war crimes" (willful killing, torture, inhumane acts, willfully causing great suffering or serious injury to body or health, willful deprivation of rights to a fair trial, unlawful confinement and unlawful deportation or transfer). He is also charged with homicide, torture, and religious persecution under the 1956 Cambodian Penal Code. He was arrested in 2007 and has been held in detention since then.

Nuon Chea is being defended by a Cambodian lawyer, Mr. Son Arun, who has experience defending Cambodians charged with serious crimes, and two international lawyers from the Netherlands, Mr. Michael Pestman and Mr. Victor Koppe.

For more information on Nuon Chea, see the Nuon Chea Case Information Sheet at www.eccc.gov.kh/english/cabinet/files/Case_Info_Nuon_Chea_EN.pdf.





Above Left: Nuon Chea at his pre-trial hearing in the ECCC courtroom, Phnom Penh. Photo by Heng Sinith. Source: DC-Cam Archives.

Above Right: A monk from a pagoda located in Phnom Srok district, Banteay Mean Chey province. The pagoda was used as a rice warehouse by the Khmer Rouge. Next to the pagoda was one of the largest Khmer Rouge irrigation sites called Trapeang Thmar. Photo by Youk Chhang. Source: DC-Cam Archives.

Top: Chi Kreng Pagoda, located in Chi Kreng commune, Chi Kreng district, Siem Reap province. The pagoda was built in 1910 and was recently demolished for the construction of a new pagoda. During the demolition, hundreds of artifacts were unearthed including porcelain and clay wares, jewelry, swords, and coins dating back to at least the mid 19th century. During the Khmer Rouge regime, monks from the pagoda were disrobed and made to work near the Tonle Sap Lake. Photo by David Salazar. Source: DC-Cam Archives.

Right Bottom: A Khmer Rouge document written by S-21 prison chief Duch (Kaing Guek Eav) on October 1, 1976. The letter is addressed to Comrade Pon and encourages Pon to use "hot torture methods...even if it may cause death" upon Ya, a prisoner accused of "hiding his enemies lines and traitorous acts." Source: DC-Cam Archives.

Letter Translation:

Dear Comrade Pon:

1. Before ten to nine this morning, based on the document and report gathered from our comrades, I reported to Angkar about Ya's case concerning his conscience.

2. Angkar made a decision that if the lowlife Ya continues hiding his enemy lines and traitorous acts, Angkar will decide to kill him. This action was taken in order to stop him from playing tricks on us. One time, he accidentally mentioned it, [the book] and then another time he denied the [existence of] the entire whole book. His action was regarded as disrespectful towards not only the Security Committee but also the Party.

3. Therefore, you Comrade can employ hot torture methods with force for long periods of time upon Brother Ya. Even if it may cause death, you Comrade, will be not accused of disobeying Party regulations.

With warm revolutionary fraternity!

Duch
October 1, 1976

[On the original letter, Pon wrote a message on the bottom left corner as follows:] Brother Ya told you to read this in order to think carefully about it.
Pon

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leng Thirith

BIOGRAPHY

leng Thirith was born in Sangkat No. 5, Phnom Penh on March 10, 1932. She studied at the Lycée Sisowath in Phnom Penh and then obtained a degree in English Literature in France. She married leng Sary in 1951; her sister married Pol Pot. leng Thirith returned to Cambodia in 1957 to work as an English professor.

During the DK period, leng Thirith was a senior member of the government and held the position of Minister of Social Affairs and Action. She was sent to investigate and report on health issues in the Northwest Zone and therefore probably knew that many Cambodians were starving under the DK regime. leng Thirith is also accused of involvement in the arrest and killing of staff from the Ministry of Social Affairs and Action. In 1996, along with her husband, she left the Khmer Rouge regime.

CRIMES CHARGED

At the Khmer Rouge Tribunal, leng Thirith is charged with the international crimes of “genocide,” “crimes against humanity” (murder, extermination, imprisonment, persecution, and other inhumane acts), and war crimes. She is also charged with homicide, torture, and religious persecution under the 1956 Cambodian Penal Code. The Khmer Rouge Tribunal arrested her in 2007 and has held her in detention since then.

