

**Examining the ECCC Commune Chief Tour
Against Tribunal Progress**

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The Documentation Center of Cambodia's (DC-Cam) third ECCC Commune Chief Tour accomplishes another great leap forward in spreading information and understanding about the Khmer Rouge tribunal that is presently six months into its three-year timeframe. Last summer's two ECCC Commune Chief Tours and January's tour now boast the inclusion of 1,362 commune chiefs out of 1,700 communes in Cambodia, in scheduled visits to important genocide memorial sites and the ECCC courtroom. The ECCC, Extraordinary Chambers in the Courts of Cambodia-also known as the Khmer Rouge tribunal, took nearly a decade of back and forth negotiations to realize fruition. Once discussions settled and a so-called mixed tribunal courtroom sprung behind the National Army Headquarters on National Highway 4, the need to publicize and legitimize the tribunal's presence was in full force.

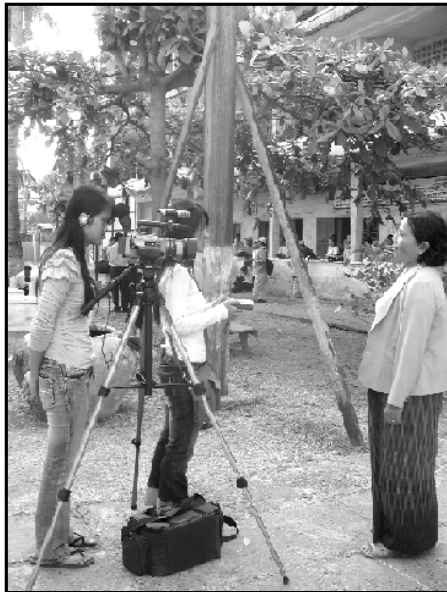
Long before an ECCC Office and courtroom ever existed however, DC-Cam has been collecting, researching, documenting, and analyzing primary sources related to Democratic Kampuchea's (DK) reign of terror, which began on April 17, 1975 and lasted for three years, eight months, and twenty days. Most important of these sources are living documents- that is *survivors* of the Cambodian genocide. Hence several years ago equipped with great foresight and even greater hope, DC-Cam's Director Youk Chhang created the Living Documents Project, an umbrella project in which the ECCC Tours blossomed under. In total over 5,600 ordinary villagers, commune chiefs, men, women, students, teachers, monks, nuns, Cham Muslims, and Cham Muslims community leaders from all corners of Cambodia, have grown in their knowledge of the Khmer Rouge tribunal and DK history. Using this figure combined with DC-Cam's outreach and Promoting Accountability Project figures and the work of other NGOs in Cambodia, it is relatively safe to declare that yes, the overwhelming majority of Cambodians know about the tribunal to prosecute former Khmer Rouge (KR) leaders.

Elevating their level of knowledge on the tribunal beyond its existence however remains a task for the ECCC, the Cambodian government, and NGOs to undertake. As Youk Chhang and others have observed, some domestic and international NGOs operating in Cambodia have changed and transformed (or created for that matter) their organization's activities according to the concerns and issues that the adolescent tribunal has generated. Whatever their motive may be, the need for funding or a penchant for jumping on the bandwagon or something else, a strong NGO community in Cambodia committed to ECCC awareness and advancement is reassuring when so many other things in Cambodia are not. Some NGOs are understandably critical of the ECCC, but when it comes down to it, both sides must work together so that information reaches the Cambodian public.

January's ECCC Commune Chief Tour proved successful in the usual ways and pointed to weaknesses in unexpected ways. The two-day tour brought commune chiefs from all 24 provinces and cities across Cambodia except for Stung Treng province and Phnom Penh. The invitations to the commune chiefs of Stung Treng arrived Friday several days before the tour began and thus it was difficult for them to make the trip to Phnom Penh on such short

notice. As for the absence of the Phnom Penh chiefs, one likely explanation is that they have already visited the sites on the tour and are well informed on ECCC developments because they live in Phnom Penh. The tour overall achieved its main goal of giving survivors of the genocide, predominantly victims, a voice in the ECCC process. During the tour, heartfelt interviews were conducted, complaints were made, a wonderful smoot performance did not occur as planned, and news of an “emergency wedding” combined with a sudden absence sparked curiosity. Many lessons are to be learned from the experiences on this tour for all three sides involved, including the ECCC.

