

# មជ្ឈមណ្ឌលឯកសារកម្ពុជា

## Understanding the ECCC Legal Process

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After almost 30 years, the process of seeking justice for Cambodia's genocide victims is finally taking place right in the bustling capitol, Phnom Penh, at the courtroom of the Extraordinary Chambers in the Courts of Cambodia (ECCC). On April 17, 1975 Khmer Rouge soldiers marched victoriously into Phnom Penh and immediately began a forced evacuation of the city's population. Colossal human rights abuses took place shortly thereafter and lasted until January 7, 1979 when Vietnamese soldiers and the National Front for the Salvation of Kampuchea battled their way into the capitol city. The ECCC, made of international and Cambodian officials and staff, seeks to bring to justice Khmer Rouge leaders responsible for the brutal crimes that were committed from 1975-1979. Victim participation in the tribunal would be much more beneficial if they have an understanding of laws and procedures that govern the ECCC. The Legal Information Session aims to educate people about these laws and procedures in which the ECCC is operating under. Providing Cambodians with a basic understanding of the major steps of the ECCC and the Khmer Rouge tribunal law is critical for several reasons. First, this knowledge will help them (and those they spread the information to) to better follow the trial proceedings once they begin in late 2007. Second, becoming familiar with Cambodian law and international standards may help to increase respect for the law in Cambodia. And third, this knowledge may help to alleviate some of the frustration and uncertainty that some feel towards the tribunal. Ultimately, it is important for Cambodians to understand what their justice is based upon and how it will be decided.

The participants of the April's Legal Information Session are 50 village chiefs and villagers from Svay Rieng and Prey Veng province. On the first day, they traveled to the Toul Sleng Genocide Museum and the Choeung Ek Genocide Memorial Center (also commonly known as the Choeung Ek Killings Fields). The entire morning of the second day, from 8:00am-12:00pm was dedicated to a documentary film and three honored guest speakers.

While justice for genocide victims may be in the near future, remembrance of a horrific past is always present. Although most of the participants of the Legal Information Session have been to the Toul Sleng Genocide Museum before, they are nonetheless still drawn to it. The visual evidences displayed at the museum remind them of their personal suffering. They reveal an unimaginable nightmare that was the true experience of millions in Cambodia. Physical abuse, starvation, lack of basic freedoms, and fear were the norms under Democratic Kampuchea (DK). Mr. Nheang Sambok has been to the Genocide Museum twice before coming for a third time on the Legal Information Session. He told DC-cam that every time he comes, the events from DK are still fresh in his mind as if they happened yesterday.

Mr. Nheang's first time to the museum was in 1980, when blood stains inside the complex had not been washed away yet. He was approximately 17 years old at the time. His school teacher brought him and about 50 other orphaned students to the museum. He recalls that all his schoolmates were emotional, some wept, and a few screamed. Like Mr. Nheang, they were old enough to remember what happened from 1975-1979. In the mobile unit, Mr. Nheang worked from 2:00am until 11:30am. After a lunch consisting of one ladle of rice gruel, he went back to work until 5:00pm. Dinner at 5:00pm was quickly followed by

meetings and sometimes more physical labor until 10:00pm. Some were placed on guard duty and not allowed to sleep at night.

Both his father and sister had ties to the former Lon Nol government. His father was a soldier for the Lon Nol army and his sister was married to a Lon Nol soldier. One day, his sister was told by the Khmer Rouge that she was being relocated. His father was summoned to work in a salt extraction work station. In reality, both were taken to be killed. Mr. Nheang was so fearful at that time that he was even afraid to grieve for his father and sister at night. He and his mother did not dare to talk about the disappearance of his father and sister because there were Khmer Rouge spies who constantly watched them. "I felt like a chicken in a cage, waiting for my time to be killed" said Mr. Nheang in an interview with DC-Cam's film team.



