

Documentation Center of Cambodia (DC-Cam)

Witnessing Justice 30 Years Later: Building Democracy in Cambodia through Legal Education

Court Adjournments Become Fatiguing

Report by Ly Sok-Kheang
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The old cliché "fatigue of the body is better than that of the spirit" could be applied in the case of the ongoing trial at the Extraordinary Chambers in the Courts of Cambodia (ECCC). Twenty villagers held their breath for a moment when the court was adjourned after Nuon Chea, one of the accused in Case 002, was hospitalized on January 13, 2013.



Nuon Chea, former President of Democratic Kampuchea (DK) People's Representative National Assembly, inside the courtroom

Most of them expected that the physical fatigue they felt from traveling to the Court would be worth it when they saw the faces of the accused inside the courtroom. However, they all had to return home without even stepping into the courtroom. It is expected that this kind of disappointment will become even more

frequent in the future for people coming from far and near given the deteriorating health of the former KR leaders. After having waited for years, people fear that possible frequent court adjournments may hamper their access to truth and justice from the ECCC.

Since the fall of the Khmer Rouge regime in 1979 many have had their resolve and patience tested. However, they experienced a moment of deep relief when the ECCC was established and the arrests of former KR leaders began. As the work of the ECCC progressed, they sensed the smell of justice and the touch of truth because those responsible for the murderous regime (1975-1979) were being prosecuted. Five surviving KR leaders are being tried. It was extremely satisfying to the people to

witness the completion of Case 001 and the verdict declared. Kaing Guek Eav alias Duch, former Tuol Sleng prison chief, will be imprisoned for life.



Khieu Samphan, former DK Head of State, inside the courtroom

Despite this success, the Cambodian people are beginning to express concern. Many people's attention seems to be waning because the process is taking such a long time. It's understandable that the court needs appropriate time to ensure due process and fairness to the accused. Even so, some people are becoming pessimistic and say that they never expect a court decision on the Case 002. They fear that the court will prolong the process until the ageing KR leaders die a natural death. If such a view turns out to be right, the fatigue of their bodies will turn into the fatigue of their spirits because truth and justice will have slipped away forever. Speedier sentencing will be required to maintain people's faith in truth and justice.

People began to worry when the deteriorating health of the KR leaders became an impediment to the long-awaited justice. Scenarios of the last few days became warning signs. Former ideologue Nuon Chea, the accused in Case 002, fell down and was hospitalized on January 13, 2013 for his "severe weakness and fatigue." A few days later, his "acute bronchitis" was diagnosed requiring further observation. On January 16, 2013, Khieu Samphan, former Head of State, was hospitalized for observation. Ieng Sary, former Deputy Prime Minister in charge of Foreign Affairs, has frequently been transported to the hospital. Ieng Sary slept during the trial ostensibly following the court from his cell. His deteriorating health prevented him from actively participating in the court proceeding. In addition, there was the conditional release of Ieng Thirith, former Minister of Social Action. On December 17, 2012, the Supreme Court of ECCC confirmed the provisional release of Ieng Thirith. She will be put under annual monitoring.

These occurrences have greatly discouraged the twenty villagers from Kratie and Mondul Kiri provinces as well as the citizens of Cambodia. From the twenty villagers, made up of local leaders, ethnic Kraol, and Cham people, eight were selected for interviews. Here is what they said:

Mr. Yu Doeun, commune chief of Koh Nhek district, Mondul Kiri province, said: "I so regretted not being able to take part in the trial of Khmer Rouge leaders. I want to know how the court has proceeded with case 002 and how credible it is but I have not had a chance to attend the trial. Nuon Chea's hospitalization caused a disruption of the process, but I have no idea what to say about it because those KR leaders are old. What concerns me most is their possible death."

