

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

ECCC's Prosecution Team: KR Leaders Are Guilty

December 4-6, 2013

Introduction

A debate about the Khmer Rouge accountability process was conducted between the local people and the legal experts from the Office of Co-Prosecutors of the Extraordinary Chambers in the Courts of Cambodia (ECCC). Out of more than fifty participants, 25 of whom are females, in the Public Village Forum (PVF), dozens posed questions to the prosecution team. This event was intended to inform the public about the justice mechanism. The interactive discussion of its kind was made for the first time that would



More than fifty villagers, monks, students and ECCC's prosecution team engage in dialogue about the legal justice.

follow in the subsequent forums. This report would highlight the two legal experts' presentation on their roles and responsibilities in the trial proceeding against the two surviving KR leaders—Nuon Chea and Khieu Samphan. It would then select a number of outstanding questions out of the many that the villagers have sought clarification on and answers from ECCC's officials. Lastly, there would be a

solicitation of their feedbacks to the talk.

ECCC: A Model of Justice

Taking two hours away from their rice harvest season, more than fifty villagers, students and monks heard the presentation from two ECCC officials—Mr. Veng Huot and Mr. Vicent de Wilde, both were senior assistant prosecutors—and posed questions. Mr. Huot first attempted to brief the participants in the forum about the roles and responsibilities of the Office of Co-Prosecutors (OCP) and others relevant parties. Mr. Huot said the OCP's role was to come to villages and collect evidence to prosecute the accused persons. The evidence was submitted to the co-investigating judges for investigation and then to the judges to open the hearing. Mr. Huot continued to explain to the villagers about the lawyers who are involved in the judicial process. He pointed out two types of lawyers: civil party lawyers and defense lawyers. Mr. Huot further explained that the civil party

lawyers could represent the victims of the regime, while defense lawyers played a significant role in defending their clients. Their skillful and strong defense also needed a strong prosecution team to show evidence and prove the guilt of the accused persons. In the meantime, the OCP have submitted all evidence to the judges.

Mr. Vicent gave his presentation, focusing on the nature of charges against KR leaders in the subsequent cases. He started with the mentioning about the successful completion of the Case 001 against Duch, chairman of Tuol Sleng prison and Case 002 against Nuon Chea, Khieu Samphan, Ieng Thirith, and Ieng Sary. However, he said Ieng Sary died early this year, while Ieng Thirith was found mentally unfit to stand trial. Regarding the question of why it has taken so long, Mr. Vicent emphasized that the KR's crimes were so



Participants attend the public village forum inside Bet Meas Pagoda in Kbal Tik commune, Tik Phos district, Kampong Chhnang province on December 5, 2013.

enormous that culminated in many charges involving eleven security centers (detention, torture, and killings), slave labors (including Kampong Chhnang airport, the execution of Buddhist monks...), three forced evacuation, genocide against Cham people and Vietnamese, forced marriage,...). Mr. Vicent underlined that the court attempted to severe the case to speed up the trial.

Meanwhile, OCP focused on the chain of leadership between the higher and lower cadres. He also told the participants that in the process of the trial, 93 witnesses and experts were heard from, while over 4,000 civil parties participated in it. Now, we await the final judgment if Nuon Chea and Khieu Samphan would be found guilty or not. And, the position of OCP was that they indeed are guilty. In other words, Mr. Vicent continued to say that there was no clear date for further prosecution of Case 002/02 yet, while the Case 003 and 004 are under investigation. It is expected to complete next year.

Former KR veteran Keo Oeun, 51, of Kbal Tik commune had no objection to the effort to bring KR leaders to justice by merely uttering that it was not too bad of an idea. However, given that only few KR leaders are facing criminal charges, Mr. Oeun wished to see more individuals prosecuted. Walking to a microphone in the front row, Mr. Oeun was the first to ask the two representatives from the OCP on, "Why did [the ECCC] try only Nuon Chea and Khieu Samphan?" Both Mr. Huot and Mr. Vicent centered their answer on how KR leadership should be held accountable. Mr. Huot answered that, as leaders, they needed to be responsible for it. He raised the questions of whether Nuon Chea and Khieu Samphan were the leaders of the KR regime. If so, they would be tried for the crimes committed during the regime. In addition, Mr. Vicent added to Mr. Oeun's question that those who were designing the policies of the regime, sits on the top of the hierarchy. They had caused nearly 2 million deaths. They betrayed the people, forced the people to overwork and

