

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

ECCC Co-Prosecutors: KR Trial A Chance to Create Truth

December 16-18, 2013

Introduction

The Khmer Rouge's accountability process remains to be one of the current debatable topics among the general public across Cambodia. Setting up a public space for an interactive discussion was seen helpful in a sense that the KR survivors can recount their experiences and seek clarification from legal experts from the Extraordinary Chambers in the Courts of Cambodia (ECCC) or the KR tribunal. This month, both national and international



National and International Co-prosecutors, Ms. CHEA Leang, middle, and Mr. Nicholas Koumjian, left, speak at Public Village Forum (PVF) in Angkor Borei district, Takeo province, on December 17, 2013.

co-prosecutors Ms. CHEA Leang and Mr. Nicholas Koumjian kindly took their time to travel to Angkor Borei district to meet with the people in the Public Village Forum (PVF), organized by the Documentation Center of Cambodia's (DC-Cam) Witnessing Justice project. On December 17, 2013, nearly five hundred villagers and students attended and actively engaged in the discussion

with the co-prosecutors. This report looks into the presentation and Q&A session that ended with a series of feedbacks and suggestions from both villagers and students attended the forum.

The Interactive Public Discussion

While the ECCC has been working hard to deal with the notorious crimes of the KR, the people have also hoped that "senior KR leaders and those most responsible" for the crimes would be ultimately punished. An interactive discussion of this kind would allow the people to hear about the latest developments at the ECCC and to stay engaged in the process. It further benefited the people to have the co-prosecutors participated and communicated in person with them. During the nearly two-hour forum, Ms. Leang and Mr. Nicholas took turn to make presentations and answer questions.

Ms. Chea Leang, national co-prosecutor of the ECCC, started her presentation by first thanking all the participants who took their busy time to join the Public Village Forum and then focused on the work of the Office of the Co-Prosecutors (OCP). Ms. Leang briefly touched upon the co-prosecutors' role to prosecute any wrongdoers. She emphasized that to achieve this end, there needs to be a process to collect all relevant evidences to prove that the accused persons, namely Nuon Chea and Khieu Samphan, did commit the crimes against the Cambodian people during their rule (1975-1979). Because the KR crimes took place a long time ago, the ECCC's co-prosecutors needed a proper timeframe to work out on two important cases: Case 001 and Case 002.

Ms. Leang said that, as many participants may already know, Case 001 against Kaing Guek Eav alias Duch, former chairman of Tuol Sleng prison, was fully completed. She then recalled that in the first place, the Trial Chamber's verdict sentenced him to 39 years. However, the co-prosecutors made an appeal to the Supreme Chamber in which Duch is now facing a life imprisonment for the detention, torture and execution of approximately 12,380 people.¹

Ms. Leang then told the participants that Case 002 was built up against former ideologue Nuon Chea, former Head of State Khieu Samphan, former Deputy Prime Minister in charge of Foreign Affairs Ieng Sary (deceased in March 2013) and former Minister of Social Action Ieng Thirith (released under court's monitoring for her unfitness to stand trial). In the coming months, the ECCC will announce the verdict on Case 002/01. Ms. Leang also told the participants that Case 002/02 will begin in the near future.



Around 500 participants attend the PVF inside the compound of Kampong Luong pagoda, Angkor Borei district, Takeo province, on December 17, 2013.

After presenting these two important works, Ms. Leang stressed that if there were insufficient evidence, the defense team would make a strong challenge that would let their clients be off the hook for any crimes they may have committed. The OCP took a very careful position to make sure that the accused persons would be sentenced in accordance with the crimes they have committed. Ms. Leang concluded her 10-minute presentation by saying that the creation of the KR tribunal was both to provide justice for the KR victims and to get rid of impunity.

Mr. Nicholas Koumjian, international co-prosecutor of ECCC, continued from Ms. Leang and reiterated that the ECCC was established with the cooperation of Cambodia and the UN. Its mission is to try the "senior KR leaders and those most responsible" for the crimes committed during the period of Democratic Kampuchea (DK) between April 17, 1975 and January 6, 1979. Many countries donated the money to prosecute these crimes. Many

¹ According to ECCC's website: http://www.eccc.gov.kh/sites/default/files/publications/Case001Apology_En.pdf

people wondered why it has taken so long, why it had cost so much money and why many foreigners came to Cambodia to try the elderly people? Mr. Nicholas clarified that it was the trial of crimes against humanity because the crimes were so serious against the Cambodian population and to mankind. Mr. Nicholas said that the accountability process would leave a good legacy to prevent future crimes and stated, "it's the crimes against all of us."