Ms. Ysa Raset, a Cham woman from Chhlong District, Kratie province, said: "I had no problem at all in travelling from my village to Phnom Penh because I hoped that I would see the court proceedings against the former KR leaders. I feel dismayed and tired of being told about the court's adjournment especially because I already went to the trouble to go to Phnom Penh. I agree with the court's decision to adjourn and treat the accused first. My biggest concern is prolonging the process given that the former KR leaders are old and weak. I am afraid that their illnesses will keep the court adjourned for a prolonged period of time."

Mr. Chheup Sam-An, a Bunong from Koh Nhek district, Mondul Kiri province, said: "I was so regretful when the court adjourned. I had no chance to observe the court proceeding and to discuss other issues surrounding the former KR leaders. My strong desire was to attend the actual hearing. Now my wish is for a speedier recovery of those KR leaders. I have no intention of taking revenge against them, but only desire justice. In the meantime, my biggest concern is not about the current trial but about creating a memory that will warn current and future governments not to follow the despicable acts of the KR regime."



Leng Sary, former DK Deputy Prime Minister in charge of Foreign Affairs, inside the courtroom

Ms. But Uok, Koh Nhek district, Mondul Kiri province, said: "The absence of the court hearing during my visit on January 14, 2013 is a disappointment. I want to see the former KR leaders. How did they feel and what were their reactions when the people were put in harsh living conditions and killed en masse? What I fear is that their illness might make them forget what they did during the rule (1975-1979). I am concerned about the possibility of not being able to assign responsibility for people's suffering. It will be a great sorrow if the court fails to try these KR leaders."

Ms. Sleh Kriyah, a Cham man and a village chief from Chhlong District, Kratie province, said: "I lost hope when I could not see the faces of those KR leaders. Before I went to Phnom Penh, I told my neighbors that I would attend the trial of KR leaders. When I returned the day after I was supposed to see them, I said the court adjourned the proceeding because Nuon Chea fell down and was hospitalized. It's expected to hear things like this because they are old."

Nuon Chea and other KR leaders would never choose to get ill. If he passes away, it would be alright with me. But the community deserves some kind of reparation. The court should have tried them a long time ago. What happens if their illness is prolonged? It really depends upon their destiny."

Ms. Sa Itei, a Cham woman from Chhlong District, Kratie province, said: "I felt disappointed when I could not attend the hearing because I was expecting to gain new information from my participation in the court. Also, I wanted to visit Tuol Sleng prison and Boeung Cheung Ek killing fields where Cambodian people were tortured and executed under the Khmer Rouge. It is alright to delay the hearing because we should not bring sick people to the court although they are former senior Khmer Rouge leaders. What we need is justice. Finally, I want the courts to get their processes to move quicker because the Khmer Rouge Tribunal seems to be spending too much time. Those Khmer Rouge leaders get older each day."



Leng Thirith, former Minister of Social Action, inside the courtroom

Mr. Kae Toulaos, a Cham man from Chhlong District, Kratie province, said: "I felt regretful when I could not attend the hearing. It was my hope to gain knowledge about this. Regarding the Khmer Rouge leaders' health, I have no comment because it is unpredictable. However, I do hope that the trials will move to sentence the Khmer Rouge leaders."

Mr. Tho Sea, Koh Nhek district, Mondul Kiri province, said: "I felt regretful when I heard the hearing was cancelled because I expected that I would gain updated information from the participation. About the Khmer Rouge leaders' health, I do not have anything to say but I really believe that the trial of those former senior Khmer Rouge leaders will continue. Also, I hope that the Khmer Rouge Tribunal will be an example to the younger generation to prevent another Khmer Rouge type regime and more genocide."

The people may feel both physical and spiritual fatigue, but so do judges, legal experts, and others at ECCC. That prompts the reconsidering of pragmatic approaches that will hasten the conclusion of Case 002 and the accused receiving some kind of punishment. If not, people might come to view the proceedings as a waste of time and money believing that finding justice in these cases is impossible. It will give a bad impression of the tribunal if any of these former KR leaders pass away

before justice can be found. That would be a real fatigue of both the physical body and the spirit.