separated them from families. Those KR leaders did not accept any opposition and instead got rid of their opponents. Thus, this kind of leaders needed to be tried. Nuon Chea was found to have acted with Pol Pot to implement such policy. Khieu Samphan did not act to prevent the crimes, although he was known to be a good person before the regime. Samphan knew that he helped formulate the policy. Mr. Oeun was among dozens who posed the below questions to the court officials.

- (1) Nuon Chea and Khieu Samphan committed the crimes. If they wished to kill everyone, who would replace our people? What would be the level of sentencing? What happened if Nuon Chea accepted or refused to recognize the crimes?
- (2) As an elderly person who received no education, I want to ask [in the following manner]: "Trees grow on soil. Without soil, could they grow? And so did the KR?"
- (3) There will be Case 003 and 004. I wondered how many more cases [would be under investigation]?
- (4) When were Nuon Chea, Khieu Samphan, Ieng Sary and Ieng Thirith arrested and detained at the ECCC?
- (5) Khieu Samphan was a Cambodian, why was he so angry with the people? Why did he need to starve and disrobe Buddhist monks? Why did the regime kill [so many] people?
- (6) Regarding reparation, would it be in the form of cash or materials?
- (7) When would the trial finish?
- (8) Who was going to win the cases?
- (9) If the people lost the case, where would justice be?
- (10) The KR leaders said Vietnamese killed the people [also], but I saw only Chinese present in Cambodia at the time?
- (11) Who were behind Nuon Chea and Khieu Samphan?



A participant poses questions

The two court officials took their turn to respond to the villagers' questions in a very simple and understandable manner. What Mr. Vicent emphasized was that justice was essential for reconciliation, although its goals were to assign guilt. He said: "...still, justice is necessary and must be done. Justice will bring some recognition to the victims. Especially the Cambodians in this and next generation will learn about this history and feel better."

After the forum, Mr. Houn Narith, 45, first deputy chief of Kbal Tik commune, Kampong Chhnang province, observed that many people were interested in the work of the tribunal. The Q&A session at the forum would help clarify their previous query about other KR-related issues. During the post-forum interviews, Mr. Narith said regarding the presence of the legal experts, it is good to have them talk to villagers and answer their questions. They all wished to see a quick judgment given the old age of those KR

leaders. When the standard of fairness could be implemented, the victims would be enthusiastic about it.

The forum served as a model of how local people could meet face to face to address any arising problems in their own locality. This would lay the foundation for strengthening the practice of democracy at the grassroots level. Mr. Narith found out that when the people spoke out, this would open the floor to transparency and accountability. What they knew was that all these court officials worked towards the due process of fairness and justice. Mr. Narith said the court could set a model and mirror to reflect the whole society. In the meantime, the implementation of our legal system is too weak. The law was against the powerless only, while the powerful could evade justice. The strong enforcement of the law would benefit all people.

Reactions to the Forum

The two-hour forum ended with some feedbacks, suggestions and recommendations from the villagers. Most participants expressed their enthusiasm to have met the court's officials and discussed with them in a constructive and friendly manner. However, there were some individuals who were not so supportive of the court.

Mr. Keo Oeun said the work of ECCC was not too bad. He regretted the death of nearly 2 million people, but it is not the fault of the two leaders—Nuon Chea and Khieu Samphan. Regarding the explanation of the court's officials, they did a great job but he agreed with them only 90 percent of the time. The forum was very simple and effective as the villagers could exchange their thoughts. It is good that the people have direct communications with the two court officials.

Mr. Uon Mao, 59, Kbal Tik commune council, said he understood about the trial after hearing the explanation from the court's officials. The answers provided by the court officials were in great details. The participants in the forum would be informed and fit the villagers' knowledge. Previously, they paid no attention to the justice mechanism. The gathering at this forum would help reaffirm the transparency of the trial. What he suggested was that the trial should make efforts to wrap up as soon as possible. Also, Mr. Mao suggested that the time provided was too short for the forum. In another separate issue he felt a great challenge, as many villagers are extremely busy with their rice harvest season. Thus, there were only about 60 people who showed up. He recommended that, if the time is allowed, he suggested more forums be held.