She is being defended by a Cambodian criminal lawyer, Mr. Phat Pouv Seang, a professor at the University of Law and Economics, and a British lawyer, Ms. Diana Ellis QC, who has experience in international criminal courts.

For more information on leng Thirith, see the leng Thirith Case Information Sheet at:

www.eccc.gov.kh/english/cabinet/files/Case_Info_leng_Thirith_EN.pdf.



Ieng Sary

BIOGRAPHY

Ieng Sary was born on October 24, 1925, in Loeung Va village, Loeung Va commune, Tra Vinh province, Vietnam. He studied at Collège Sisowath in Phnom Penh and then in France. Ieng Sary returned to Cambodia and became a history professor in 1957. He is alleged to have joined the Khmer Rouge in 1963.

During the DK period Ieng Sary was a senior member of the government and held the positions of Deputy Prime Minister and Minister for Foreign Affairs. He is believed to have played an important role in transferring many members of the Foreign Ministry to the S-21 prison where they were interrogated and executed.

After the DK government fell in 1979 Ieng Sary was convicted of “genocide” and sentenced to death in absentia by the People’s Revolutionary Tribunal. In 1996, he left the Khmer Rouge with thousands of his followers in exchange for a pardon from the King for the death sentence and a promise that he would not be punished under a 1994 law that said that the Khmer Rouge organization was illegal. At that time Ieng Sary moved to Phnom Penh with his wife, Ieng Thirith, who will also be tried in Case 002.

CRIMES CHARGED

At the Khmer Rouge Tribunal, Ieng Sary is accused of serious international crimes, including “genocide,” “crimes against humanity” (murder, extermination, imprisonment, persecution and other inhumane acts) and “war crimes” (willful killing, willfully causing great suffering or serious injury to body or health, willful deprivation of rights to a fair trial of prisoners of war or civilians, unlawful deportation or transfer or unlawful confinement of a civilian). He is also charged with homicide, torture, and religious persecution under the 1956 Cambodian Penal Code. The Khmer Rouge Tribunal arrested him in 2007 and has held him in detention since then.

He is being defended by a Cambodian lawyer, Mr. Ang Udom, who has experience defending Cambodians with criminal charges against them, and an American lawyer, Mr. Michael Karnavas, who has experience defending people charged with international crimes.

For more information on Ieng Sary, see the Ieng Sary Case Information Sheet at:
www.eccc.gov.kh/english/cabinet/files/Case_Info_Ieng_Sary_EN.pdf.





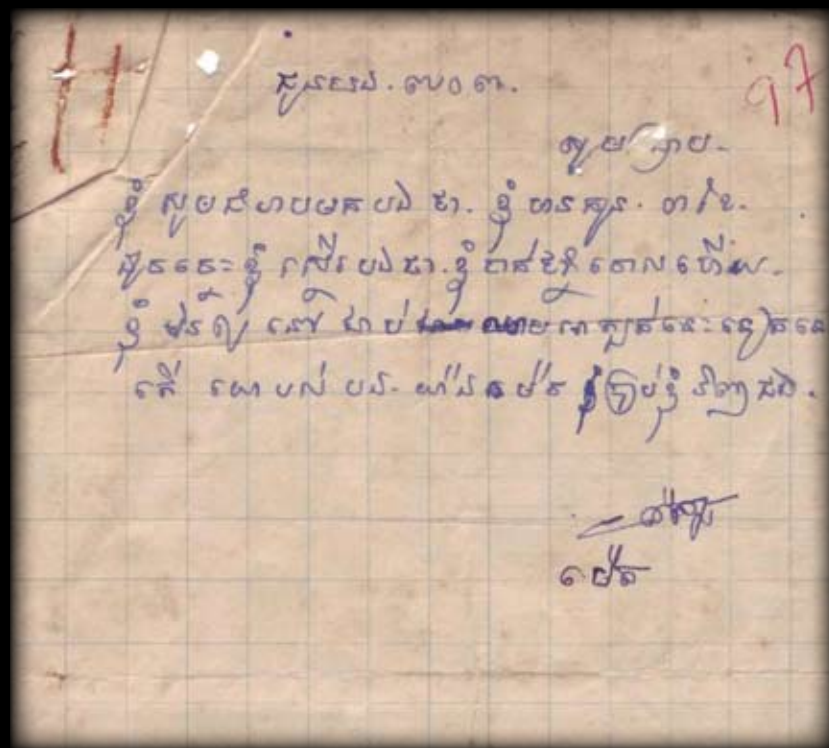
Ieng Sary at his pre-trial hearing in the ECCC courtroom, Phnom Penh. Photo by Heng Sinith. Source: DC-Cam Archives.