In addition, Mr. Nicholas stressed the importance of memorializing the past crimes by saying the crimes happened in 1970s might have not been remembered, but it did



A student poses a question to the co-prosecutors

happen. Regarding the KR atrocity, the young people might or might not have heard about the crimes of the KR and therefore we all need to know why it happened. He further pointed out that now we have a chance to establish a true history of what happened in this country. We create the true history to show our next generation, but he warned that establishing the history is not easy. His remark implied of the numerous challenges that the OCP and the entire court faced. For example, Mr. Nicholas said although the senior

KR leaders are very old, the ECCC need time to make sure that the due process and fairness for all of the victims and the accused would be provided. The role of the co-prosecutors is to find out that the KR leaders are to be responsible for the issuance of policy for implementation. The OCP has shown thousands of documents and heard from 92 witnesses against Khieu Samphan and Nuon Chea.

The presentations were followed by questions from villagers and students were as follow:

1. It has been over thirty years, why is it important to try the KR leaders? Why wasn't the bombardment during the course of 1970-75 discussed or prosecuted at the ECCC?
2. Is there any specific date to mark the end of the trial process or is it just going to go on forever?
3. There were evacuations. The regime left more than two million people dead. Given the horrendous scope, should there be a trial of those former KR cadres in Cambodia?
4. How long will the court delay its work? Does the court worry about the possible death of the victims? Can the court speed up its work?
5. What did the Cambodian people suffer during the KR period?
6. The living condition of the Cambodian people varied from one place to another. Was it the real intent of those KR leaders or merely the low-level KR cadres who acted on their whim?
7. Would pro-KR countries be tried in a court of law?
8. After 1979, the KR occupied UN's seat. Did it know what happened in Cambodia? Were there any countries that experienced similar tragedies?

Reactions to the Forum

This section attempts to illicit people's feedbacks to the presentation and the answers provided by the co-prosecutors. This would comment on the overall legal justice at the ECCC and their expectations from the ECCC.

Mr. Dom Saman, 63, a retired police officer of Angkor Borei district said he was excited about this forum because the co-prosecutors came and talked about the accountability process. He felt more sure learning about the ECCC because they came in persons. If there were any chance of their next visit, he would like the co-prosecutors to give the villagers more of their time. He was happy and appreciated the forum for bringing the villagers this valuable information.

Ms. Uy Phal, 57, of Preak Phtol commune, Angkor Borei district said she was happy to see the two prosecutors. She was also thankful to attend this forum in her remote district. With her eyes brimmed with tears, Ms. Phal said she got a sense of relief and warmth to see the KR tribunal is working towards justice for the Cambodian people. The co-prosecutors' presentation brought her a sense of hope for an imminent verdict. She suggested that more forums be held.

Mr. Em Mom, 65, of Kampong Luong village, Angkor Borei commune, Angkor Borei district, Takeo province, said he was glad to see them as, like his neighbors, he had yet to meet them before. Their presence provides insights into the trial process and update about how it is going on. The trial of the KR leaders is a good message let the younger generation knows of the genocide that happened to their ancestors and makes them believe in what happened. Their belief means the acknowledgement of the sufferings of their parents/ancestors. It is also important that the international community take great pains to find justice for the Cambodian people.



A participant poses a question to the co-prosecutors

Ms. Khun Nhen, 58, of Angkor Borei district said she knew about the trial through radio and television, but not in details. The trial is important for the younger generation. Regarding the forum, this setting is a kind in which people can exercise their freedom to express their views. This stands in contrast to the KR period, which no one would dare to speak out, let alone complain.

Ms. Sok Korn, 56, of Angkor Borei district said he was happy to attend such a public forum. It shows how the public can gather together in a harmonious and friendly manner.

Mr. Korn has high expectation for the court to make a good progress for the country in terms of the rule of law in which he said it is not fully practice in the society.

Phy Nida, 16, 12th grader of Hun Sen Angkor Borei High School, expressed his great interest in the PVF in disseminating information about the KR trial. It helped clarify his long curiosity on whether the court is willing to prosecute those KR leaders or if it was just a farce. To some extent, he could now understand the nature of the KR atrocity after Ms. Chea Leang and Mr. Nicholas Koumjian gave an explanation on their efforts to find evidence to punish the wrongdoers. He would like to urge the ECCC to compile enough evidence to prosecute these elderly KR leaders as soon as possible.

Chum Ratana, 17, of 12th grader at Hun Sen Angkor Borei high school gave his last impression on the question of whether the UN knew what happened in Cambodia during the period of 1975-1979. She said the discussion in the forum was very informative, focusing on starvation, forced marriage .etc. She suggests this kind of forum be held in this district to let students and villagers engage publicly.