For those who thought that cool weather was impossible in tropical Cambodia, these past few weeks certainly has made a believer out of them. With cool breezes blowing, the first official day of the tour began before 7:00am as commune chiefs ascended on their tour buses and departed to the Toul Sleng Genocide Museum. At the museum, the 438 respected participants examined S-21 photographs and other vivid reminders of Communist Party of Kampuchea (CPK) leader Pol Pot’s secret “killing machine.” No secret now, the visuals displayed in the building complexes (of which there are four labeled A-D) stun and at times frighten those who lay eyes upon them. With notebooks and pens on hand, the commune chiefs studiously took notes as they gazed at prisoner snapshots, jail cells, metal ankle chains, and stacked skulls of those killed and left behind. One display which always attracts attention is a wall-sized panel labeled, “The Security of Regulations.” Over fifty commune chiefs gathered in front of this panel to copy down its content, which is given in three languages (Khmer, French, and English).



Sophanna Pang, far right, is interviewed by DC-Cam’s film team at the Toul Sleng Genocide Museum. Ms. Pang used to attend high school at the complex before it was turned into the secret prison, S-21.

The DC-Cam film crew conducted their usual interviews at the genocide museum. All of them were interesting interviews regardless of how nervous or confident the interviewee was or how much they spoke. One interview in particular however proved interesting far beyond the others.

Just for a moment imagine: you return to your old high school and find that it has been turned into a clandestine, atrocious, core interrogation and killing station. *Disbelief* is an understatement; *shock* is a centimeter closer to describing your emotions. At age 49, Ms. Pang Sophanna returned to the site where she studied for over four years. She is currently the commune chief of Prek Dak Commune located in Kandal Province and one of 24 female commune chiefs on this tour. Ms. Pang said that the labels A, B, C, and D given to the different buildings at S-21 were in use since the short-lived era of Lon Nol in the early 1970s. She also informed us that the tall wooden structure located in front of Building C was also original to the Lon Nol period. Back then, ropes were tied to the top and students practiced rope climbing as

part of their exercise routine. During DK however, the ropes were shortened and used to hang prisoners by their neck. She began 6th grade¹ at the Toul Svay Prey High School and studied there until 1975. In 1975, she only had one year left before she graduated high school. Unfortunately, the turmoil in Phnom Penh reached a level where it was no longer safe to go to school and once the Khmer Rouge penetrated into Phnom Penh, there was no going back to class. In a matter of two days, her hometown of Phnom Penh turned into a deserted mass of homes, buildings, and shops, some half-standing and some crumbled and scattered over roads. The mass forced evacuation on foot lasted several weeks for many. The entire capitol city was emptied of all its people.

In 1975, Ms. Pang was relocated to Prey Veng and later Pursat as part of two massive relocation plans by the KR regime. She told the interviewer, Ms. Pivoine Beang of DC-Cam, that everyone in Prey Veng has been accused of being a member of a traitorous network. Those that were found (or deemed) to be involved in this network were executed and those found to have no connections to this network were relocated to Pursat. In both DK zones Ms. Pang performed hard labor such as digging reservoirs, lifting dirt, and harvesting rice. She commented however that in Prey Veng the work was somewhat easier than in Pursat. During the genocide, all of her immediate family members died. Both her parents died of starvation and disease (she does not know which led to their deaths) and all four of her siblings were taken to be executed, some in Prey Veng and the rest in Pursat. Ms. Pang was left orphaned in the utmost sense.

When the KR and Vietnamese border battles culminated with Vietnamese soldiers storming into Phnom Penh in 1979 and quickly defeating KR soldiers thereafter, Ms. Pang made her way from Pursat back to her home city of Phnom Penh. No words could express the array of emotions she felt as she returned home, alone. Still composed, she revealed to the interviewer that when she arrived in Phnom Penh she felt that life was meaningless and that she did not know how she would go on. She then went to visit her old high school. Her former institution of learning had turned into an institution of interrogation and death during DK. At that moment when Ms. Pang viewed it for the first time in years, its premises lay abandoned except for skulls, dead bodies, and an overwhelming stench. Immediately, memories of the days she studied here with friends and relatives came rushing into her head.