Tran Thi Loi, Ieng Sary's mother (middle) in Vietnam. Tran Thi Loi immigrated to Vietnam with her parents from China when she was a child. She married Kim Riem, a Kampuchea Krom native, and they had three children. Ieng Sary, whose birth name was Kim Srei, was the youngest of the three children. Ieng left his home village in southern Vietnam to attend high school in Phnom Penh's Sisowath High school and in 1950 traveled to France on an academic scholarship. According to an interview with his nephew Thach Vutha, Ieng only visited his home village once before leaving for France. Source: DC-Cam Archives.



Above and Opposite Page: Swords used by the Cham Muslim minority in their rebellion against the Khmer Rouge during Democratic Kampuchea. The sword on the right was donated to DC-Cam by Ms. Kup Aishah in 2008 from Trapeang Chhouk village, Boeng commune, Baray district, Kampong Thom village. The sword on the left was donated by Sos Ponyamin in 2002 from Svay Khleang village, Svay Khleang commune, Kroch Chhmar district, Kampong Cham province. Photo by Jim Mizerski. Source: DC-Cam Archives.



A letter written by "Met" to "Brother 703" during Democratic Kampuchea. In the letter, Met informs Brother 703 that she is three months pregnant and wishes to abort the baby by injection. Source: DC-Cam Archives.

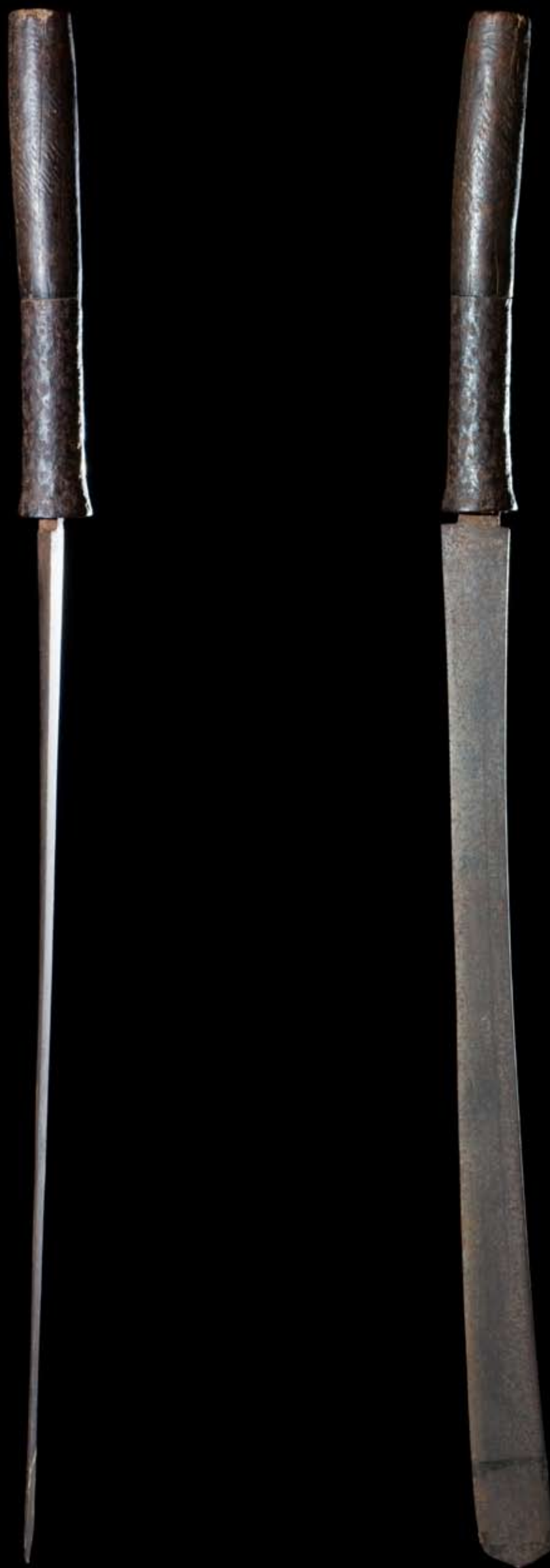
Letter translation:

To Brother 703,

Please be informed

I would like to inform you that I am three months pregnant. Therefore I request that you allow me to abort the baby by injection do not wish to have any blood ties with this traitor. What is your recommendation? Please let me know.

Signed by Met



Khieu Samphan

BIOGRAPHY

Khieu Samphan was born in Svay Rieng province on July 27, 1931.¹ He went to France to study in 1955 before returning to Cambodia to become a professor. In 1962 he was appointed Secretary of State for Commerce in Prince Sihanouk's government. Threatened with arrest, he went into hiding in 1967 and by the early 1970s had joined the Khmer Rouge.

During the DK period Khieu Samphan served as the head of state (President of the State Presidium). After Pol Pot retired as the official head of the Khmer Rouge in 1987, he became the head of the Khmer Rouge and represented the organization at the 1989 Paris Peace Conference. After Pol Pot's death in 1998, Khieu Samphan left the Khmer Rouge.

CRIMES CHARGED

At the Khmer Rouge Tribunal, Khieu Samphan is accused of serious international crimes, including "genocide," "crimes against humanity" (murder, extermination, imprisonment, persecution and other inhumane acts) and "war crimes" (willful killing, willfully causing great suffering or serious injury to body or health, willful deprivation of rights to a fair trial of prisoners of war or civilians, unlawful deportation or transfer or unlawful confinement of a civilian). He is also charged with homicide, torture, and religious persecution under the 1956 Cambodian Penal Code. The Khmer Rouge Tribunal arrested him in 2007 and has held him in detention since then.

Khieu Samphan is being defended by a Cambodian lawyer, Dr. Sa Sovan, previously a senior legal adviser to the Cambodian National Assembly and expert within the Ministry of Justice, and a French lawyer, Mr. Jacques Vergès, who has defended many clients charged with crimes related to terrorism and crimes against humanity.

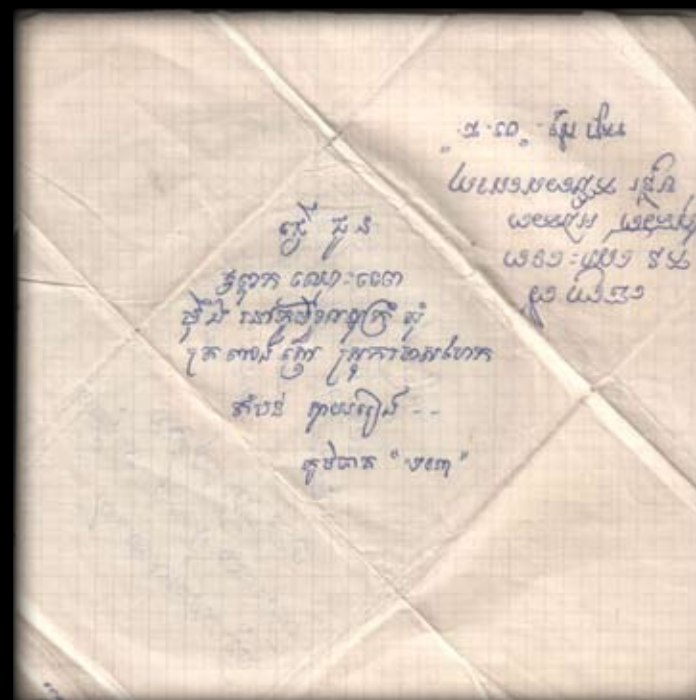
For more information on Khieu Samphan, see the Khieu Samphan Case Information Sheet at www.eccc.gov.kh/english/cabinet/files/Case_Info_Khieu_Samphan_EN.pdf.