Ny Panha Sith, 10th grader of Hun Sen Angkor Borei High School, found the forum extremely important for the people in Kampong Luong village and other nearby villages. It reiterated the truth about what happened in Cambodia between 1975 and 1979. The co-prosecutors' presentation left him with a great impression. Ms. Chea Leang said she would speed up the Case 002. He also suggested that DC-Cam should hold more forums.

Conclusion



Students read DC-Cam and ECCC materials

The biggest-ever public village forum in Angkor Borei district has drawn numerous feedbacks from the local people and high school students. They were able to attend the co-prosecutors presentations on their works and seeking to clarify some of their doubts over the judicial process. Mr. Nicholas Koumjian was also content with the forum and anticipated more cooperation. He

said: "I certainly enjoyed getting out to the provinces and meeting the people. More importantly, I think these events are critical to connecting the court to those it is intended to serve and making our work have an impact. I look forward to more cooperation between my office and DC-CAM in these types of events in 2014." Scores of post-forum interviews found the forum informative and constructive, although time slot was a little short for them.

However, some villagers complained that they were not informed or invited to participate in this forum given their political tendencies in favor of the opposition. However, they were satisfied with the presence of the co-prosecutors and the document distributions that would be of great importance and enable them to catch up with the developments at the ECCC.

APPENDIX I: Photos of the forum

By: Vanthan Peou Dara, Kan Penh Samnang, and Teav Sarakmonin

http://d.dccam.org/Projects/Living_Doc/Photos/2013/Public_Village_Forum_in_Takeo_Province_on_December_17_2013/index.html

APPENDIX II: Angkor Borei People and Information about the KR Trial

By: Teav Sarakmonin

ប្រជាពលរដ្ឋស្រុកអង្គរបុរី និងព័ត៌មានពីតុលាការខ្មែរក្រហម



សៀវភៅប្រវត្តិសាស្ត្រកម្ពុជា ប្រជាធិបតេយ្យពី១៩៧៥-៧៩សៀវភៅ សំណុំរឿង២០០២ សៀវភៅសង្កេត ការណ៍ដំណើរការតំណែងមេដឹកនាំខ្មែរ ក្រហម ព្រមទាំងទស្សនាវដ្តីស្នែងរក ការពិតបានចែកជូនដល់ប្រជាពលរដ្ឋ លោកគ្រូអ្នកគ្រូសិស្សានុសិស្សជាងគ្រា រយៈពេល ដែលបានមកចូលរួមវេទិកា អប់រំសាធារណៈតាមភូមិអំពីដំណើរ វិវត្តន៍ថ្មីៗនៃតុលាការខ្មែរក្រហមនៅ វត្តកំពង់ហ្លួងស្រុកអង្គរបុរីខេត្តតាកែវ។ កម្មវិធីនេះ ប្រព្រឹត្តទៅក្រោមអធិបតី ភាពរបស់លោកស្រី ជា លាង សហ- ព្រះរាជអាជ្ញាជាតិ និង លោក នីតិក្សាស ទូមន្សែនសហព្រះរាជអាជ្ញាខ្មែរជាតិ នៃតុលាការខ្មែរក្រហមជាមួយនឹង លោកអភិបាលស្រុកអង្គរបុរី។

ចំណាយពេលវេលាដ៏មានតម្លៃក្នុងការ ចូលរួមវេទិកាសាធារណៈនេះ ជា ពិសេសលោកបានត្រឡប់មកដល់អ្នក ដែលបានចូលរួមទាំងអស់ ត្រូវទាញ យកឱកាសដ៏មានតម្លៃនេះស្ទើរដូច ទៅកាន់វាក្ខីន ព្រោះថា បច្ចុប្បន្ននេះ ទោះបីជាដំណើរការតំណែងមេដឹកនាំ ខ្មែរក្រហមមានការផ្សាយបន្តផ្ទាល់ តាមរយៈទូរទស្សន៍ ឬវីទេអូក៏ដោយ យើងក៏មិនអាចយល់បានទាំងស្រុង នោះទេ ហេតុនេះសូមឱ្យបងប្អូនទាំង អស់គ្នាចូលរួមស្ទើរដូចដែលមាន ចម្ងល់ទាំងប៉ុន្មាននៅពេលនេះ។

ខ្សែវ សំផន និងនួន ជា ហើយករណី សំណុំរឿង២០០២ វគ្គទី១ ក៏បញ្ចប់ការ សន្និដ្ឋានពីការក្សានេត្យដោយសុចម្រ ហើយគឺនៅតែចាំការចេញសាលក្រមពី អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការ ខ្មែរក្រហមប៉ុណ្ណោះ។

