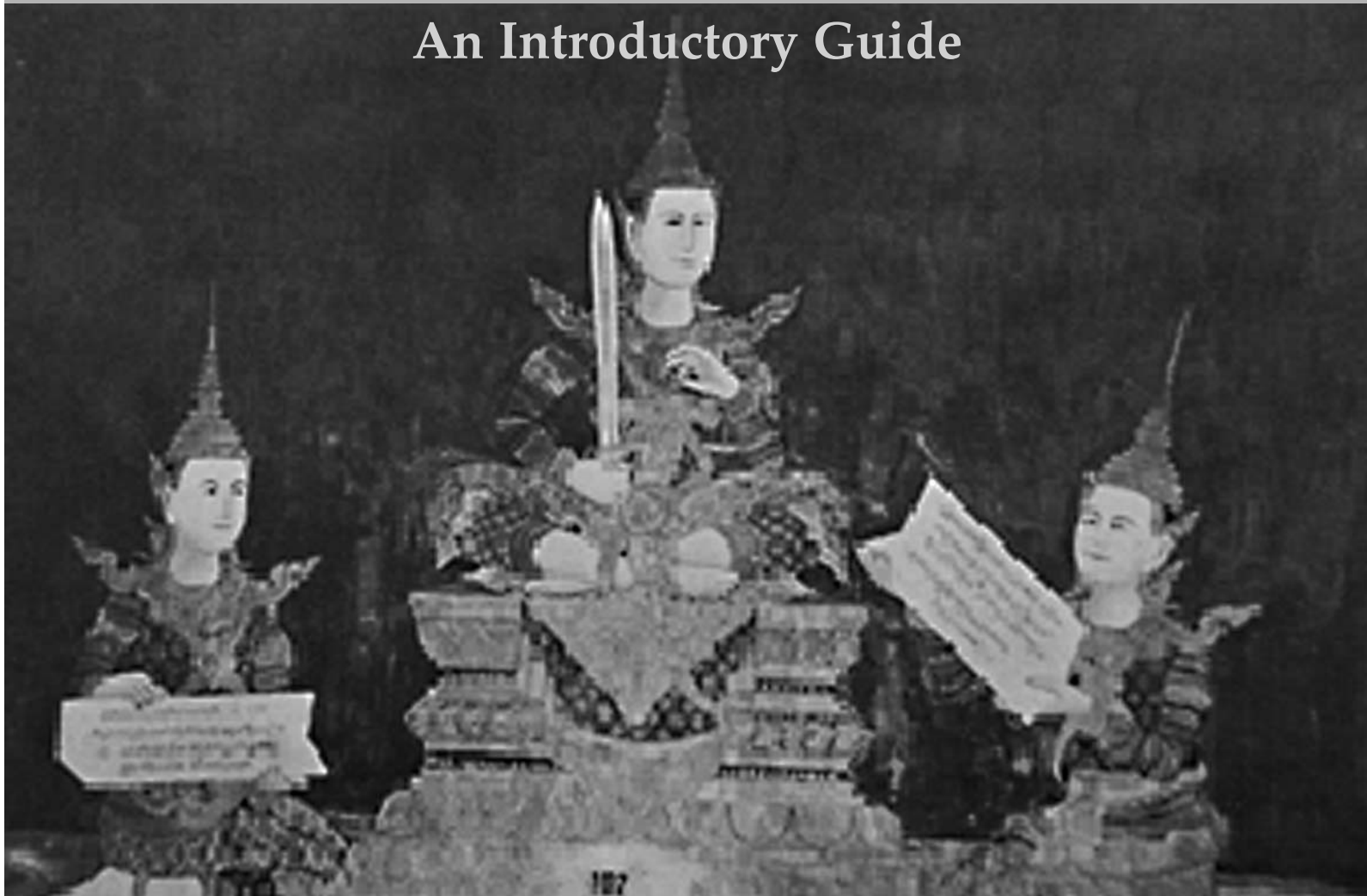


Seeking Truth and Justice at the Extraordinary Chambers in the Courts of Cambodia

An Introductory Guide



មជ្ឈមណ្ឌលឯកសារកម្ពុជា

Documentation Center of Cambodia

Searching for the Truth ស្វែងរកការពិតដើម្បីការបដិសេធយុត្តិធម៌

DC-Cam ♦ 66 Preah Sihanouk Blvd. ♦ P.O.Box 1110 ♦ Phnom Penh ♦ Cambodia

Tel: (855-23) 211-875 Fax: (855-23) 210-358 Email : dccam@online.com.kh Homepage: www.dccam.org

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Prepared

by

DC-Cam Legal Response Team
Eleanor Hutchison, Penelope Van Tuyl, Megan Whittaker

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PREFACE

Although Cambodians have condemned the acts of the Khmer Rouge for 28 years now, final judgment has never been passed on the men and women who led the Democratic Kampuchea regime. We are now nearing the time when the Khmer Rouge leaders will be judged in a court of law: The Extraordinary Chambers in the Courts of Cambodia (many people call this the Khmer Rouge Tribunal).

While the legal system will try the important members of the Khmer Rouge and pass judgment on them, in the end, the victims of the regime will be judges, too. They will listen to the Tribunal proceedings and decide for themselves whether the Khmer Rouge leaders who are tried are guilty or not.

This booklet was written to help the Cambodian people understand how the Khmer Rouge Tribunal will work, so that they can make the best decisions possible about whether the trials are fair and whether those brought before the courts are guilty or innocent.

Youk Chhang
Director
Documentation Center of Cambodia

CHAPTER 1

A NEW COURT IS ESTABLISHED IN CAMBODIA



Cambodian and international judges and prosecutors were sworn in July 3, 2006 at the Royal Palace in Phnom Penh

On July 3, 2006 a ceremony was held at the Royal Palace in Phnom Penh to mark the beginning of the criminal proceedings at the Extraordinary Chambers in the Courts of Cambodia (ECCC). At the ceremony, 17 Cambodian judges and prosecutors were sworn in along with 12 international judges and prosecutors. This means they made an oath to act as honorable officers of the court as they work together to seek justice for the people of Cambodia.

OPENING QUESTIONS

- ◆ Have you heard of the Extraordinary Chambers in the Courts of Cambodia?
- ◆ Do you know why judges and prosecutors from other countries are coming to work in a criminal court in Cambodia?
- ◆ Do you know how a criminal court works?

COMMON QUESTIONS ABOUT THE ECCC



WHAT IS IT?

The ECCC is a special court that was created by the Royal Government of Cambodia in cooperation with the United Nations to try Khmer Rouge leaders. The international community is helping because the Cambodian judiciary cannot do the job alone, and the crimes committed were so grave as to be a concern of all humanity. Both Cambodian and international judges and lawyers will serve at the court.

WHY WAS IT CREATED?

The Court was created to seek justice for certain violent crimes committed in Cambodia during the Khmer Rouge period: **April 17, 1975 - January 6, 1979.**

These include torture, murder, genocide, crimes against humanity, war crimes, religious persecution, destruction of cultural property, and crimes against internationally protected persons.



Tuol Sleng prisoner



WHEN WILL WE SEE TRIALS?

The Court has funding to operate for 3 years. During this time, there will be investigations and trials. In 2010, it is expected the court will conclude its work. The international judges will return home, and the ECCC will end.

AND THEN?

Anyone found guilty of a crime by the ECCC will remain in jail in Cambodia for the duration of his or her sentence.



ECCC's Detention Center

THE NEED FOR JUSTICE: Understanding Why a Special Court Was Established

Between April 17, 1975 and January 6, 1979, Cambodia was governed by the Khmer Rouge. During this period, the Cambodian people endured extreme hardship and violence. As many as two million people died. Many people were executed. Many others were worked to death or were victims of torture, starvation and disease.