With an experience like hers, there is no doubt that Ms. Pang has an opinion on what should be done to Khmer Rouge leaders. For her, the KR leaders cannot be forgiven. They must be brought to trial and punished to the fullest extent of the law; she prefers the death penalty. Ms. Pang does not know that under the Cambodian Constitution however, the death penalty is not permitted. She strongly believes that future generations must know about the hardship and near-death experiences that she and others endured during those three years, eight months, and twenty days. All Cambodians who lived through the genocide know the exact time frame of it, because for the majority of Cambodians since April 17th, 1975 each new day became a struggle for survival. “Majority” became “all” in the late 1970s when paranoia and political purges swept down the rungs of the CPK’s leadership ladder, leaving no one safe. Ms. Pang requests that the ECCC be swift and firm in the punishment they give out to those leaders they convict. By doing this, she believes that remaining KR leaders, or anyone else for that matter, will not attempt to unite and implement another reign of terror upon the people of Cambodia.

¹At that time, the grade numbering system in Cambodia was different and opposite of what is used today. One entered high school in the 6th grade and graduated after completing the 1st grade, known in present day as the 12th grade.

At the Royal University of Phnom Penh's second campus, a request for swift and firm punishment was also made by another commune chief to H.E. Moan Samphan, a member of the Cambodian National Assembly. In the assembly room of the Faculty of Social Sciences and Humanities, a female commune chief made an appeal for an efficient trial which metes punishment fitting the crime that was committed. Other issues raised at the session, in which DC-Cam's Deputy Director Mr. Dara Vanthan also presented at, include who will be tried (if top leaders have died and those alive are nearing death); what will be done if judges disagree; why there has been such a delay in creating the tribunal; how legal cases are made; and Ieng Sary's pardon. The atmosphere in the assembly hall overall was hopeful, but it was a cautious hope.

The third segment of the ECCC Commune Chief Tour was a visit to the Cheung Ek Killing Fields Memorial where S-21 prisoners were shipped en mass for execution. Here, the participants walked around the tall monument displaying skulls in its ground center. To the right of the memorial structure are signs that tell the story of how people were killed. There, signs of the killings are both blatant and obscure. The obvious signs are wooden boards stating the killing method. The less noticeable signs include large round depressions in the land where prisoners were buried after execution.



The ceremony, Bang Skaul, is performed at Cheung Ek Killing Fields Memorial. Five monks and several nuns led the Buddhist chants.

A traditional Buddhist ceremony, *Bang Skaul*, was held at the grounds to bless the souls of the people who had died there. Five monks and several nuns sat on red woven mats laid out on the top steps of the white memorial. They began chanting in unison, joined intermittently by the crowd of over 400 commune chiefs who sat respectfully below on the grass. Arrangements were made weeks in advance with the organization Cambodian Living Arts (CLA), for Smoat Master Prom Uth and his assistant, Srey Peou to sing at the ceremony. Both DC-Cam and CLA were excited for the *a cappella* performance. *Smoat* music is a specific style of singing typically sung at memorials to the dead (gravesites or otherwise). Its sound is both haunting and tragic; its lyrics describe grief and sadness. However, DC-Cam's failure to communicate clearly with the *acha* (the highest layperson in a temple who usually facilitates Buddhist ceremonies) about the smoat performance led to a regrettable situation. When the chanting concluded, the *acha* quickly wrapped up in a few words, none of which were about the smoat performance. The commune chiefs perhaps tired from the long day, got

up and headed promptly towards their buses. A live smoot performance in front of the 438 commune chiefs did not take place.

DC-Cam also erred in not informing the commune chiefs in written form about the smoot performance, they were told about the ceremony only verbally when they arrived. DC-Cam sincerely apologized to CLA and Smoot Master Prom Uth and his student Srey Peou at the ceremony and later in writing. This apology however, cannot compensate for the missed performance, the long journey made by the Master Prom Uth and Srey Peou from Kampong Speu nor the anticipation for the singing that both sides had built up. Even though this was the first time DC-Cam co-organized a smoot performance, there are no excuses for the Center's negligence. Attention must be paid to every detail in future tours and events no matter if it is the first time or tenth time they are conducted.

