

Initial Hearing of Case 002: Community Participation

By: Savina Sirik and Sharon Kim

Introduction

From June 26 to 30, 2011, the Documentation Center of Cambodia's (DC-Cam) Living Documents project in cooperation with the Victim Participation project made arrangements for two groups of participants to attend the initial hearing in Case 002 at the Extraordinary Chambers in the Courts of Cambodia (ECCC). The first group of villagers — 25 community activists and 15 civil parties — arrived at DC-Cam on June 26 to attend a briefing on the hearing, meet with civil party lawyers, and watch a documentary film. The second group, which consisted of 10 people from Preah Netr Preah, arrived at DC-Cam on June 29 to attend the last day of the hearing and to visit Tuol Slengmuseum and Choeung Ek killing field site. Members of the group had come from a diverse range of provinces including Kampong Chhang, Banteay Meanchey, Siem Reap, Kampong Thom, Kampot, Svay Rieng, Kampong Cham, Preah Sihanouk, Kandal, Takeo, Prey Veng, and Kratie. The group was distinct in that members constituted both victims and former Khmer Rouge cadres. Within the group, about a dozen are former Khmer Rouge cadres from the former Khmer Rouge stronghold in Malai and Preah Netr Preah district, Banteay Meanchey province. The program was organized as part of DC-Cam's outreach effort to engage the public in the process of the tribunal, especially villagers with limited access to modern communication, and to collectively work towards a more open and just society.

The specific purposes of this program are the following: to enhance rural Cambodians' understandings of the ECCC's proceedings, promote dialogue regarding the experiences of villagers during the Khmer Rouge regime, and provide a space for civil party applicants and their representatives to interact with one another. During the visit, participants are provided with booklets and handouts: new issues of *Searching for the Truth* magazine, outreach booklet for Case 002 *Genocide: The Importance of Case 002*, summary information sheets of the Khmer Rouge leaders Nuon Chea, Khieu Samphan, and Ieng Thirith, and a prep sheet explaining the hearing agenda.

Information Session

On Sunday, 26 June 2011, villagers were brought to DC-Cam to prepare them with information regarding the initial hearings of case 002 that were to start the next day.



Dara P. Vanthan explains nature of the initial hearing to the villagers

Vanthan P. Dara, DC-Cam's Legal Response Team Leader, spoke about the two possible ways in which villagers could participate in the case 002 process: by either becoming a member of the civil party or serving as a complainant. Unfortunately, the deadline to join the civil party had already passed; nonetheless, Dara continued to explain the process. Those qualified to be part of the party would have to send in an application form to

be considered by the Prosecutor. Initially, the Court had recognized more than 2000

individuals to be part of the civil party and rejected more than 1000 members. But, the Court had provided an appeal and gave an additional 1,728 individuals civil party status. The co-investigating judges had decided to make this correction in realization that they had misinterpreted certain internal rules. Once accepted as a civil party member, the individual would then become a member, and consequently, earn the right to apply for reparations. Dara went on to explain that case 002 has a very complicated process given the number of individuals accused and civil party members involved; as a result, reparation itself is very difficult to define and standardize. But, even if this is not an option, Dara emphasized that it is crucial for villagers to participate in the process in any way possible—by becoming a complainant, by talking to counsels and requesting them to speak on their behalf.

Before explaining the nature of the initial hearings, Dara asked if the villagers had any expectations for the upcoming days. A male villager, Sa Sarin from Kampong Cham province, brought up two specific points. First, he wanted to know whether these initial hearings would bring forth the final verdict for the four accused. Second, he mentioned how he had attended a one-week course on politics and legal studies and wondered if this qualification would enable him to become a prosecutor in the trial. It was answered that no such final verdict would be given at the initial hearing, as it focuses on the handling and establishing of procedural rules; and unfortunately, even with his particular experience, would not be able to serve as a prosecutor.

The second male villager, named Matt Him, a Cham-Muslim from Kampot province, first mentioned how proud he was for being invited to participate in the hearings. Even if he is not a civil party member, and even if he cannot necessarily interact with the judge and the defendants, he is still proud to be able to attend a trial that would surely prevent the same atrocities from happening again. He also brought up an important historical question, as to why members of the United Nations did not stop the genocide from happening. He had been frustrated by this historical fact for a long time, as he 'could not find anyone who would answer [his] question.'

Why was Democratic Kampuchea recognized by the United Nations? And more importantly, why didn't the United Nations do anything to help?

His questions were in initially answered by way of a Khmer proverb: 'to be alive, you have to hide.' During the Khmer Rouge time, the United Nations could not intervene because they did not know about the genocide; it was the policy of Democratic Kampuchea to keep its operations as secretive as possible and to isolate itself from the rest of the international community. As a result, information of the conditions within the country was undisclosed to the outside world.



Matt Him, a Cham-Muslim from Kampot, listens to the presentation regarding the initial hearing in Case 002.