Khmer Rouge cadres entering Phnom Penh
(April 17, 1975)



Torture at Tuol Sleng (S-21) Prison

The Khmer Rouge government was overthrown by the Vietnamese army and the forces of the United Front for the National Salvation of Cambodia on January 7, 1979. For many years, it was not possible to seek justice in Cambodian courts for Khmer Rouge violence because of ongoing civil war and political instability. During this time, Cambodians mourned alone and in their religious communities for the lives lost under the Khmer Rouge, and memorials such as Tuol Sleng and Choeung Ek were established for the purpose of remembrance. However, to this day no one has been held accountable for crimes committed during the Khmer Rouge period. For this reason, in 1997, the Royal Government of Cambodia sought to establish a special court that could deliver some justice to the Cambodian people.



A Khmer Rouge work camp
(date unknown, 1975 -1979)



Villagers and monks praying for the soul of victims
in Svay Rieng Province (1983)

A CLOSER LOOK: Brief History of the Khmer Rouge Period

The official name of the Khmer Rouge was the Communist Party of Kampuchea (CPK), which took control of Cambodia on April 17, 1975. The CPK created the state of Democratic Kampuchea in 1976 and ruled the country until January 1979. The party's existence was kept secret until 1977, and no one outside the CPK knew who its leaders were.

A few days after the party took power in 1975, the Khmer Rouge (KR) forced nearly 2 million people in Phnom Penh and other cities into the countryside to undertake agricultural work. Thousands of people died during the evacuation. The KR had radical Communist policies. They wanted to transform Cambodia into a rural, classless society in which there were no rich people, no poor people, and no exploitation. To accomplish this, they abolished money, free markets, normal schooling, private property, foreign clothing styles, religious practices and traditional Khmer culture. Public schools, pagodas, mosques, churches, universities, shops and government buildings were shut down or turned into prisons, stables, reeducation camps and granaries. There was no public or private transportation, no private property and no non-revolutionary entertainment. Leisure activities were severely restricted. People throughout the country, including the leaders of the CPK, had to wear "revolutionary" black clothing.

**INCLUDE A COUPLE PICTURES OF LIFE DURING THE KHMER ROUGE
REGIME
MAYBE ONE DEPICTING THE BLACK CLOTHING
MAYBE ONE OF RURAL LIFE THAT WAS FORCED
MAYBE EVEN A PICTURE OF EMPTY PHNOM PENH IF POSSIBLE**

Under Democratic Kampuchea (DK), everyone was deprived of their basic rights. People were not allowed to go outside their cooperative. The regime would not allow anyone to gather and hold discussions. If three people gathered and talked, they could be accused of being enemies and arrested or executed. People were forbidden to show even the slightest affection, humor or pity. The KR asked all Cambodians to believe, obey and respect only the government, "Angkar," which was to be everyone's "mother and father."

**INCLUDE ONE OR TWO SMALL RELEVANT PICTURES
SOMETHING SHOWING THE MINORITY PEOPLE MAYBE?**

Soon after seizing power, the KR arrested and killed thousands of soldiers, military officers and civil servants from the previous Lon Nol regime. Over the next three years, members of the KR tortured and executed hundreds of thousands of intellectuals; minority people such as the Cham, Vietnamese and Chinese; and many of their own soldiers and party members, who were accused of being traitors or anyone suspected of opposing their rule. In most regions, the KR forced people to work more than twelve hours a day without rest or adequate food.

**INCLUDE ONE OR TWO RELEVANT PICTURES,
MAYBE OF VIETNAMESE INVADING?
(BUT DIFFERENT PICTURES THAN ON THE PAGE BEFORE LAST)**

In December 1978, Vietnamese troops and the forces of the United Front for the National Salvation of Kampuchea (the Front was led by men who had defected from the Khmer Rouge) fought their way into Cambodia. They captured Phnom Penh on January 7, 1979.

An estimated 2 million people died during the Khmer Rouge regime. There are tens of thousands of mass graves all over Cambodia. Over 14,000 people were tortured at Tuol Sleng, a Khmer Rouge prison in Phnom Penh, before being sent to Choeung Ek to be killed. Both sites are now memorials to the atrocities that occurred during the Khmer Rouge regime.

INCLUDE ONE SMALL PICTURE OF MASS GRAVES OR BONES OR STUPAS (BUT NOT ONE USED ELSEWHERE IN THE BOOK)

REFLECTION AND DISCUSSION

Discuss the following questions:

- ◆ What are three words that describe how you feel when you read about the Khmer Rouge period?
- ◆ How do you think this history has affected Cambodian society?
- ◆ How have Cambodian people coped with this?

Social healing after a very violent period means different things to different people. Some survivors find solace in sharing their story publicly. Others choose to quietly confront the brutality of the past alone or in their religious communities.

- ◆ If you were prime minister, what would you do to help survivors who suffered during the Khmer Rouge period?
- ◆ What do "justice" and "social healing" mean to you?

The ECCC is *one* attempt to help Cambodians heal by bringing justice for violent crimes that occurred in the past.

CHAPTER 2

JUSTICE AT THE ECCC: HOW THE COURT WORKS

This chapter will answer the following questions:

- 1) What crimes does the ECCC have the power to investigate and punish?
- 2) Who will participate in the ECCC?
- 3) How will the ECCC work?



Exterior View of the ECCC



Interior View of the ECCC

1) WHAT CRIMES DOES THE ECCC

HAVE THE POWER TO INVESTIGATE AND PUNISH?

Like all courts, the ECCC has limitations on its power. The court can only investigate certain crimes committed between April 17, 1975 (when the Khmer Rouge took control of Phnom Penh), and January 6, 1979 (when the KR were overthrown). In addition, the ECCC can only punish those people who were either “senior leaders” of the Khmer Rouge or “most responsible” for the crimes committed while the Khmer Rouge regime was in power.

CRIMES TO BE INVESTIGATED BY THE ECCC

Crimes under Cambodian Law



Homicide

Homicide means killing another person with no justification (an example of a justification would be self-defense).

Religious Persecution

Religious persecution is an attack on a religious person practicing a religion recognized by the Cambodian government.

Torture

Torture means committing inhumane acts against another person, like causing pain, for barbaric motives, for revenge, or to extract information.

Crimes under International Law



Genocide

Genocide means doing any of the following with the intent to destroy in whole or in part a national, ethnic, racial or religious group: killing, causing serious physical or mental harm, preventing births, transferring children, or otherwise creating harmful living conditions.

War Crimes

War crimes are unlawful acts committed during armed conflict. For example, it is a war crime to mistreat prisoners of war, attack civilian targets, or destroy educational or religious institutions.

Crimes Against Humanity

Crimes against humanity are very serious crimes that are committed as part of a widespread and systematic attack on civilians (unarmed people not in the military). These crimes can include murder, extermination, enslavement, deportation, torture, imprisonment, persecution on political, racial, or religious grounds, rape, and other sexual violence.

Destruction of Cultural Property

International law prohibits theft or damage of historical buildings, archeological sites, museums, art, and important book collections during armed conflict.

Crimes Against Internationally Protected Persons

International law protects certain diplomatic officials.

2) WHO WILL PARTICIPATE IN THE ECCC?

Co-Prosecutors



1 from Cambodia
1 from Canada

Co-Investigating Judges



1 from Cambodia
1 from France

Principal Defender



1 from England

Pre-Trial Chamber



3 from Cambodia
1 from Australia, 1 from The Netherlands
4 of 5 judges must agree in order to reach a decision.
If no majority is reached, prosecution goes forward.

Trial Court Chamber



3 from Cambodia
1 from New Zealand, 1 from France
4 of 5 judges must agree in order to reach a guilty verdict.
Judgments may be appealed to the Supreme Court Chamber.

Supreme Court Chamber



4 from Cambodia
1 from Japan, 1 from Poland, 1 from Sri Lanka
5 of 7 judges must agree in order to change a decision made by the Trial Court.
Judgments are final and may not be appealed.

THE ROLE OF EACH OFFICIAL AT THE ECCC

Pre-Trial, Trial, and Supreme Court Judges



ROLE: Judges must listen objectively to the arguments and evidence presented by the prosecution and the defense, and then decide the result based on the law. Judges will make decisions on everything from issues of procedure to issues of innocence or guilt.