¹ In his pre-trial hearing, Khieu Samphan told the ECCC that he was born in Romchek commune, Romduol district, Svay Rieng province. According to residents in Romduol district however, there are no communes named Romchek, although there are two communes in Romduol district that are named Check and Svay Chek.

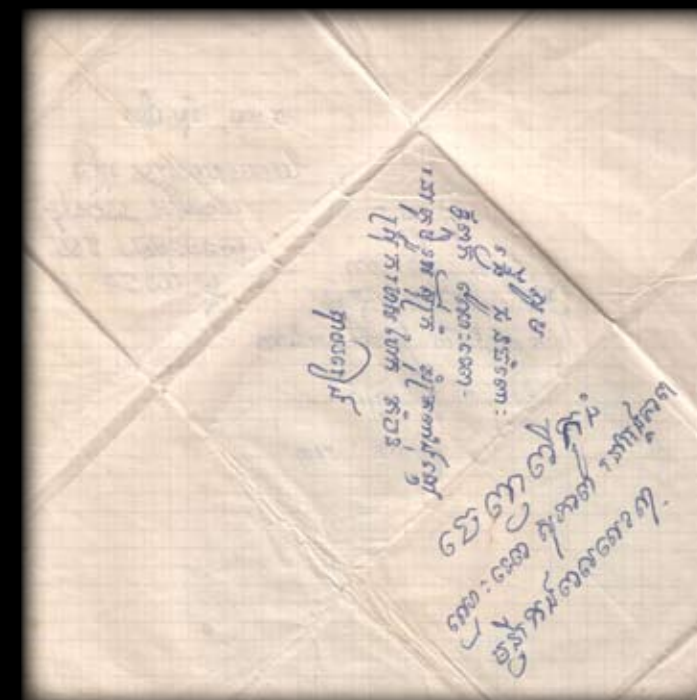




Khieu Samphan at his pre-trial hearing in the ECCC courtroom, Phnom Penh. Source: DC-Cam Archives.



The mailing addresses from letters written by Tep Sopheap. The left document reads: "To Father Tep Meong, Tuol Sokram village, Trapeang Sdao commune, Romeas Hek district, Svay Rieng region, Zone 203; From your son Tep Sopheap, Office of Division 3, Under the Authority of 'Y.TH.'" The second set of addresses (right) contain the same information. Source: DC-Cam Archives.



Translation of letter on opposite page:

Missing you

I would like to extend my profound respect and regards to my beloved father, mother, brothers and sisters. Please know that it has been such a long time that I have been constantly daydreaming and missing you all. Each minute of each day, I have been missing all of you whom I love, all of the time. So far, I have not heard whether you are all fine or not; therefore I took this opportunity to write a letter and to ask how everyone is doing. Last month, I received news that Brother Ien sacrificed his life on the battlefield. Although he has passed away, you do not need to feel grieved over his death father and brothers; it was his duty to defend the country that is his and ours. Therefore, all of you must have a clear mind and put your faith in Angkar. Thus, father and brothers, you have to bear this suffering due to the enemy expansionists, enemy aggressors, and all other types of remaining enemies. Therefore, you all must fight against the enemy and be committed to your work growing rice to fulfill the Party plan.

Furthermore father and brothers, you have to hold a strong stance and consciousness to work and also sacrifice all personal belongings along with your sense of family ties in order to faithfully serve the worker and collective classes of the Party. Therefore, all of you bear in mind compassion, faithfulness, and a sense of collectivism; you must not have misgivings about the Party. By the way, as for me, I have been fine.

To conclude, I would like to wish father and all members of our family good health and vigorous strength to serve collectivism and work growing rice according to the Party's orders.

On the 7th of 1978
Signature,
Tep Sopheap

P.S: Father and Brother, after receiving this letter please let me know the condition of our family.