APPENDIX:

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... A RECONCILIATION TRIP, IF POSSIBLE...

List of People Invited for the ECCC Hearing on January 14-17, 2013

Compiled by Mam Sovann, Min Sanas, Un Sodavy, Chea Chankosal, Hing Tethmony, Vong Sivneath and Kan Penhsamnang

No	Name	Sex	Story
1	Yu Doeun	M	<p>Doeun is 60 years old, living in Serei Mongkol village, Dong Korm sub-district, Kors Chhek district, Mondul Kiri province. Doeun had 7 siblings and was originally from Kors Soten district, Kompong Cham Province. In 1963, when King Shihanouk gave an appeal asking people to do farming in Mondul Kiri, Doeun and his family moved to live in Koh Chhek district, Mondul Kiri province. Doen was a 7th grader at that time. Due to the war, he had to quit school and ran into the forest with his family and other villagers to escape from the Lon Nol bombardment.</p> <p>During 1975 to 1976, which was the time of Democratic Kampuchea or Pol Pot regime, society was divided into different classes such as farmer class, feudal class, worker class and the class of January 07. From 1976 to 1977, there were no social classes anymore; people who didn't work hard were considered as enemies. Every day at 4 am, the bell rang. This was the sign to wake people up to do their work. From 4 to 6 am all the people had to polish rice, and from 6 to 11 am, we were assigned to do other work such as digging the canal or building a dam. That was the hardest work ever. Sometimes, after lunch we started working at 12 or 1 pm until 5pm and worked until 10pm. He said that during that regime people lived in hard conditions and starved with only gruel to eat.</p> <p>In 1977, Doeun married his wife. The marriage was arranged by Angkar together with 17 other couples, but it was not attended by their parents, and they had no rights to choose their partners. After getting married, Angkar allowed the new couples to stay with each other for only a</p>

night, and they would observe us. If Angkar knew that we didn't stay with our partner, they punished or killed us. In that regime, no one could live with their own family even the new couples. If we went to meet our family without their permission, they would kill us like one of Doeun's friends who got killed after Angkar found out that he went to meet his wife without their permission. At the end of 1977, Doeun's wife gave birth to his son, and a month later she was assigned to transplant rice with other villagers. His wife was accused of stealing food for the Vietnamese army at Ou Nom in Mondul Kiri province.

In 1978, Doeun and his wife were permitted to visit his mother-in-law for a day. Going in and out from one place to another place was very strict at that time. We needed to ask for permission by letter to move around. When Doeun and his wife went to visit his mother-in-law, they did work with other villagers in that unit in order to get food. His mother-in-law was a former wife of one of Lon Nol soldiers. That was why she got very little gruel.

In 1979, when the Vietnamese military and the United Front for the National Salvation of Kampuchea army liberated the area, the Khmer Rouge army mobilized people to go with them. Fortunately, there were Vietnamese soldiers disguised as villagers. They told people that we had to go back to escape from starvation. That was the first time that people dared to act against the Khmer Rouges. The KR decided to release people because they thought it would be difficult for them if they brought those villagers along.

If we compared the 3 years 8 months and 20 days of that regime to nowadays, they are completely different because in the KR regime there weren't national ceremonies. There was only the Khmer New Year. The Khmer New Year was celebrated every year starting from April 18 to 20. However, in some years we celebrated only two days. It entirely depended on Angkar's decision. Moreover, in some areas they did not even get to celebrate New Year. Even when we did celebrate the New Year people still worked as normal and got the same food. They just allowed us to play traditional Khmer games. Lives were full of fear and the loss of relatives. Doeun stated that two of his relatives were killed in the KR regime. We were very afraid at night time and wished the sun to rise early. The KR

always called people to kill at night time. Everybody was waiting for the morning sunshine, so they could go to work and avoid being killed. In the present, people have equal rights to live; we have peace and no war. Uncle Doeun used to hear about proceeding of the KR supreme leaders through ECCC advertisements but those advertisements are not clear enough to understand. He was very happy when DC-Cam gave him a chance to attend this hearing. However, he felt regret that the court was canceled. Doeun hopes that he will have a chance to attend this hearing again.