QUALIFICATIONS: The judges at the ECCC must be of high moral character, be judges in their own countries, and be honest and independent from any government or organization. It is very important that the judges are independent in order for them to make impartial, fair judgments based on the law.

Co-Investigating Judges



ROLE: Co-investigating judges are in charge of all investigations. These judges must be fair and neutral as they investigate all the evidence. They will decide if there is enough evidence against a suspect to start a trial.

QUALIFICATIONS: The co-investigating judges at the ECCC must be of high moral character and integrity, must be impartial, and must be qualified for similar positions in their own countries. They must be independent from any government or organization.

Prosecutors



ROLE: The co-prosecutors are responsible for prosecuting those they accuse of committing a crime. «Prosecuting» means they will use the evidence gained from the investigations to prepare arguments to show that the defendants were guilty of one or more of the eight crimes discussed above.

QUALIFICATIONS: The prosecutors must be of high moral character and integrity, and must be experienced in the conduct of investigations in criminal cases. They have to be independent from any government or other organization.

Defense Counsel

During investigations, suspects will be entitled to assistance by lawyers of their own choosing. They are entitled to receive lawyers free of charge from the office of the Principal Defender if they cannot afford their own.



ROLE: The role of the defense counsel is to work on behalf of the person being accused of a crime (the «defendant») throughout the criminal proceedings. During the trial, he will present arguments that will counter the arguments of the prosecutors. These arguments will be based on both the evidence and the laws. The defense will try to show that the prosecutors have not presented enough evidence to prove the defendant is guilty. The defense lawyer must also protect the defendant's right to a fair trial.

QUALIFICATIONS: Defense counsel appearing before the ECCC must be of high moral character and integrity, and must be qualified to represent criminal suspects in court.

3) HOW WILL THE ECCC WORK?

STAGE 1 : Pre-Trial (Pre-Trial Chamber)

What Happens?

- The co-prosecutors and co-investigating judges try to find out what happened and who did it
- Individuals are formally accused of crimes
- If the co-prosecutors and co-investigating judges cannot agree whether to accuse someone, the pre-trial chamber decides

Who is Involved?

- Co-investigating judges
- Co-prosecutors
- Defense counsel
- Defendant
- Some victims and witnesses



STAGE 2 : Trial (Trial Chamber)

What Happens?

- Prosecution and defense present their arguments and evidence
- Trial judges decide whether the defendant is guilty or not guilty

Who is Involved?

- Trial Chamber
- Co-prosecutors
- Defense counsel
- Defendant
- Some victims and witnesses



STAGE 3 : Appeals (Supreme Court Chamber)

What Happens?

- Appeals judges decide if the Trial Chamber judges made the right decision

Who is Involved?

- Co-prosecutors
- Defense counsel
- Defendant
- Some victims and witnesses



STAGE 4 : Final Judgment and Punishment

What Happens?

- Guilty defendants are punished
- Not guilty defendants are released

RULES OF THE COURT

During every stage of the court process, the judges, lawyers, and investigators at the ECCC must follow certain rules, known as the Rules of Procedure and Evidence. All courts have rules of procedure and evidence. They are necessary to ensure a fair trial. These rules are very detailed and explain how court officials must act in order to protect the rights of victims, witnesses, and the accused. The rules also tell the judges what evidence they are allowed to consider when determining whether a defendant is guilty or not guilty.



If we wish to prevent corruption and promote the rule of law in Cambodia, it is very important that these rules be respected and followed by all court officials at every stage in the court process.

WHAT DOES “RULE OF LAW” MEAN?

The Rule of Law is the concept that all in society must follow the same rules, no matter what their status or how much money they have. Where rule of law is weak, corruption and injustice are common. Where rule of law is strong, all members of society are responsible for their actions, so you cannot pay someone money to avoid being punished for a crime you committed.



STAGE 1: PRE-TRIAL



Before a trial can begin, the co-prosecutors and the co-investigating judges must try to figure out what crimes were committed during the KR regime and who committed them. To do this, they must search for important facts and evidence that could be used in a trial. They may visit locations where crimes occurred, interview victims, witnesses and suspects, review official Khmer Rouge documents, analyze data and examine photographs.

Once they have agreed which people they want to put on trial, they will arrest those people and formally accuse them of crimes. The arrested people will then become known as defendants before the ECCC because they must defend themselves. The defendants will either hire private defense lawyers or the ECCC Office of the principal defender will provide defendants with lawyers. The cases will then go to trial.

WHAT IS “EVIDENCE”?

Evidence is a thing or a piece of information that helps prove a defendant committed a crime or shows that he did not. Weapons, photographs, interviews, statements by eyewitnesses (people who saw the crimes occur) and other witnesses with information, mass graves, maps, tape recordings, handwriting, letters, telegrams, etc., can all be used as “evidence.”

CAN ANYTHING BE USED AS “EVIDENCE” IN A TRIAL?

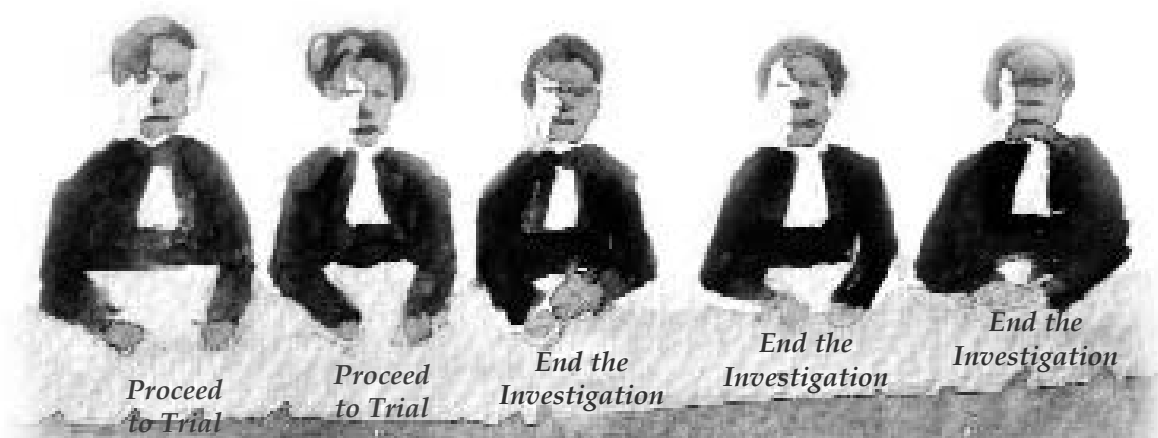
Lawyers can use all evidence collected during the pre-trial stage so long as the Rules of Evidence and Procedure allow it. The rules require that all evidence be collected in a way that is fair to both the prosecution and the defense. The rules also require that all evidence presented at trial be authentic. For example, witnesses giving evidence by telling their story must swear that they are telling the truth. If they are paid for their story, the judges can exclude that evidence if they believe it is untruthful.

WHAT IF THE CO-INVESTIGATING JUDGES OR THE CO-PROSECUTORS DISAGREE ABOUT WHETHER THERE IS ENOUGH EVIDENCE FOR A TRIAL?

When there is disagreement about whether there is enough evidence of a crime to have a trial, the judges of the Pre-Trial Chamber will have to decide what to do. They will examine the evidence and then vote to end the investigation or start a trial.

HOW A PRE-TRIAL CHAMBER DECISION IS REACHED: THE SUPERMAJORITY REQUIREMENT

A pre-trial chamber decision requires a supermajority vote. This means that four of the five judges must vote to end an investigation. If there is no supermajority in favor of ending the investigation, it will continue and the case may be brought to trial.



These judges have **not** reached a supermajority decision to end the investigation because only three of the five judges voted together.

This means the case will continue to be investigated, even though only two pre-trial judges voted in favor of proceeding.

STAGE 2: TRIAL



What the ECCC courtroom might look like during a trial.