Ms. Nguon Moeun, 52, of Kbal Tik commune, Tik Phos district, Kampong Chhnang province, said it was good to have the court's officials coming here and she could understand some of their explanations. The sentencing of those KR leaders Nuon Chea and Khieu



A participant in the forum

Samphan is important to her and to the Cambodian people as a whole. As a medical staff during the regime, she also suffered from hardship and constant criticism that might have put her life at risk. Now she had no objection to the judicial process. She said the forum was beneficial in the sense that everyone could share their thoughts and concerns. Because of their business during rice harvest season, not so many people participated in it. She said the younger generation should know about the regime.

Ms. Neou Chek, 47, and **Ms. Put Ny**, 48, of Kbal Tik commune, Kampong Chhnang province said they heard about the trial on radio and television. It is more important to have the two court officials in their community. She wished to have the trial, because she does not want the genocide to happen again.

Mr. Uch Ouch, 45, of Kbal Tik commune, Kampong Chhnang province said the trial was merely a political stage. It is merely a result of competing power, which the loser would undoubtedly subject to the criminal court. Asked if he wanted justice for the loss of his uncle, he preferred to hear about this as fate. The truth of whether he was dead or alive was of greater importance than justice. He said, because of current business, people are more focused on their rice cultivation. Regarding the learning about the DK history, he supported it but warned against any kind of copying the horrible regime.

Mr. An Sat, 65, of Kbal Tik commune, Kampong Chhnang province said he had no idea about the trial. After being informed, he said it depended on the government to try those KR leaders. Having heard about the visit of the ECCC's officials, he was happy to hear the court officials' explanations. Given that he lost two brothers, who served as KR soldiers to the KR regime, he said that the trial would be good because he could reduce the sense of anger and pain. Mr. Sat said the forum would be good because the youth could gather together and engage in the discussion.

Conclusion

At a time when ECCC has no hearing, the legal experts' presence is of great complement to deepen villagers' understanding and keep them engaged in the ongoing court proceeding. The villagers could also express their concerns and opinions about the judicial process. That is a good connection between ECCC's work and the local community. However, there were two challenges that the forum faced. First, more than fifty villagers and students showed up at the forum, falling short of targeted number. It was largely due to the busiest month of harvest season. Second, the level of education is extremely low, according to Mr. Narith, first deputy chief of Kbal Tik commune. They were unable to digest information about the trial proceeding at the tribunal. With the presence of ECCC's prosecution team, the post-forum interviews found that in this case they were able to understand most of the explanations.

APPENDIX I: Photos of the forum

APPENDIX II: People in Tik Phos district Urges ECCC to Speed up the Trial
By Sin Sothida

០៤ ភ្នំពេញ ថ្ងៃទី ០៧ ខែ ធ្នូ ឆ្នាំ ២០១៣

និយាយពីការរស់នៅក្នុងសមិយធីតា ខ្មែរក្រហម គឺនិយាយពីការផ្សះផ្សាររវាងប្រជាជនក្នុងតំបន់ និងអង្គការស៊ើបអង្កេតស្រុក

• ប្រជុំស្តីពីការរស់នៅក្នុងសមិយធីតា ខ្មែរក្រហម និងប្រជាជនក្នុងតំបន់



អ្នកស្រុកទឹកផុសស្នើឱ្យតុលាការធ្វើការពន្លឿនការកាត់ទោស



លោកខេង ថា

លោកស៊ីន សុទ្ធា

គេបានជួបជាមួយប្រជាជនក្នុងតំបន់ ខ្មែរក្រហម មកជួបពិភាក្សា និងជំរុញការងារស៊ើបអង្កេតស្រុក ក្នុងតំបន់ខ្មែរក្រហម និងប្រជាជនក្នុងតំបន់ ទាំងស្រុង។

លោកខេង ថា បានជួបជាមួយប្រជាជនក្នុងតំបន់ ខ្មែរក្រហម មកជួបពិភាក្សា និងជំរុញការងារស៊ើបអង្កេតស្រុក ក្នុងតំបន់ខ្មែរក្រហម និងប្រជាជនក្នុងតំបន់ ទាំងស្រុង។