2 But Uot F Uot was a native of O-Reang Ov district, Kampong Cham province. She came to live in Koh Nhek district, Mondul Kiri province, when the King Father Norodom Sihanouk allowed the people to clear land for agriculture and to build new villages. During the KR regime, she was included in a cooperative under Pin. She was assigned to be a cook. In 1979, KR's Angkar evacuated the people to O-Rorya commune, Mondul Kiri province, because the people were afraid of being killed by the Vietnamese. However, three days later, she returned to her native village and started her normal life. Uot was so happy to be invited by DC-Cam to attend the court hearing in Phnom Penh.

3 Tho Sea M Tho Sea, 63 year-old, was born at Peam Tapluos sub-district, Koh Torten district, Kampong Cham province. Currently, he is living at Kbal Koh village, Sre Sangkom sub-district, Koh Nhek district, Mondulkiri province. His father's name is Tho, his mother's name is Yon, and he has 9 siblings, 2 of whom are dead. In his early life before 1970, he was a monk and studied Bali in Kampong Cham province. The living was hard, and the government did not provide enough support to the villagers. Later in 1970, there was an appeal by King Sihanouk asking people to move to a deserted fertile area in Mondulkiri, so people could till the land and do farming there. Hence, he decided to move to Mondulkiri in 1970. Upon his arrival at the area, it was very calm and quite. He hardly saw anyone there. He could take as much land as he wished. There, he did the farming and lived a quiet, peaceful life. Though there was a coup in the same year, the area did not receive much threat. Once in a while, he could see an American aircraft come to bombard the area randomly, but it did not cause much damage to the local people. Besides, he only saw

some American soldiers once in a while who would come to investigate those who were Vietnamese and killed them. However, they did not kill the villagers randomly.

Everything changed in a blink of an eye. When the Khmer Rouge broke into Phnom Penh in 1975, they also took control over Mondul Kiri. Life began to get tougher and tougher. All the belongings and properties were put as collective properties. Though the villagers were allowed to live in that area without evacuation, they needed to bear every single hardship just to survive. People were asked to do heavy work such as building a dam, dyke, or house, doing the logging and farming, and so on. Building the dike was the hardest work to the villagers because people were asked to build a long dike in group. An unexpected collapsed of the dyke would result in much more extra work. Normally, people were asked to work from dawn to dusk. Fortunately, the chief of the zone, Hong Han, was kind enough to allow the villagers to rest 15 minutes every 1 hour, and 3 times per month on 10th, 20th, and 30th. When villagers were allowed to rest, they could go back to meet up with their family. Angkar rationed 1 bowl of rice to people each day. However, those who were sent to work far from the base would be given uncooked rice instead. The food was insufficient, but it was just enough to help the villagers to survive. The killing in his area was not as harsh as other regions. Angkar would kill only those who opposed them, especially the former soldiers. If ones could not perform their duties well, they would get killed. Besides, those who were weak, and could not bear the hardship of the heavy work would be accused as CIA and sentenced to death as well. In 1976, Sea was ordered to get married to his wife, Bot Phuok. The women were asked whether or not they accepted the marriage, but even they did not approve, they still had to marry.