All was not in vain however. After the commune chiefs left Cheung Ek, a smoot ceremony still took place. The privileged audience included CLA leaders and members and DC-Cam tour's coordinator, staff, and film team. The listeners sat on the steps of the memorial with hands together in prayer form. The sun began to set, brining in shades of yellow and orange into the pale blue sky. The cool breeze of that morning still lingered creating a somber and peaceful mood. *A cappella*, Master Prom began to sing smoot in an utterly clear voice which embodied great sadness. Then Srey Peou sang. Her presence was both gentle and powerful, her signing unforgettable. Her voice manifested maturity and dignity far beyond her young age of sixteen. Though sung in Khmer, at that moment translation was unnecessary; the music unmistakably conveyed emotions of grief and sorrow. The spirits of those who died at Cheung Ek indeed smiled that day as they heard the beautiful performance.

Day two of the tour proved a challenge for the ECCC side. DC-Cam had informed the Public Affairs Office a month in advance about the tour and followed up several times by email and also by phone to one of the Public Affairs officers. In past tours, ECCC Press Officer Reach Sambath has been present at the courtroom to welcome tour participants, educated them on tribunal related matters, answer questions, and most importantly make them feel that their voice in the tribunal process is valued by the ECCC. DC-Cam has praised Mr. Sambath on several occasions for both his personable demeanor and ability to explain complex tribunal issues in layman's terms. In addition, being Cambodian certainly gives him an advantage in communicating with the commune chiefs. He was however, strangely absent on this tour.

DC-Cam found out the news Tuesday morning approximately 45 minutes before the scheduled meeting at the courtroom. The night before, DC-Cam's tour coordinator spoke to Mr. Sambath about distributing ECCC posters and booklets and at that time, there was no mention of any problems. Tuesday morning however, Mr. Sambath called to say that he was unable to attend due to urgent family matters. When asked about the posters and booklets, he told DC-Cam to call Peter Foster instead, also an ECCC Public Affairs Officer, to prepare the materials. When Mr. Foster was called, he kindly said that he would gather the posters and booklets but was not sure who would join Chief of Public Affairs Helen Jarvis's presentation with the commune chiefs. He said that he was working on getting another person to attend and will attend himself halfway through the meeting.

In every tour there have been at least two ECCC officials and considering the important participants of this tour, two was expected. And one of two had to be Mr. Reach Sambath. Being Cambodian, Mr. Reach's fluent Khmer avoids the problems associated with translation such as misinterpretations and summarized translations. Also as a Cambodian, he knows the

context from which he speaks very well since he too has experienced Cambodia's political and social changes since the 1980s. Most significantly, Mr. Reach is a survivor of the Cambodian genocide. When he speaks, the Cambodian audience knows that he speaks from personal experience. In giving his presentation and answering questions, Mr. Reach has mentioned the pain he suffered during the genocide and the loss of his father. The people in the audience relate to his story and thus there is an added credibility and sincerity to his words.

The entire meeting on Tuesday at the courtroom was with Ms. Jarvis and an ECCC translator. A second ECCC official never showed up to even briefly introduce their position and welcome the commune chiefs (as had been several times in past tours). And Mr. Foster also did not join the session later on. Understandably Ms. Jarvis explained (in English and translated by the ECCC translator) that the Internal Rules Committee meeting was simultaneously occurring and everyone in general at the ECCC was extremely busy. While perhaps in theory it is not necessary to have at least two ECCC officials present among a group of over 400 commune chiefs, in principal it matters a great deal. This is a tribunal for the Cambodian people and when you have several hundred commune chiefs from 22 provinces and cities (out of 24 total) at your doorstep, greater flexibility in scheduling should have been afforded. Particularly regrettable was Mr. Sambath's absence which DC-Cam later on learned was due to an "emergency wedding."