*Nheang Sambok, a genocide survivor, looks at the barbed wire inside the Toul Sleng Genocide Museum. The museum was once the highest level prison of Democratic Kampuchea.*

One of his most vivid memories is of dead bodies piled inside a mass grave. It was not the decomposing bodies that disturbed him most, but rather the leftover bones from filleted corpses. Before a person was taken to be killed at a mass grave, the flesh from the existing rotting corpse pile was taken off to be used as fertilizer. This both maximized grave space and provided fertilizer for crops.

To this very day, he still cannot understand why such heinous acts were committed. He is not alone. The entire nation and the international community are waiting and hoping that the tribunal will shed some light into what caused such

devastation to so many lives. Mr. Nheang told DC-Cam that there has not been justice for those who died for so long and hopes that the tribunal will finally offer some form of justice for them. He is happy that there is a tribunal but has some concerns about its development and wants to know when the trial date is.

On the second day of the program, participants had the chance to learn more about the ECCC process as well as addressing their concerns about the tribunal to the guest speakers. Before presentations were made, the participants watched a documentary film titled, "Behind the Walls of S-21: Oral Histories from Toul Sleng Prison." The film provides three first-person narrations from two former prisoners and one former guard from the S-21 prison detailing how they arrived at the prison, the torture they endured, their work, and how they survived. There was a grave silence during the film screening. When the film ended, participants began to comment on the film with Legal Information Session program leader Mr. Sok-Ly Kheang.

Following the film were three presentations from a parliamentarian, an ECCC official, and DC-Cam's Deputy Director. H.E. Maonh Saphan talked about the Khmer Rouge Law, which he had a part in formulating and ratifying. He also encouraged the village chiefs and villagers to participate in the ECCC process by keeping themselves informed, being

witnesses, and other methods of participation. He told them that unlike the Khmer Rouge period, they have nothing to fear. H.E. Saphan also discussed current issues such as the Cambodian Bar's Association disagreement with the tribunal fees. A wide array of questions were asked of him; they are: the effects and benefits of the ECCC upon Cambodian society, the founders of the Khmer Rouge regime, Democratic Kampuchea relations with other nations, the education that some KR leaders received in France, the role of the international community during the genocide, the problems of delays and aging defendants, sentencing, and witness protection and safety. Near the end of the first presentation, one villager stood up and said that he knew of a man in his village whose throat was slit but survived and asked whether he could be a witness in the court trial.



*H.E. Maonh Saphan presenting at the April Legal Information Session in the Public Information Room of DC-Cam.*

Ms. Pamela Reusch of the Co-Prosecutor's Office presented in the 10<sup>th</sup> hour of the session on the three main units of the tribunal: the co-prosecutors, the co-investigating judges, and the defense unit. Mr. Sok-Kheang Ly provided the translation from English to Khmer. As she talked about each unit, she described the basic steps that the criminal cases of the ECCC would follow. She also touched upon the Internal Rules. The questions asked of her were also diverse. One question in particular, perhaps took Ms. Reusch by surprise. In her self-introduction Ms. Reusch expressed her joy and honor to be working for the tribunal; one man asked her very frankly, "Why are you happy to be a part of *this* tribunal?" In a very sincere tone, Ms. Reusch responded, "It's an honor for me to be chosen to come and work in Cambodia. The whole trial is important for Cambodians. But also for the consciousness of the international community." Then she went on to discuss the history of her home country, Germany, and its role in the genocide which occurred during WWII. Ms. Reusch stressed that it is imperative that we are aware of our own history and research why how genocide and other grave human rights abuses took place so that we can prevent such tragedies from occurring again. The gentleman seemed pleased with this response and said, "I have read some articles about Hitler and have asked about your background; I believe in you and I believe in the tribunal."

The final presenter that morning was Dara P. Vanthan who outlined the rights of victims and defendants. In explaining the why defendants have rights, such as the right to lawyer, Mr. Vanthan emphasized the importance of having international standards in the ECCC. Other issues covered in his talk include how to file a complaint, the different classifications of victims, and the principle of "innocent until proven guilty."

At the end of the session, copies of Dy Khamboly's textbook, *A History of Democratic Kampuchea*, and DC-Cam's monthly magazine, *Searching for the Truth*, were handed out to participants.