The Trial Begins



The trials will take place in a building near the Phnom Penh airport. They will be open to the public, including the press. Inside the courtroom the judges will sit in a row facing the prosecution and the defense. The prosecution will sit to the right of the judges and the defense will sit on the left. The witnesses will be taken to a waiting room. In the waiting room, they will not be able to see or hear anything from the courtroom or communicate with each other.

During the trial, the prosecution and the defense will present their arguments to the five trial judges. The accused will speak first and then the judges will be able to ask him/her questions. The judges will then hear the testimony of the prosecutor's witnesses and then the witnesses for the defense. After questions and answers, the judges will allow the prosecution, the victims of the alleged crime and defense counsel to speak. During the trial, evidence will be presented and examined.

After hearing both sides, the judges will withdraw into a private chamber for discussion to determine whether the defendant is "guilty" or "not guilty." When the judges have made their decision, they will issue written judgments explaining the reasons for their decision. If any judge disagrees with the decision, he/she must write a separate opinion stating why he or she voted against the majority.

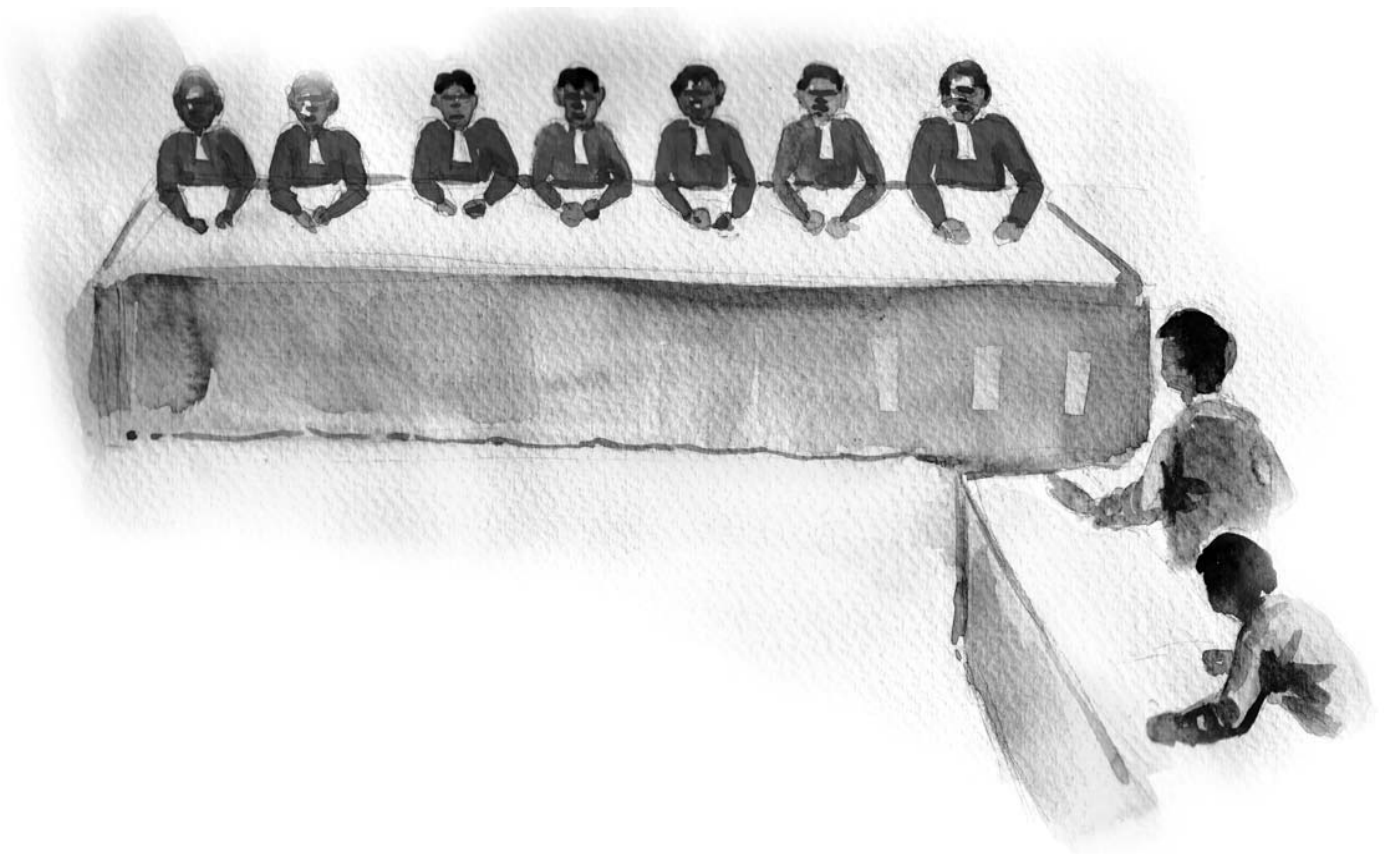
HOW A TRIAL VERDICT IS REACHED: THE SUPERMAJORITY REQUIREMENT

A trial court decision requires a supermajority vote. This means that four of the five judges must vote together to reach a guilty verdict. Otherwise, the defendant is presumed innocent.



These judges have reached a "not guilty" verdict because less than four judges voted guilty.

STAGE 3: APPEALS



What the ECCC Supreme Court Chamber might look like.

Any party who wishes to argue that the trial chamber made an incorrect decision can appeal to the Supreme Court of the ECCC.

"I want an appeal! The Trial Chamber made a bad decision because the evidence actually shows that my client could not have committed the crime because he was in Thailand from 1974 - 1980!"



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CAMBODIA
D I A R Y
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គម្ពីរ ធិនាធុរសម័យ ២០០៧

16 Monday សុក្រ
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Cambodian New Year Festival

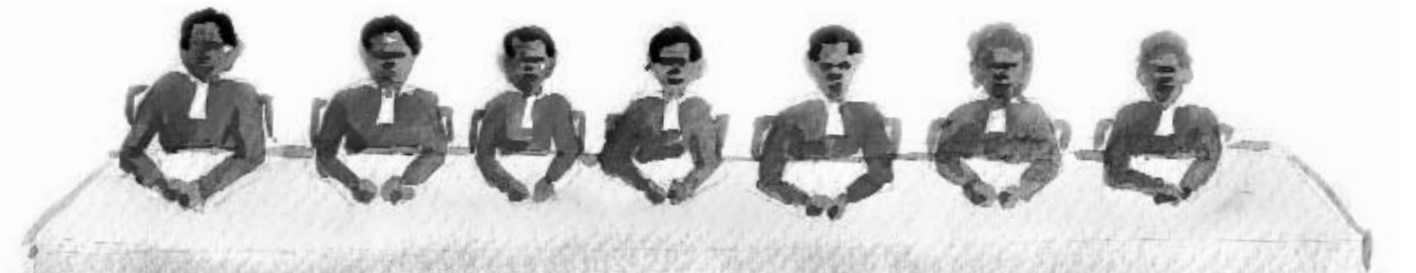
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Because any decision can be appealed, some cases might not reach final judgment for a long time, even months.

The Supreme Court’s judgment will be final. The Supreme Court is the highest chamber in the ECCC and there can be no further appeals of its decisions.

HOW AN APPEAL IS DECIDED: THE SUPERMAJORITY REQUIREMENT

Like the other chambers, a final Supreme Court decision requires a supermajority vote. This means that five of the seven judges must vote together to reach a decision.



STAGE 4: FINAL JUDGMENT AND PUNISHMENT

After the judges have made their final decision about whether the defendant is guilty or not guilty, the court has the power to punish or release the defendant.



If the judges find that a defendant is guilty, they will decide how long the defendant must stay in prison.
Shortest punishment: 5 years in prison
Longest punishment: life in prison

The judges may also order that any property or money the defendant got by committing his crime be taken from him and given to the Government.

The police will transport the defendant to a prison in Cambodia.



If the judges find that a defendant is not guilty, the court will order the police to release him.