Another curious situation arose at the courtroom as well. Standing just outside the courtroom, a member of the security crew informed a DC-Cam staff that he wished he had known about the Commune Chief tour sooner so that his team had more time to prepare. He said that he learned about the 400+ commune chiefs coming to the courtroom that very morning and said that next time we should notify him in advance. The DC-Cam staff member responded that the ECCC Public Affairs Office was told weeks prior about the tour. Whether information about the tour was given to him by the ECCC or not, his comment came as a surprise to the DC-Cam staff who had never heard such a remark before on other tours.

Most international newspaper headlines paint an unimpressive picture of the tribunal's progress. Disagreements between the Cambodian side and UN side certainly did not end with the creation of the tribunal, and perhaps we should not have expected them to. From the onset local rumors pointed out corruption from the Cambodian side. Local rumors also revealed a lack of clear roles for some ECCC staff who at times, sit and wonder what their next task is. Many ordinary Cambodians were apprehensive in praising a tribunal which in their minds simply took too long to establish. For many, the wait has been over 25 years if you count from January 1979 when the Khmer Rouge regime was driven out of power and into the western woods bordering Thailand. Budget concerns rise and fall, but always remain. Earlier tensions also included the Bar Association of the Kingdom of Cambodia and the ECCC Defense Unit. Present tensions involve coming to a consensus on internal operating procedures.

There are legitimate arguments from both side and no one side is completely in the right. Yes, it is evident that establishing legal operating procedures of international standards for all parties in a country marked with impunity is a critical process that cannot be rushed. The process of obtaining justice must not be compromised. And yes, when operating in another country, one (or one organization) must be mindful of existing laws and considerate of that country's customs. Both sides of the hybrid tribunal (which is based on Cambodian law and incorporates international law where Cambodian law does not address) are responsible for the

progress of the tribunal. Mutual respect and cooperation should be at the basis of all relationships at every level of the ECCC. Knowing in advance the track record of Cambodia's judiciary and the complex nature of the tribunal itself, bumps along the way are to be expected. Perseverance is a necessity for both sides. Furthermore, an exit from either side is not a viable option. While Article 28 of the *Agreement*² does allow for a UN pullout under certain conditions of malfeasance by the Cambodian side,³ such a decision would be critically questioned by the international community and the UN General Assembly. A pullout from any one side is not the solution and would only lead to bruised reputations for both sides.

More significant than bruised reputations however, is the fate of seeking justice for the millions of Cambodians who survived those tragic three years, eight months, and twenty days and the millions who did not. Indeed the ECCC cannot accomplish everything. Its purpose is to try "senior leaders" of the Khmer Rouge regime and those "most responsible." This leaves out thousands of CPK cadres who oversaw the killing fields and those who directly carried out the killings. The closing of a successful tribunal



At the ECCC courtroom, a commune chief poses a question during the Q&A session on Tuesday morning.

would still leave much work for NGOs and others to do. Nevertheless, a successful tribunal⁴ for the people of Cambodia is critical. The legal justice that the tribunal provides while important, may take a back seat to the symbolic justice it delivers. Punishment for crime is the message that many Cambodians want the tribunal to deliver. This symbolic justice would also inform Cambodians that the international community does care about the tremendous pain and suffering that took place under Democratic Kampuchea. In past ECCC tours⁵ many villagers asked if the international community knew about the genocide while it was occurring and if so, while nothing was done. In a related question, they asked why the Khmer Rouge regime was given the seat representing Cambodia at the UN General Assembly. Thus, the commitment of delivering legal justice by the ECCC must be carried out all the way through.

² The document's full name is the, *Agreement between the United Nations and the Royal Government of Cambodia Concerning the Prosecution Under Cambodian Law of the Crimes Committed During the Period of Democratic Kampuchea.*

³ The exact wording of the Article 28 is, "Should the Royal Government of Cambodia change the structure or organization of the Extraordinary Chambers or otherwise cause them to function in a manner that does not conform with the terms of the present Agreement, the United Nations reserves the rights to cease to provide assistance, financial or otherwise, pursuant to the present Agreement."