Translation of cover letters above:

left cover:

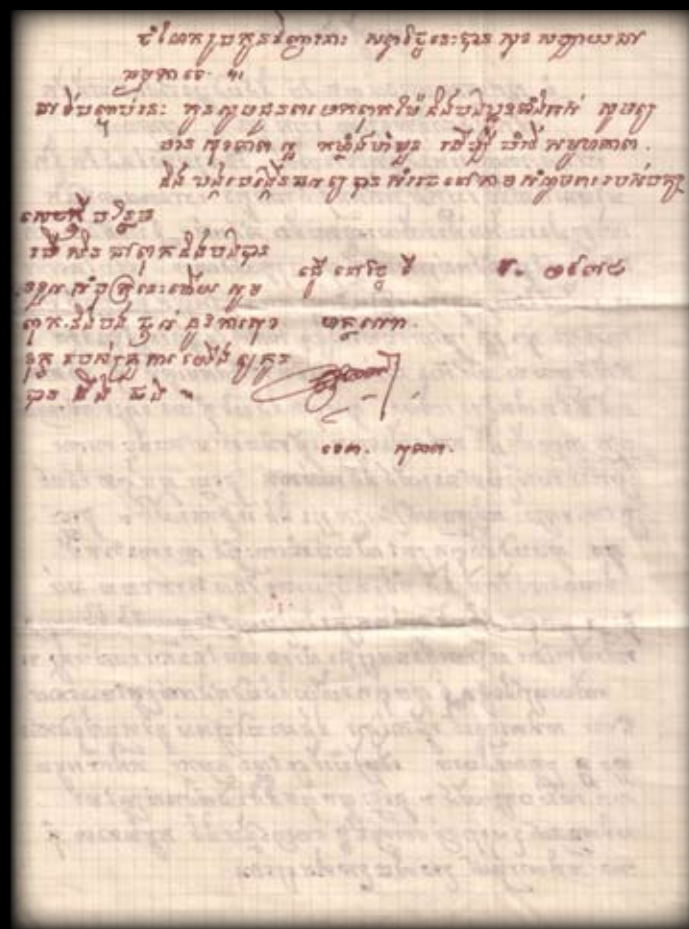
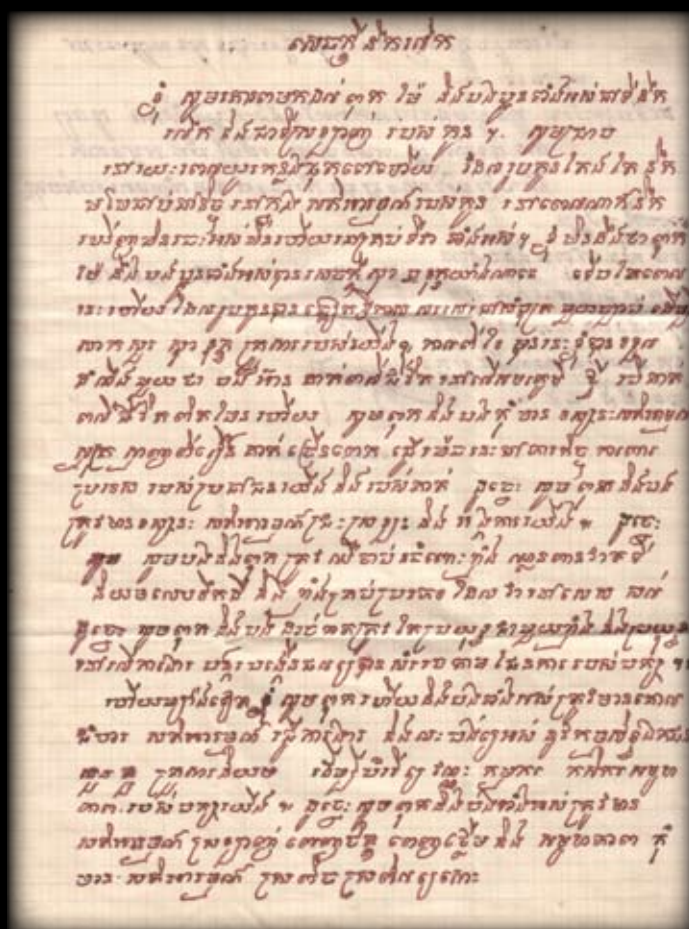
To father Tep Meong
Tuol Sokram village, Trapeang Sdao commune,
Romeas Hek district, Svay Rieng region

From your son, Tep Sopheap
Office of Division 3

right cover:

To father Tep Meong
Tuol Sokram village, Trapeang Sdao commune,
Romeas Hek district, Svay Rieng region,
zone "203"

From your son, Tep Sopheap
Office of Division 3
Under the authority of "Y.TH"



A letter written by Tep Sopheap to his father Tep Meong in 1978. In the letter, Tep Sopheap writes that he has not heard from his father and other family members and misses them greatly. He also tells them that Brother Ien died in the battlefield. Tep ends the letter by encouraging them to trust Angkar and to work hard growing rice. Source: DC-Cam Archives.