The defendant will be free to return to his home and cannot be prosecuted again for the same crime.

WHAT MAKES A DEFENDANT GUILTY?

There are three main ways the judges could decide that a person is guilty of a crime:

- 1) The judges might decide that a person is guilty of directly committing one of the eight crimes mentioned above.
- 2) The judges might decide that a person is guilty because he planned, ordered, helped or encouraged someone to commit one of the eight crimes.
- 3) The judges might also decide that a person is guilty because he did not do enough to stop someone under his command from committing that crime.

WHAT MAKES A DEFENDANT NOT GUILTY?

There are three main ways the judges could decide that a person is not guilty of a crime:

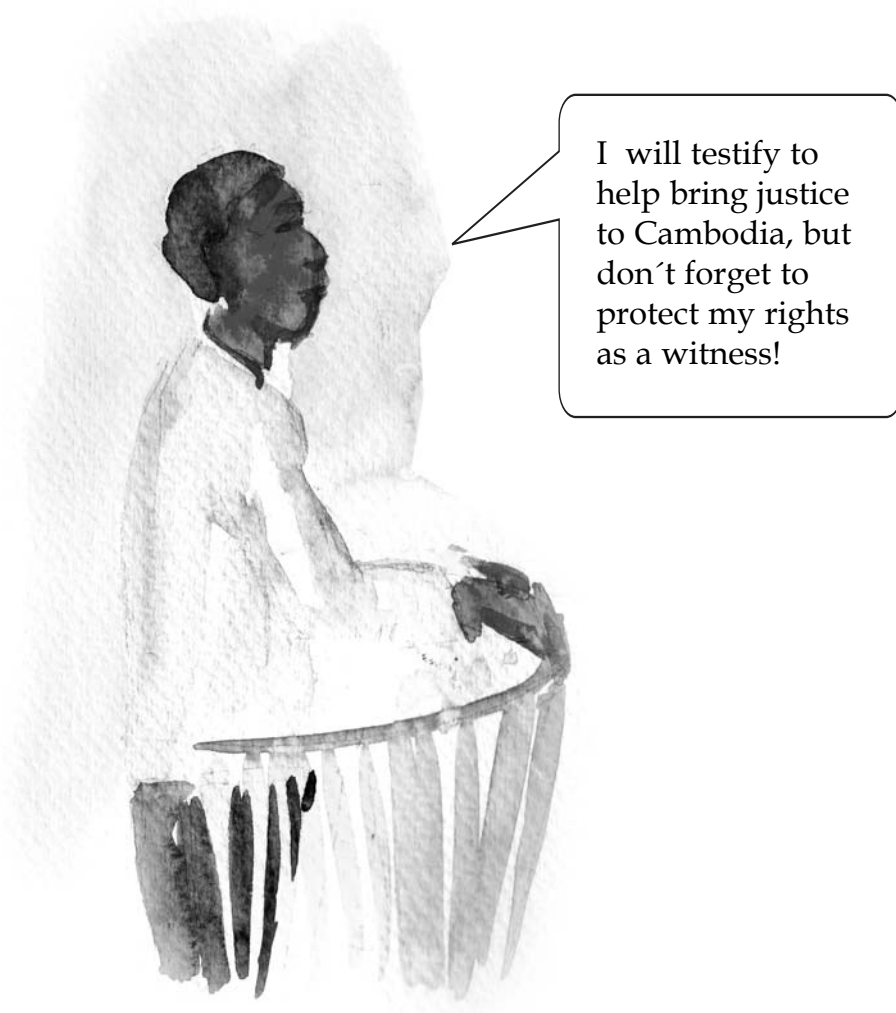
- 1) The judges might decide that a person is not guilty because the court does not have the power to try him in the first place because, for example, he or she is not a "senior leader" or "most responsible."
- 2) The judges might decide that a person is not guilty because even though he or she admits to committing the act, he or she cannot be held criminally responsible. For example, he or she might not have known that the act was wrong because he or she was mentally ill.
- 3) The judges might decide that a person is not guilty because the prosecution does not have enough evidence to prove that he or she actually committed the crime.

THE RIGHTS OF VICTIMS AND WITNESSES AT THE ECCC

The stories of victims and witnesses are a very important part of any trial. The law requires that victims and witnesses be protected throughout the trial process so that they feel safe to tell their stories publicly. For example, if victims or witnesses feels threatened, the court may provide them with guarded housing and safe transportation to and from the court.

A trial may also re-open the pain and suffering victims and witnesses experienced during the KR regime. Because of this, certain support services will be provided for vulnerable victims and witnesses. For example, some people may not have to testify in public. Others may receive mental health support.

The ECCC may pay certain cost to victims and witnesses who appear in court such as transportation and wages for the days of work they miss while in court. This does not mean they will be paid extra money.



THE RIGHTS OF DEFENDANTS AT THE ECCC

The law also protects the rights of defendants. Defendants before the ECCC have the right to:

- ◆ know what crimes they have been accused of committing
- ◆ have their own lawyers
- ◆ have lawyers provided if they cannot afford them
- ◆ have adequate time and facilities to prepare their defenses
- ◆ have swift, fair and public trials
- ◆ examine evidence against them and question witnesses
- ◆ be presumed innocent until proven guilty
- ◆ challenge their convictions before the Supreme Court



The court must protect these rights to ensure the process meets international fair trial standards.

REFLECTION AND DISCUSSION

Why do Defendants Deserve Any Rights at All?

The rights of the defense can be one of the most difficult parts of the judicial process to understand and accept. Many people are angry and upset about what has happened and may feel that those most responsible in the Khmer Rouge have acted so unfairly that they do not deserve to be treated fairly or presumed innocent. But the rights of the defendant are important for the following reasons:

TRUTH - In order to find the **truth** about what crimes happened and who is responsible for them, the defendants must have the chance to speak.

LEGITIMACY - To ensure that trials are as **legitimate** as possible for both Cambodia and the international community, it is important that the trials do not appear biased or unfair and that everyone involved is granted certain rights.

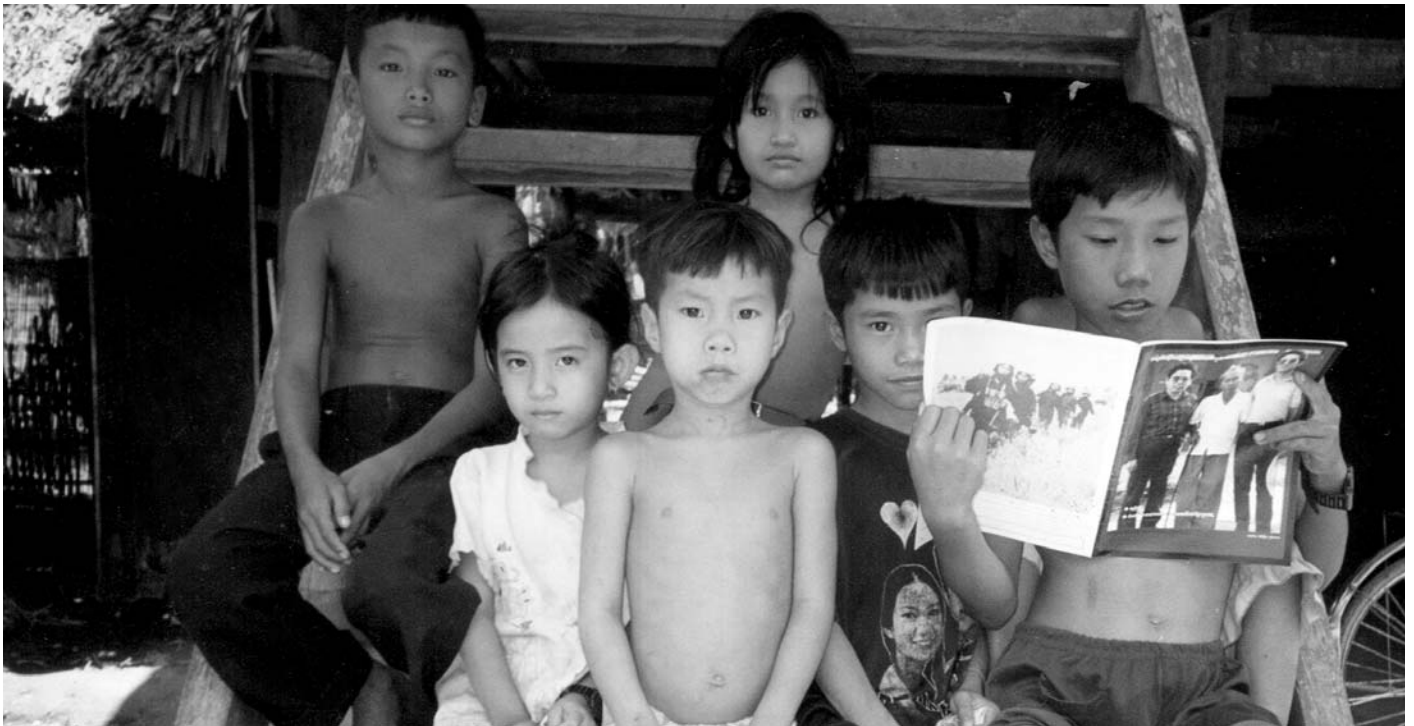
JUSTICE - Granting a defendant rights shows a commitment to **justice**, not revenge. A society governed by the law must give rights to all in order to separate itself from regimes like the Khmer Rouge. A society adhering to "the rule of law" needs to apply the law and punish only those who are proven guilty.