Later on, Vietnamese broke still into the area to liberate the villagers. They chased the Khmer Rouges away, but the hardship remained because many people were evacuated along with the Khmer Rouge. Upon liberation on January 07, 1979 when the National Government gained control over Phnom Penh, the Khmer Rouge decided to allow the villagers to return. Still, there were relentless explosions occurring spontaneously. In 1986, the Khmer Rouge decided to integrate with the National Government, so the

situation was almost completely calm. Later when there was an election and the government was organized with peace and order, the harsh situation completely ceased. People could live a peaceful life. Nowadays, the area is somewhat developed. There is a lot of infrastructure such as roads, schools, and hospitals. Sadly, even though there is a court that could bring justice to those supreme leaders of the Khmer Rouge, little does Sea know about the proceeding because he lives too far. Nonetheless, he still feels encouraged because there is such a court which could at least bring about justice and provide compensation to the people who witnessed the 3 years 8 months 20 days of Khmer Rouge regime.

- 4 In Hoeun F Hoeun, 53 years old, is currently living in Sre Sangkum sub district, Koh Nhek district, Mondul Kiri province. She was originally from Tuol Samor village, Korng Chey district, Ou Reang Ov district, Kampong Cham province. Her father's name was In and her mother's name was Hang, both of them died of old age while they lived in Mondul Kiri province. She has three siblings, all of whom are female. When she was young, she stopped her studying in grade two due to her living conditions and was unable to catch up with the lessons provided in school. Soon after the collapse of Khmer Rouge Regime, In Hoeun, at the age of 20, married her husband whose name is Keo Tingnang, 56 years old. They have 6 children. Life, currently, is not really good; however, compared to the life in Khmer Rouge, it is totally better because she can live without fear, harmoniously with her family.
- During the coup of Lon Nol, her family did not move to another place because there was no serious damage to her homeland. They remained in her homeland even after the victory of Khmer Rouge Regime, the whole country was conquered by Pol Pot, and the darkest time of Cambodian history arose. This brought fear and dire hardships to her family as well as the whole society in Cambodia. At that time, In Hoeun and her family, base people, lived in the same place without being evacuated to another region. In addition to this, she said many people from Phnom Penh known as 75 people were evacuated to this area. During 1975, she was made to work in a village cooperative controlled by Dun Doan with hundreds of people on Sre Bang Vas "Khmer word" until 1977. The yields from

farming provided enough rice to eat for survival. She liked her cooperative chief because he was kind and she could have enough food rations to eat. In 1976, the way of eating was changed; she had to eat collectively in the cooperative with other people. Despite being required to live collectively, she still had enough food to eat. Though people ate together and worked together, loneliness was the only thing they could feel at that time, and they had to live on their own without any help from other people even family. Her life was getting worse and worse, when she was transferred to a mobile unit in 1977. She was made to carry soil from morning until night. One day she had to complete transporting two meter cubes of soil. If she could not meet this goal, she had to carry three meter cubes of soil the next day. People, who were lazy and did not obey what Angkar told them to do would be re-educated which meant killed. She saw people killed with her own eyes. For that reason she worked very hard without any complaint, and dared not to disobey Angkar's commands because she was petrified by the word re-educated. It was always in her mind. At that time, she got only rice soup to eat, and she was so thin but she still worked hard because she wanted to survive. Many people were killed, especially people from Phnom Penh and some Kampuchea Krom. Fortunately, her family including parents and her two sisters survived after these unforgettable events.

After the Khmer Rouge was defeated, she continued to live in that area about four years, and she married to her husband. Then, she moved to live as a normal farmer in Sre Sangkum sub district, Koh Nhek district, Mondul Kiri province.

Thirty years later, there is a court known as ECCC to find justice and compensate those victims killed without mercy by the Khmer Rouge. That's why she came here to see those Khmer Rouge leaders who killed people of their same nationality without sympathy. Unfortunately, due to the health problem of Nuon Chea, the trial was delayed, and she had no chance to attend the hearing in ECCC.

However, as one of the victims who suffered oppression in the Khmer Rouge Regime, she hopes that something like this will not happen again in our country and that our country will only experience development.