DK Education/Khmer Rouge Tribunal Participation Opportunities

DC-Cam offers several ways for Cambodians to learn more about the Khmer Rouge Tribunal and the Khmer Rouge leaders charged with crimes in Case 002:

Khmer Rouge Tribunal/Genocide Education Tours

The Center brings large groups from the provinces to Phnom Penh to learn about the Democratic Kampuchea period and to visit the Khmer Rouge Tribunal and important genocide sites.

Youth/Cham/Village Forums

The Center holds discussions in the provinces to provide Cambodians with information about Khmer Rouge history and the Khmer Rouge Tribunal, to follow up with people who have taken the tour of the Khmer Rouge Tribunal and shared information about this experience with their villages, and to distribute DC-Cam's Khmer Rouge history book to young people.

Public Performances

The Center supports free public performances of Amrita Performing Arts' play "Breaking the Silence." This play talks about ordinary people's real life stories during the Democratic Kampuchea era and helps the audience to think and talk about what happened to them under the Khmer Rouge regime.

Radio Broadcasting of DC-Cam Publications

Radio FM 93.25 in Kampot province broadcasts DC-Cam publications seven days a week, two times a day, from 7:00 am to 7:30 am and 7:00 pm to 7:30 pm, including selections from *Searching for the Truth* magazine. The Voice of America has posted both the text and audio versions of "A History of Democratic Kampuchea (1975-1979)" on its website. Please see www.voanews.com/khmer/democratic-kampuchea.cfm%20. In 2010 the play "Breaking the Silence" will also be recorded for broadcast.

Education/Information about Victim Participation

If you are a victim of the DK regime and want to take part in the Khmer Rouge Tribunal, DC-Cam may be able to help you to fill out the papers you need to send to the court. Victims can tell the story of a crime that occurred during the DK period.

Publications

DC-Cam's monthly magazine, *Searching for the Truth*, is available for free distribution upon request. Information about Khmer Rouge Tribunal proceedings can also be found at www.cambodiatribunal.org.

DC-Cam is going to publish a book of names of those who have died under the Khmer Rouge. So far we have documented about 1 million names, if you wish to make sure names of your family members who have died are in the book, please contact us as soon as you can.

Contact Information

For family tracing assistance from DC-Cam, please contact:

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Nhean Socheat 016-866-692 truthsocheat@dccam.org

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David Chandler is an Emeritus Professor of History at Monash University in Melbourne Australia. His books about Cambodia include *A History of Cambodia* (4th edition, 2008), *The Tragedy of Cambodian History* (1991) and *Voices from S-21: Terror and History in Pol Pot's Secret Prison* (1999). He has served as a consultant to Amnesty International, the Asia Foundation, Radio Free Asia, and DC-Cam. dpchandler@mac.com | +613-9820-0590

Jaya Ramji-Nogales is Assistant Professor of Law at Temple University's Beasley School of Law, where she teaches Civil Procedure, Evidence, Refugee Law and Policy, and Transitional Justice. She has been a Legal Advisor to the Documentation Center of Cambodia since 1997, and is the co-editor, with Beth Van Schaack, of *Bringing the Khmer Rouge to Justice: Prosecuting Mass Violence Before the Cambodian Courts* (Mellen 2005). jaya.ramji-nogales@temple.edu | +1-215-204-6430

Definitions of International Crimes

Genocide

The Khmer Rouge Tribunal can punish people for committing “genocide.” Acts of genocide are targeted against national, ethnical, racial, or religious groups and may include: killing; causing serious bodily or mental harm; causing life conditions, such as hunger, that lead to a group’s physical destruction; preventing births; or forcibly transferring children from one group to another group. An act of genocide must be committed with the intent to destroy one of these groups. Most crimes by the Khmer Rouge can not be charged as genocide because they were committed against political groups. Therefore the genocide charges brought against the four leaders are limited to crimes against ethnic Vietnamese and Cham Muslims.