*****Imagine you were falsely accused of a crime. How could you properly defend yourself if you were not guaranteed these rights?**

It is expected that the ECCC will operate in Cambodia for three years. There are many ways you can be involved. You can follow the proceedings by reading newspaper reports, listening to the radio, or visiting the court. A court that is watched by the people will be more accountable to the people.

**INCLUDE SMALL PICTURES OF NEWSPAPER, RADIO, THE COURT
3 IF POSSIBLE**

By learning about the ECCC and following the proceedings, you will form your own opinions about the trials. You can share these opinions with your families and neighbors so they too can learn about the court.



Hopefully, after the ECCC process has finished, the court will have contributed to strengthened rule of law in Cambodia and to peace and societal recovery. However, the court cannot build this legacy without the active participation of the Cambodian people.

CHAPTER 3

BEYOND THE ECCC

You may have heard people who lived through the Khmer Rouge period talking about their desire for peace and "reconciliation" in Cambodia. Reconciliation means bringing people back together and healing what has been damaged in the past. This is a very complicated and emotional task after the extreme violence of the Khmer Rouge regime.

If we think of peace and reconciliation as a puzzle, the court process is just ONE piece.

A court of law attempts to bring justice and healing by:

Finding out the truth about what happened

Preserving the story for future generations

Acknowledging what happened officially

Holding individuals responsible for the crimes they commit

Punishing criminals

Preventing individuals in the future from committing similar crimes

Sending a message that society will not allow such crimes to go unpunished

Providing closure on the events of the past

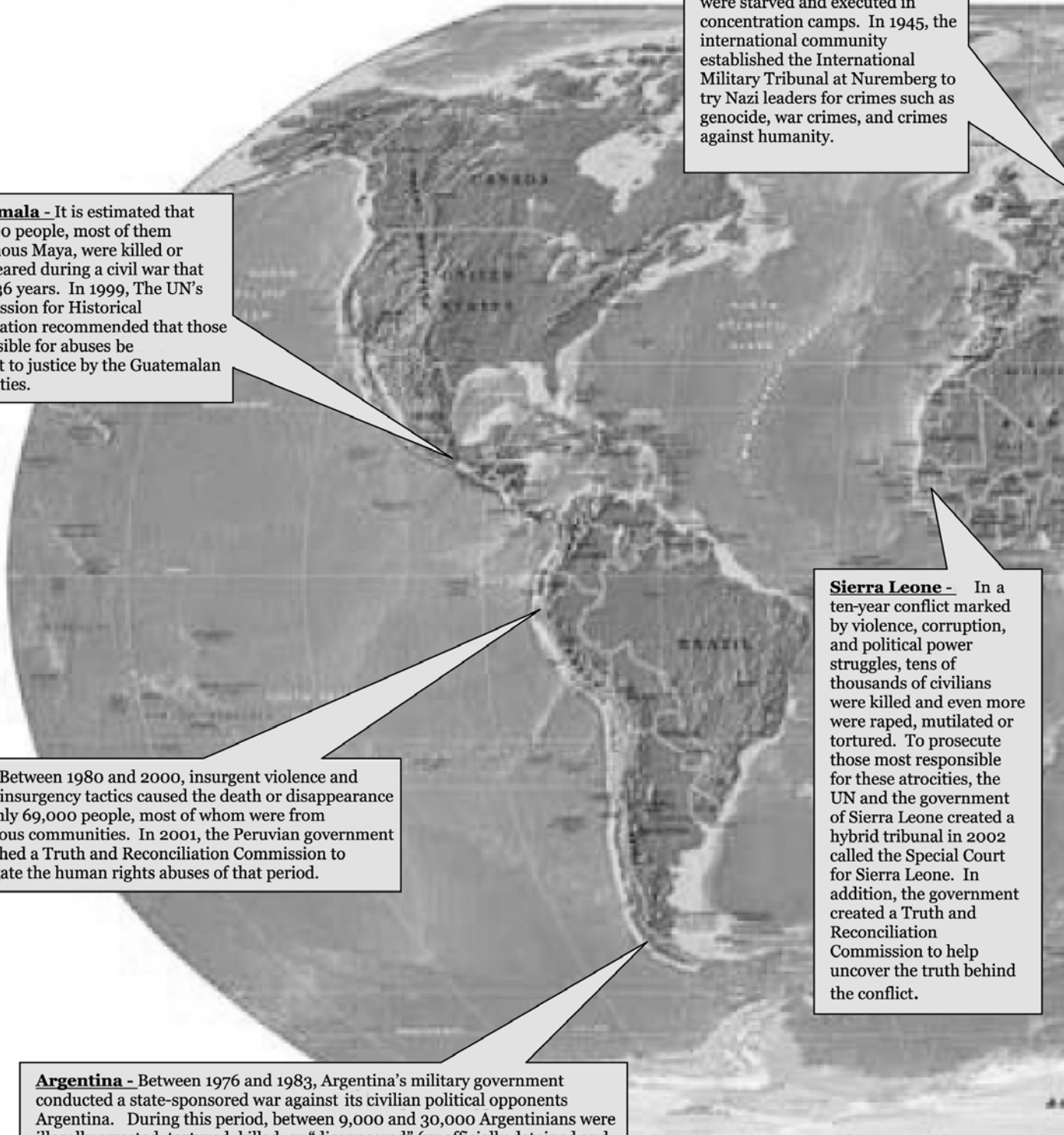
**INSERT A PICTURE HERE
MAYBE OF A GENERIC COURT?**

A court is not perfect though. Because so many years have passed and because trials are long and complicated, the ECCC will only be able to try a few of the leaders of the Khmer Rouge, and for many victims justice may come too late.

However, it is important to remember that even the best, most honorable courts in the world cannot, alone, heal a society struggling to confront serious violence in its past. Apart from the ECCC, Cambodia needs many other efforts to recover from the Khmer Rouge period and to rebuild Cambodian society.

VIOLENCE AND RECONCILIATION AROUND THE WORLD

Cambodia is not the only country to face mass political violence and to cope with the process of peace building and reconciliation that follows....