⁴ A "successful tribunal" for the author means a tribunal that is transparent, of international standards, operates according to its rules, and issues out convictions and punishments. A "successful tribunal" for the average Cambodian can mean many things and would partly depend on the framing of its results by the media, NGOs, and the Cambodian government. Interviews with villagers from all parts of the country by DC-Cam over the past few months reveal that among those who support the tribunal, they hope that it will convict and punish Khmer Rouge leaders.

⁵ Please see the reports written on past ECCC tours in 2006 on DC-Cam's website, www.dccam.org.

At the end of the day, differences and dislikes must be set aside. The bumpy start and perhaps even bumpier middle can conclude into something meaningful. This applies to the ECCC Commune Chief tour just as much as it applies to the mixed Khmer Rouge tribunal. The Commune Chief Tour in the end accomplished its goal of bringing Cambodians from across the country to learn about DK history and about the tribunal. Villagers arrange their own transportation to DC-Cam on Sunday. DC-Cam provides in-city transportation by bus, food, and accommodations. At the start, there were complaints from several commune chiefs about food and lodging. Similar complaints were made on the other two ECCC Commune Chief tours in summer 2006. No such complaints were ever made on any other tours in which ordinary villagers attended however. One commune chief decided to drive his Land Cruiser from his province to Phnom Penh and also to each activity within the city, opting not to ride in the buses that other commune chiefs rode on. He made several requests that the cost of his gasoline be covered. In stark contrast, one commune chief from Ratanak Kiri came without shoes, perhaps not accustomed to wearing them at home and not expecting he would need them in the city. The tour coordinator, Mr. Ly Sok Kheang, quickly bought him a pair when he discovered this. Other challenges of this tour such as the missed smoot performance and the confusions at the ECCC courtroom, at the end of the day did not significantly take away from purpose of the tour.

One commune chief from Pailin discussed the importance of the tour with DC-Cam's Living Documents project leader, Mr. Ly Sok Kheang. Pailin became the base of the Khmer Rouge regime when they were defeated by the Vietnamese in 1979. From there, they waged war for over a decade until the mid 1990s. Presently, it is the home of many former Khmer Rouge cadres. In his conversation with Mr. Ly, the commune chief said that even though he had to spend some of his own money to travel to Phnom Penh, he was happy to do it. He felt that DC-Cam's tour offered him a lot. His is not alone in his reaction. After tours are conducted, many villagers send the Center a list of names of people who are interested in participating in the ECCC tours. In addition to the t-shirts and magazines they receive from us, the knowledge they obtain from these tours on DK history and the tribunal is priceless.

At the end of the day, many commune chiefs thanked DC-Cam for the opportunity to come on the tour. They watched and learned from the movie, "S-21: the Khmer Rouge Killing Machine" at the Faculty of Social Sciences and Humanities. They toured the Toul Sleng Genocide Museum and the Cheung Ek Killing Field Memorial; a first time for many. They sat in the seats of the ECCC courtroom and asked questions to an ECCC official, Chief of Public Affairs Ms. Jarvis. DC-Cam magazines and t-shirts were handed out to each commune chief. At the end of the day, DC-Cam staff handed out 1,000 ECCC posters and 500 booklets to the eager commune chiefs at the courtroom, admittedly somewhat disorderly. Nevertheless, the enthusiasm of the commune chiefs at receiving the posters and booklets should not be undervalued. At the very end of the day, all three sides smiled and waved goodbye to one another knowing that the main goal had been accomplished.

Distribution of Commune Chiefs by Province

	Province	No. of Participants
1	Battambang	20
2	Banteay Meanchey	18
3	Kampot	24
4	Kandal	48
5	Kampong Cham	44
6	Kampong Chhang	19
7	Kampong Speu	25
8	Kampong Thom	21
9	Kep	7
10	Koh Kong	11
11	Kratie	14
12	Udor Meanchey	8
13	Mondul Kiri	9
14	Pailin	6
15	Preah Vihear	13
16	Prey Veng	35
17	Pursat	16
18	Ratanak Kiri	14
19	Siem Reap	26
20	Sihanoukville	9
21	Svay Rieng	24
22	Takeo	27
	Male	414
	Female	24
	Total	438