Crimes Against Humanity

The Law of the Khmer Rouge Tribunal says that “crimes against humanity” have to be part of a large attack against a lot of civilians. The reason for the attack has to be the civilians’ nationality, political views, ethnicity, race, or religion. The attack doesn’t have to be part of a war. Crimes against humanity include killing large numbers of people, turning people into slaves, sending people away from their homes, putting people in prison without a good reason, torture, and rape.

“War Crimes”—Grave Breaches of the Geneva Conventions

The Khmer Rouge Tribunal can also punish people who committed crimes during a war with another country. In Case 001 (Duch), the Co-Investigating Judges of the Khmer Rouge Tribunal decided that there was a war between Cambodia and Vietnam from 1975 to 1979. But other judges whose decisions are more important than the Co-Investigating Judges might disagree and decide that the war between Cambodia and Vietnam didn’t start until 1977. The victims of these crimes can’t be soldiers; they have to be civilians or prisoners of war. War crimes include killing, torture; inhumane treatment; causing great suffering or serious injury; destruction or serious damage to property; denial of a fair trial; and unlawful deportation, transfer, or confinement of a civilian.

Opposite page: Official stamps used by leaders of Democratic Kampuchea. The stamp on the left reads: (border) Democratic Kampuchea, Independence, Peace, and Neutrality; (center) Northwest, Chief of Population Service, Zone 4. The stamp on the right reads: (border) Democratic Kampuchea, Ministry of Foreign Affairs; its center is the logo of Democratic Kampuchea. Source: DC-Cam Archives.



Resources

Khamboly Dy, "A History of Democratic Kampuchea (1975-1979)," available in English and Khmer at: www.dccam.org/Publication/Monographs/Monographs.htm.

John D. Ciorciari with Youk Chhang, Documenting the Crimes of Democratic Kampuchea, in "Bringing the Khmer Rouge to Justice: Prosecuting Mass Violence Before the Cambodian Courts" 221 (Jaya Ramji & Beth Van Schaack, eds. 2005).

DC-Cam databases containing hundreds of thousands of pages of documents related to the Khmer Rouge and the history of Democratic Kampuchea between April 1975 and January 1979, including official Khmer Rouge correspondences, biographies of Party members and arrested persons, prisoner confessions, notebooks of Khmer Rouge cadres, photos of Party cadres, films, tape recordings, Party magazines, other publications, and maps of Democratic Kampuchea available at:

www.dccam.org/Database/Index1.htm.

"On Trial: The Khmer Rouge Accountability Process" (John D. Ciorciari and Anne Heindel, eds. 2009), available in English at:

www.dccam.org/Publication/Monographs/pdf/On_Trial-The_Khmer_Rouge_Accountability_Process.pdf.

Script of "Breaking the Silence," available in English at:

www.dccam.org/Publication/Monographs/pdf/DC-CAM_BRKSLNCE.pdf.

Teacher's Guidebook: The Teaching of, "A History of Democratic Kampuchea (1975-1979)": Available in English and Khmer at:

Khmer: www.dccam.org/Projects/Genocide/pdf/DC-Cam_%20Teacher_Guidebook_Kh.pdf.

English: www.dccam.org/Projects/Genocide/pdf/DC-Cam_%20Teacher_Guidebook_Eng.pdf.

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Reach Sambath (middle, wearing a long-sleeve shirt), head of the ECCC's Public Affairs Office, posing with a visiting group of Cham Muslim leaders in front of the ECCC courtroom, January 2007. Photo by Dacil Q. Keo. Source: DC-Cam Archives.



Left: A key discovered during the demolition of the Chi Krenng Pagoda in Siem Reap province. The key is estimated to be approximately 300 years old, dating farther than the pagoda itself which was built in 1910 on the site of an ancient temple. Photo by Terith Chy. Source: DC-Cam Archives.

Background Photo: Khmer Rouge Hospital P1 Organizational Chart. Source: DC-Cam Archives.

MEMORY AND JUSTICE