ថ្ងៃទៅកាន់អ្នកចូលរួមទាំង អស់ក្នុងឱកាសបើកកម្មវិធីលោក សី សុខយោង អ្នកសម្របសម្រួលនិងដឹកនាំ គម្រោងបានបង្ហាញពីគោលបំណង សំខាន់ៗអំពីវេទិកាសាធារណៈតាមភូមិ នេះគឺចង់ឱ្យបងប្អូនប្រជាពលរដ្ឋ សិស្សានុសិស្សទាំងអស់បានទទួលនូវ ព័ត៌មាន និងចូលរួមក្នុងដំណើរការ ការតំណែងមេដឹកនាំខ្មែរក្រហមនេះទាំង អស់គ្នាមិនថាជាអតីតជនរងគ្រោះឬ អតីតកម្មាភិបាលខ្មែរក្រហមនោះទេ គឺចូលរួមក្នុងការស្នែងរកយុត្តិធម៌ ទាំងអស់គ្នា។ តមកលោកអភិបាល ស្រុកអង្គរបុរី មានប្រសាសន៍ផ្តាំផ្តើមនិង ថ្លែងអំណរគុណយ៉ាងជ្រាលជ្រៅដល់ សហព្រះរាជអាជ្ញាទាំងពីរដែលបាន

មុននឹងឈានដល់ការសួរ សំណួរលោក ស្រី ជា លាង សហ- ព្រះរាជអាជ្ញាជាតិមានមតិ សំណេះ សំណាលជាមួយអ្នកចូលរួមទាំងអស់ និយាយដោយគ្រួសៗពីការបង្កើត តុលាការខ្មែរក្រហមនេះឡើង ។ លើស ពីនេះទៅទៀត លោកស្រីក៏បានបង្ហាញ ពីគោលបំណងចម្បងដែលនាំឱ្យមាន ការបង្កើតតុលាការនេះឡើងគឺដើម្បី ស្វែងរកយុត្តិធម៌ដល់ប្រជាជនខ្មែរ ទាំងអស់ដែលជាជនរងគ្រោះក្នុងរបប នេះ។ លោកស្រីក៏រំលឹកដល់ករណី សំណុំរឿង២០០១ ដែលមានជនជាប់ ចោទកាំងហ្គេតស៊ាវ ហៅតូច អតីត ប្រធានគុកទួលស្នែងបានបញ្ឈប់ជា ស្ថាពររួចមកហើយដោយត្រូវតុលាការ ការតំណែងដាក់គុកអស់មួយជីវិត ។ លោកស្រីបន្តថា អ្វីដែលតុលាការកំពុង ដែលធ្វើនៅពេលនេះគឺករណីសំណុំ រឿង២០០២ ដែលមានជនជាប់ចោទ

មានសំណួរជាច្រើនបានចោទ សួរទៅកាន់វាក្ខីនពីសំណាក់បងប្អូន ប្រជាពលរដ្ឋនិងសិស្សានុសិស្ស។ សំណួរមួយចំនួនដែលសួរមានដូចជា អស់រយៈពេលជាងមួយសតវត្សហើយ ហេតុអ្វីបានជាទើបតែបង្កើតសាលាក្តី នេះឡើង? តើបង្កើតដើម្បីអ្វី? តើសាលា ក្តីនេះមានសារៈប្រយោជន៍យ៉ាងណា ដល់ប្រជាជនកម្ពុជា ក៏ដូចជាមនុស្ស ជាតិ? តើការការតំណែងនេះគឺជាសា រហូត ឬក៏មានពេលកំណត់ច្បាស់- លាស់? តើដំណើរការតុលាការនៃពេល ពេលដល់ពេលណា? បើជនរងគ្រោះ សុទ្ធតែមានវិយចំណាស់ តើតុលាការ មានការបោះឆ្នោតជនរងគ្រោះឬទេ? តើនៅក្នុងរបបប្តីប្រពិប្រពិខ្មែរថ្មីឬ តើប្រជាជនខ្មែររងគ្រោះអ្វីខ្លះ?

គួររំលឹកថា វេទិកាអប់រំ សាធារណៈតាមភូមិដែលបានប្រព្រឹត្ត ទៅនៅថ្ងៃទី១៧ ខែធ្នូ ឆ្នាំ២០១៣ នៅ ស្រុកអង្គរបុរីខេត្តតាកែវនេះគឺជា គម្រោងមួយ ក្នុងចំណោមគម្រោងមួយ ចំនួនរបស់មជ្ឈមណ្ឌលឯកសារកម្ពុជា ហើយគម្រោងនេះនឹងបន្តធ្វើទៅតាម បណ្តាខេត្តនានាទូទាំងប្រទេស ។

ទាវ សារៈមុនី

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