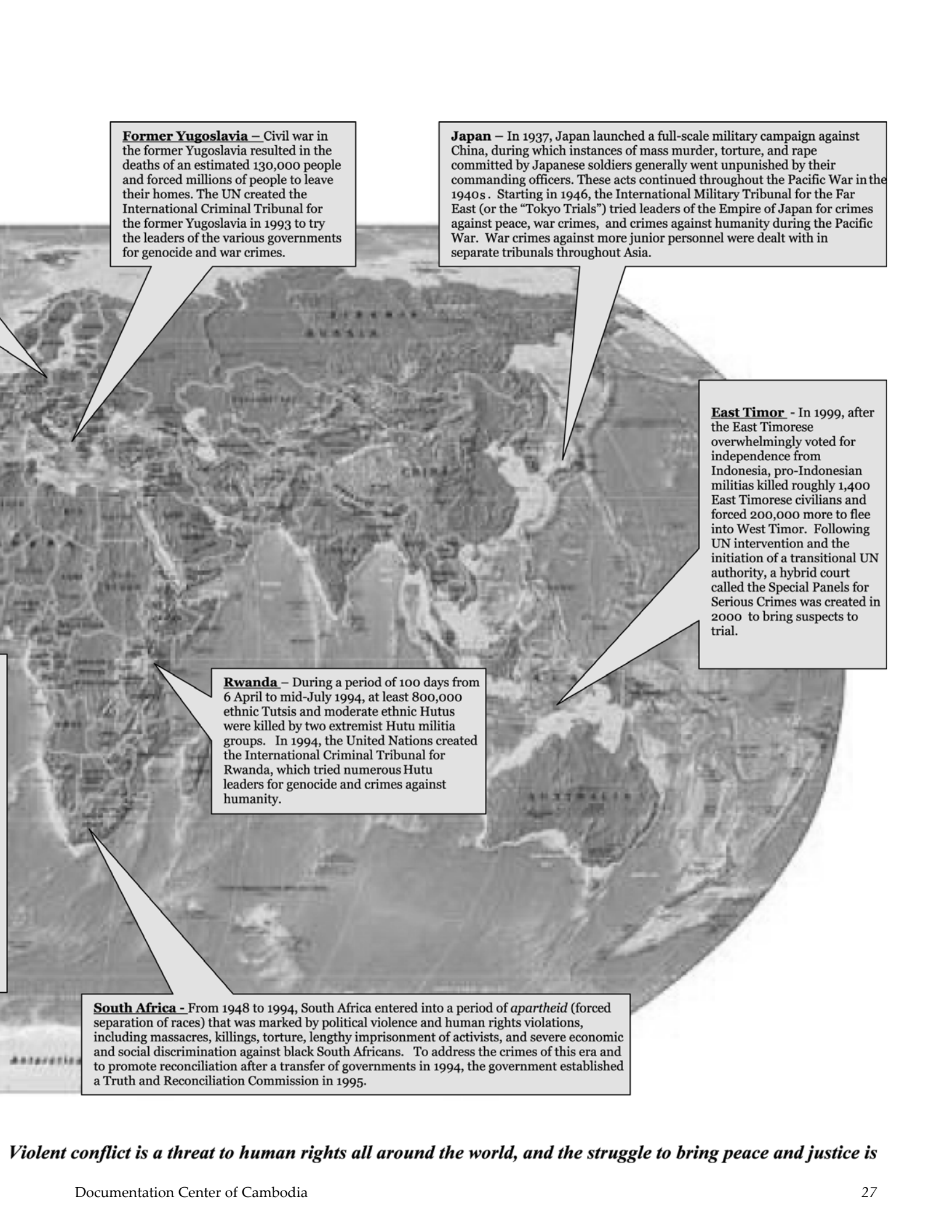
Germany - From 1933 to 1945, the German Nazi government was responsible for the deaths of at least 10 million people throughout Europe, including roughly 6 million Jews. Many of these people were starved and executed in concentration camps. In 1945, the international community established the International Military Tribunal at Nuremberg to try Nazi leaders for crimes such as genocide, war crimes, and crimes against humanity.

Guatemala - It is estimated that 200,000 people, most of them indigenous Maya, were killed or disappeared during a civil war that lasted 36 years. In 1999, The UN's Commission for Historical Clarification recommended that those responsible for abuses be brought to justice by the Guatemalan authorities.

Peru - Between 1980 and 2000, insurgent violence and counterinsurgency tactics caused the death or disappearance of roughly 69,000 people, most of whom were from indigenous communities. In 2001, the Peruvian government established a Truth and Reconciliation Commission to investigate the human rights abuses of that period.

Argentina - Between 1976 and 1983, Argentina's military government conducted a state-sponsored war against its civilian political opponents Argentina. During this period, between 9,000 and 30,000 Argentinians were illegally arrested, tortured, killed, or "disappeared" (unofficially detained and never heard from again). In 1984, the top leaders were tried for various crimes in domestic courts, including torture and war crimes.

Sierra Leone - In a ten-year conflict marked by violence, corruption, and political power struggles, tens of thousands of civilians were killed and even more were raped, mutilated or tortured. To prosecute those most responsible for these atrocities, the UN and the government of Sierra Leone created a hybrid tribunal in 2002 called the Special Court for Sierra Leone. In addition, the government created a Truth and Reconciliation Commission to help uncover the truth behind the conflict.



Former Yugoslavia – Civil war in the former Yugoslavia resulted in the deaths of an estimated 130,000 people and forced millions of people to leave their homes. The UN created the International Criminal Tribunal for the former Yugoslavia in 1993 to try the leaders of the various governments for genocide and war crimes.

Japan – In 1937, Japan launched a full-scale military campaign against China, during which instances of mass murder, torture, and rape committed by Japanese soldiers generally went unpunished by their commanding officers. These acts continued throughout the Pacific War in the 1940s. Starting in 1946, the International Military Tribunal for the Far East (or the “Tokyo Trials”) tried leaders of the Empire of Japan for crimes against peace, war crimes, and crimes against humanity during the Pacific War. War crimes against more junior personnel were dealt with in separate tribunals throughout Asia.

East Timor - In 1999, after the East Timorese overwhelmingly voted for independence from Indonesia, pro-Indonesian militias killed roughly 1,400 East Timorese civilians and forced 200,000 more to flee into West Timor. Following UN intervention and the initiation of a transitional UN authority, a hybrid court called the Special Panels for Serious Crimes was created in 2000 to bring suspects to trial.

Rwanda – During a period of 100 days from 6 April to mid-July 1994, at least 800,000 ethnic Tutsis and moderate ethnic Hutus were killed by two extremist Hutu militia groups. In 1994, the United Nations created the International Criminal Tribunal for Rwanda, which tried numerous Hutu leaders for genocide and crimes against humanity.

South Africa - From 1948 to 1994, South Africa entered into a period of *apartheid* (forced separation of races) that was marked by political violence and human rights violations, including massacres, killings, torture, lengthy imprisonment of activists, and severe economic and social discrimination against black South Africans. To address the crimes of this era and to promote reconciliation after a transfer of governments in 1994, the government established a Truth and Reconciliation Commission in 1995.

Violent conflict is a threat to human rights all around the world, and the struggle to bring peace and justice is

Reconciliation is especially important in Cambodia because almost everyone was affected by the horrors of the Khmer Rouge regime, as a victim, a perpetrator, or a witness. Here are some ideas from the people of Cambodia on what reconciliation means and how to achieve it:
(from Suzannah Linton's book, *Reconciliation in Cambodia*)

«National reconciliation means eliminating violence and revenge, and making each family work together with others, because we share the same nationality.»

«To achieve national reconciliation, people must first be well educated and have a love for peace.»

«To achieve national reconciliation we must hold the concepts of non-violence and democracy, and seek peaceful and legal solutions.»

«National reconciliation means helping people to understand each other to avoid conflict.»

INSERT PICTURE OF A GROUP OF CAMBODIAN ADULTS

«Vindictiveness is ended by not being vindictive.»

«National reconciliation means we, Khmer people, must preserve Khmer land, love Khmer people, learn to work cooperatively, have mutual understanding, and not to oppose each other.»

«All victims should abandon grudges against those who hurt them. The perpetrators should try to look back at what they did and what their faults were. And then abandon that bad idea and turn to walk the right way. Only then will national reconciliation be achieved.»