លោកខេង ថា បានជួបជាមួយប្រជាជនក្នុងតំបន់ ខ្មែរក្រហម មកជួបពិភាក្សា និងជំរុញការងារស៊ើបអង្កេតស្រុក ក្នុងតំបន់ខ្មែរក្រហម និងប្រជាជនក្នុងតំបន់ ទាំងស្រុង។

លោកខេង ថា បានជួបជាមួយប្រជាជនក្នុងតំបន់ ខ្មែរក្រហម មកជួបពិភាក្សា និងជំរុញការងារស៊ើបអង្កេតស្រុក ក្នុងតំបន់ខ្មែរក្រហម និងប្រជាជនក្នុងតំបន់ ទាំងស្រុង។

លោកខេង ថា បានជួបជាមួយប្រជាជនក្នុងតំបន់ ខ្មែរក្រហម មកជួបពិភាក្សា និងជំរុញការងារស៊ើបអង្កេតស្រុក ក្នុងតំបន់ខ្មែរក្រហម និងប្រជាជនក្នុងតំបន់ ទាំងស្រុង។

លោកខេង ថា បានជួបជាមួយប្រជាជនក្នុងតំបន់ ខ្មែរក្រហម មកជួបពិភាក្សា និងជំរុញការងារស៊ើបអង្កេតស្រុក ក្នុងតំបន់ខ្មែរក្រហម និងប្រជាជនក្នុងតំបន់ ទាំងស្រុង។

លោកខេង ថា បានជួបជាមួយប្រជាជនក្នុងតំបន់ ខ្មែរក្រហម មកជួបពិភាក្សា និងជំរុញការងារស៊ើបអង្កេតស្រុក ក្នុងតំបន់ខ្មែរក្រហម និងប្រជាជនក្នុងតំបន់ ទាំងស្រុង។

លោកខេង ថា បានជួបជាមួយប្រជាជនក្នុងតំបន់ ខ្មែរក្រហម មកជួបពិភាក្សា និងជំរុញការងារស៊ើបអង្កេតស្រុក ក្នុងតំបន់ខ្មែរក្រហម និងប្រជាជនក្នុងតំបន់ ទាំងស្រុង។

លោកខេង ថា បានជួបជាមួយប្រជាជនក្នុងតំបន់ ខ្មែរក្រហម មកជួបពិភាក្សា និងជំរុញការងារស៊ើបអង្កេតស្រុក ក្នុងតំបន់ខ្មែរក្រហម និងប្រជាជនក្នុងតំបន់ ទាំងស្រុង។

លោកខេង ថា បានជួបជាមួយប្រជាជនក្នុងតំបន់ ខ្មែរក្រហម មកជួបពិភាក្សា និងជំរុញការងារស៊ើបអង្កេតស្រុក ក្នុងតំបន់ខ្មែរក្រហម និងប្រជាជនក្នុងតំបន់ ទាំងស្រុង។

លោកខេង ថា បានជួបជាមួយប្រជាជនក្នុងតំបន់ ខ្មែរក្រហម មកជួបពិភាក្សា និងជំរុញការងារស៊ើបអង្កេតស្រុក ក្នុងតំបន់ខ្មែរក្រហម និងប្រជាជនក្នុងតំបន់ ទាំងស្រុង។

លោកខេង ថា បានជួបជាមួយប្រជាជនក្នុងតំបន់ ខ្មែរក្រហម មកជួបពិភាក្សា និងជំរុញការងារស៊ើបអង្កេតស្រុក ក្នុងតំបន់ខ្មែរក្រហម និងប្រជាជនក្នុងតំបន់ ទាំងស្រុង។

UME បង្ហាញមានជ័យលើកបរសេនកាយ និងជូនប័ណ្ណសរសើរ



Rapporteur: Ly Sok-Kheang
Team: Ry Thearoath, Ouch Makara, Kan Penh Samnang and Sin Sothida
Funded by Office of Global Programs, Bureau of Democracy, Human Rights, and Labor (DRL), U.S. Department of State.