5 Bun Sinet F

Sinet lives in Sre Sangkum commune, Koh Nhek district,

- Mondul Kiri province. She was 2 years old during the KR period. What she remembers is that her mother brought her into a trench because of fierce gun fighting in 1979. Her aunty was shot dead during the clash. In the meantime, her village was mixed by ethnic groups such as *Kraol, Bunong, Kuoy, Laos, Tumpuon, Kring, etc.* They all had good relations.
- 6 Min Re F Re was a native of Srei Snom district, Siem Reap province. During the KR regime, she was evacuated to Koh Nhek district, Mondul Kiri province, where she is living now. Yun, chief of a mobile youth unit, assigned her to build a dam and dig a canal. In 1979 she fled to Ta Sot jungle in a time of gun fighting between KR forces and Vietnamese forces. After the KR regime, she decided to stay on there because there was land for agriculture and other work to support her family. She survived the regime only to find that five of her elder brothers died. This inspired her to come to the court to observe the hearing against the former KR leaders.
- 7 Chheup M Sam-An is *Bunong* ethnic in Koh Nhek District, Mondul Kiri province (no phone number).
- 8 Bim Chan F Chan is from Koh Nhek district, Mondul Kiri province. (no phone number).
- 9 Kam Cheup M Chheup is *Kraol* ethnic in Koh Nhek District, Mondul Kiri province (no phone number).
- 10 Toulus F Titouyah is a native of Prek Tahop village, Khsach Andet commune, Chhlong district, Kratie province. During the KR regime, she was evacuated and lived with the Khmer people. She was forced to have her hair cut and to practice a religion which made her eat pork. She ate it because she feared being killed.
- 11 Sleh Kriyah M Kriyah is a native of Prek Tahop village, Khsach Andet commune, Chhlong district, Kratie province. He worked in an art performance group for two years (1975-1977). During the KR regime, he was assigned to join an art performance group in which he sang and danced for two years. Then he was reassigned to a mobile work unit to carry earth. During six days, each person could have rice only once. Everyone consumed a watery gruel. When KR cadres realized that he was a Cham, they forced him to eat pork. He ate it because he feared being killed.
- 12 Ysa Raset M Raset is a native of Prek Tahop village, Khsach Andet commune, Chhlong district, Kratie province. The KR began occupying his village in 1972. It forced all women to have

their hair cut short and prohibited all religious practices such as praying. In 1975, Raset was evacuated to Chambak village of Prek Prasap district, Kratie province. He was incorporated into a fishing unit.

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| 13 | Him Toulus | M | Toulous is Cham from Chhlong district, Kratie province (no phone number). |
| 14 | Sah Maiyah | F | She is Cham from Chhlong district, Kratie province (no phone number). |
| 15 | Tolos
Maiyah | F | Maiyah is a native of Chhlong district, Kratie province. She was evacuated to Dambe district, Kampong Cham province. She was assigned to produce fishing materials, but her food ration was extremely insufficient. |
| 16 | Treh Aisah | F | She is Cham from Chhlong district, Kratie province (no phone number). |
| 17 | Ly Sok | F | Sok is a native of Chhlong district, Kratie province. She was the age of 16 during the KR regime and was evacuated to Prek Dambang province. Her morning assignment was to transport one cubic meter of earth. In the afternoon, she carried fertilizers made from human excrement. Her construction site was close to Phnom Stung Reussey where prisoners were locked up. She remembered that when she was working on a potato farm, she would throw potatoes to the prisoners. However, they would be tortured if they were found eating those potatoes. Sok also noticed that there were some prisoners who were Cham from Chheuteal Phluh village, Prek Saman commune. |
| 18 | Sa Y Tei | F | She is Cham from Chhlong district, Kratie province (no phone number). |
| 19 | Kao Asiyah | F | She is Cham from Chhlong district, Kratie province (no phone number). |
| 20 | Keo Tinang | M | Sre Sangkum commune chief of Koh Nhek district, Mondul Kiri province. |

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