REFLECTION AND DISCUSSION

Now that you have read these ideas of what reconciliation can involve, think about how you understand it, and how Cambodians can come together to heal and work towards peace:

What does "reconciliation" mean to you?

Have you already reconciled with those in your community? If so, how? If not, do you think you will be able to in the future? How?

How can the government help people and society reconcile?

RECONCILIATION IN CAMBODIA

Reconciliation is not just an idea. Beyond trials, there are many specific things that can be done to work towards reconciliation. These should have the following goals:

ACKNOWLEDGING, officially and publicly, what happened
PRESERVING a historical record of what happened
REMEMBERING the past and **HONORING** that memory
EDUCATING individuals, especially children, about the past and ways
to live peacefully in the future

In the years since the Khmer Rouge regime ended, many attempts have been made to work towards reconciliation. Some have been by religious people, some by the government, some by organizations, and some by ordinary individuals.

BUDDHIST INITIATIVES:

INSERT PICTURE OF WALK OF PEACE

Dhammayietra - Walk for Peace

Every year since 1992, this cross-country walk by Buddhist monks and laypeople brings hope to Cambodians along the path and everywhere, demonstrating that reconciliation must be achieved one step at a time.

INSERT PICTURE OF FESTIVAL OF THE DEAD

Phchum Ben - Festival of the Dead

During this annual 15-day Buddhist holiday, local wats are full of offerings to the spirits of ancestors. The festival has become a memorial to victims of the Khmer Rouge as well.

GOVERNMENT INITIATIVES:

Over the years, the Cambodian government has declared national holidays that could contribute towards reconciliation. However, these days can also divide Cambodians because they come from the government. Celebrations on these days, if they continue, should focus on community and positive steps towards reconciliation.

January 7 - Liberation Day

This holiday is also known as Independence Day or Vietnamese Invasion Day, depending on how it is viewed. The day marks the end of the Khmer Rouge regime in Cambodia.

May 20 - Day of Anger

Begun by the government as a required popular protest against Pol Pot and the Khmer Rouge, the day is no longer formally recognized, but there has recently been a resurgence in informal mass demonstrations.

INSERT PICTURE OF DAY OF ANGER
(if possible)

ORGANIZATION INITIATIVES:

Organizations like DC-Cam have also conducted forums, surveys, trainings, discussions, and other outreach activities that engage Cambodians and encourage reconciliation. DC-Cam's magazine *Searching for the Truth*, which is distributed throughout the country, collects and publishes stories of Cambodians, both victims and perpetrators, during the Khmer Rouge.

INCLUDE PICTURE OF SEARCHING
FOR THE TRUTH MAGAZINE

Many other organizations and individuals have contributed to reconciliation in Cambodia, particularly through creative means like visual arts, literature, performing arts, etc.



Choeng Ek Memorial honors those executed in "the killing fields" outside Phnom Penh



Photographs of Khmer Rouge victims promote remembrance at Tuol Sleng Genocide Museum

Around the country there are at least 80
memorials built to honor the victims of the
Khmer Rouge.
In Phnom Penh, visit to learn more:
TUOL SLENG GENOCIDE MUSEUM
CHOEUNG EK MEMORIAL



Baray Choan Dek Memorial (skulls of men, women and children killed during the Khmer Rouge regime)



Photographs and artifacts throughout the Tuol Sleng Genocide Museum tell the story of the building's violent past

FUTURE INITIATIVES

The journey towards reconciliation is not easy and may never be truly finished. In addition to all of these efforts and the trials at the ECCC, more can and should be done to contribute to reconciliation in Cambodia.

INSERT PICTURE FROM AN ECCC
TOUR OF VILLAGERS AT TRIBUNAL

ECC Outreach Activities

As this book already explained, it is important that all Cambodians understand and participate in the work of the tribunal in order for it to contribute to reconciliation. Many organizations like DC-Cam are developing programs to bring the work of the tribunal to the people in the countryside, and to bring the Cambodian people to the tribunal. This way Cambodians can learn about the tribunal, watch the trials, and debate and discuss them.

Education

Many people in Cambodia today, especially young people, do not know about the Khmer Rouge period, or do not really understand or believe it. This period should be included in the history classes taught in schools, although the story must be carefully presented so as to be fair and not one-sided. DC-Cam has designed a textbook to teach this history in schools. Adults, too, should continue to learn about the past and how not to repeat it.

INSERT PICTURE OF NEW TEXTBOOK,
OR SOMETHING ELSE SCHOOL-
RELATED

INSERT PICTURE OF SOMETHING
LIKE A GOVERNMENT OFFICIAL
MAKING AN ANNOUNCEMENT(?)

Acknowledgement

There should be more official and public acknowledgement of what happened during the Khmer Rouge regime. Victims, especially, need to know that others recognize their suffering. Although the government has made statements over the years, these were not enough. More acknowledgement from the international community would help as well. Acknowledgement can come in the form of statements, programs, memorials, and more.

Community Conflict Resolution

Even though it has been many years since the Khmer Rouge regime, some conflicts may still exist at the individual and community level. In villages, people may be living side-by-side with those who harmed them long ago. If it would be helpful to resolve some of these conflicts, communities could use traditional processes. This has been done in both Rwanda and East Timor, in addition to international trials.

In Cambodia, the traditional practice of somroh-somrueal could be used. A form of third-party mediation based on Buddhist principles of peace building that takes place at the village level, somroh-somrueal could help community members coexist. Mass participation could bring villagers together in the long-term effort to compensate the victim, heal broken relationships, and allow the parties to return to communal life. The process could be used traditionally, or could be modified, depending on what helps villagers the most.

INSERT A LARGE PICTURE OF SOME SORT OF COMMUNITY/VILLAGE MEETING OR SOMETHING THAT LOOKS LIKE AN INDIVIDUAL TALKING BEFORE A GROUP, WITH THEM ALL WORKING TOGETHER

Truth Commission

It may help to have a truth commission or historical inquiry commission in Cambodia. Commissions have been used in many places throughout the world. They can work differently, depending how they are set up. Sometimes they are open to any individual who wants to come forward to tell his/her story, but sometimes they rely on trusted individuals, local or international, who conduct research to find out what happened. Sometimes they recommend punishment for offenders, and sometimes they just provide a forum for discussion. A truth commission does not need to be a «truth and reconciliation» commission like the one held in South Africa. It can be designed to fit the needs and desires of Cambodians.

There has been much discussion over the years about whether a truth commission of some kind would help Cambodia. So far, one has not been established, but that does not mean it is too late. Especially if Cambodians feel unsatisfied with the ECCC, or if they simply want an official process that involves more individual participation, a truth commission after the trials could still be useful.

IN THE END, IT WILL BE UP TO THE PEOPLE OF CAMBODIA TO WORK TOGETHER
TOWARDS RECONCILIATION...

DC-CAM

DC-Cam intends to continue contributing to Cambodia's reconciliation process even after the ECCC has finished its work. DC-Cam will continue its efforts to see that everyone responsible for the genocide is held accountable, it is never repeated, and Cambodian society can move forward. The objectives of the organization will remain the same: **JUSTICE** and **MEMORY**, but the methods will evolve.

A museum will be a permanent cultural institution to teach Cambodians about the past. The museum will include things like educational exhibits, musical archives, film screenings, performances, seminars, and facilities for tracing families.

An educational institution will build the capacity of future generations of Cambodians. Certificate programs, elective course, undergraduate and graduate programs will cover subjects such as peace and reconciliation, genocide, and law.

A library will preserve history and memory by containing the collection of DC-Cam's documents. Research will continue both in the library and through fieldwork, and publications will document the findings.

Social services will help survivors of Democratic Kampuchea come to terms with the past. Victims of trauma will receive counseling and referrals. Public education and outreach will teach survivors they are not alone.

THE FOLLOWING SOURCES WERE DRAWN UPON FOR THE CONTENTS OF THIS BOOKLET:

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Physical Map of the World, April 2004 (Robinson projection, Standard parallels, 38°N, 38°S)
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