After listening to this question, the same villager argued that during the Democratic Kampuchea, embassies were still established in Democratic Kampuchea. Why then didn't the embassy do anything when such outside forces existed within the country? It was then answered that the Democratic Kampuchea made sure that such diplomats and representatives would not be able to travel freely without permission from the Khmer Rouge cadres. And it was not until 1978 that the information about the abuse and killings was spread when refugees began flooding to the borders and informing others of what had happened to them and their families. At this point, the United Nations became more suspicious of the activities that were going on in Cambodia. In response, Pol Pot invited the United Nations Secretary to visit Cambodia, as a means of easing suspicions and keeping information hidden. But before visiting Cambodia, the United Nations Secretary sent three representatives—1 British and 2 American journalists—to Cambodia to conduct a preliminary investigation. During their visit, they were closely guarded and monitored by the Khmer Rouge. One night, after spending some time with the Democratic Kampuchea Minister of Foreign Affairs, Ieng Sary, the three journalists were sent back to their hotel, Le Phnom. That night, there was an attack that led to the death of the British journalist. Following the incident, information about human rights abuses and killings spread to the outside world, and as a result, the United Nations secretary cancelled his trip to Cambodia. But, Dara went on to explain that today's society is different, as there is a wider and freer circulation of information and the United Nations has the capacity to prevent the same things from happening again.

After the Question and Answer session, Dara relayed the agenda of the hearing to the villagers. He focused on some of the important theoretical and legal principles that would be mentioned

during the proceedings, including but not limited to, witness lists and objections, amnesties and pardons, statute of limitations and reparations.

The villagers were then told that they would watch a 15 minute documentary called *Mass Graves Near Pagoda*. However, due to technical difficulties, the villagers were not able to see the documentary in its entirety. But, the beginning scenes revealed the story of Vaing whose uncle was killed by Kin, a former Khmer Rouge soldier; and within the film, Kin himself was interviewed, with him relaying the story of what had happened that particular night.

Observations in the Courtroom

June 28 was the first day for the initial hearings of case 002 at the Extraordinary Chambers in the Courts of Cambodia (ECCC). The villagers arrived at the Court at 7:30 AM so that they could get to the Court early and get seats within the viewing room. After waiting in line to get visitor passes, have their bags checked, and go through security, the staff and visitors found themselves within the Courtroom. The actual chamber is separated from the viewing room by an oval glass wall. White curtains were drawn across the glass so as to prevent the audience from seeing the internal workings prior to the start of the hearing.



Villagers in the line to enter the ECCC's courtroom

Others started trickling in, with a large number of orange and white-robed monks finding themselves in the front row within the center area of the viewing room. Villagers who had taken buses from their homes to Phnom Penh found themselves sitting behind the monks. Some familiar faces were seen, including S-21 survivors Chum Mey and Vann Nath, professors and scholars such as Alexander Hinton, and human rights activists like Theary Seng.

After waiting for a few minutes, the white curtains were drawn and the spectacle of the Court was brought into clear view. The civil party and the Prosecution team were situated in the left of the chambers. The civil party lawyers had on black robes were situated towards the back and the Prosecutors, in their purple robes, were right next to them. The defense lawyers and the accused were situated on the right side of the Court. After a loud buzzing sound signified the entrance of the judges, everyone stood up. The President came in first with the other six judges following in their red robes. By the direction of the President, the audience and the rest of the members in the chambers sat down and waited for the hearing to begin.

From the very beginning of the proceedings, Nuon Chea raised his hand, wanting to be recognized by the judges. When the floor was given to him, he said: “My fellow Cambodian citizens, inside and outside Cambodia, I am not happy with this hearing, and I would like to allow my co-counsels to explain the reasons behind this.” Taking over, his lawyer Michiel Pestman went on to argue that the judges have failed to consider his client’s preliminary list of witnesses, which was submitted prior to the hearing for consideration. He continued on to call the trial “unfair,” given that it seemed as if “the sole purpose of the judicial investigation was to collect evidence against [his] client.” The trial, according to him, was created for the means of “establishing the truth and not simply at rubber-stamping history books written in Vietnam and the United States.” Nuon Chea left the courtroom following his defense lawyer’s assertions, stating that he would return when his requests are brought to the floor. The rest of the session was spent discussing Ieng Sary’s conviction in absentia in 1979 by the People’s Revolutionary Tribunal and the possibility of double jeopardy.



Nuon Chea in the ECCC's courtroom
(Photo:ECCC)

During the break, the Team talked with a few people at the Court to gauge their opinions on the trial and of the senior leaders. Ms. Maet Vansy, a 52 year-old Cham-Muslim woman from Kampot province, commented on Nuon Chea’s behavior in the courtroom as “inappropriate” and “disrespectful to the victims.” She went on to explain that Nuon Chea was speaking in a mean way and his repeated requests to return to his cell for a break annoyed her very much. She said, “I am not happy when he frequently requested the Chamber to leave the courtroom. He was an accused person, hence should stay in the room to listen to the proceedings until the end.” Vansy escaped death by working hard to please the Khmer Rouge. Her only two Muslim family neighbors were executed by the Khmer Rouge and that made her feel uncertain of how long she was going to stay alive. Under close observation from the Khmer Rouge, Vansy and her husband were sometimes forced to eat pork during cooperative meal, otherwise they would be regarded as enemies of the Angkar. Vansy gave her final remark saying that she felt relieved to see the senior Khmer Rouge on trial and wanted the court to serve them a sentence of life imprisonment.

Similarly, Mr. Mao That from Kampong Chhnang province expressed that he was disappointed with Nuon Chea’s words as he did not seem to take responsibility for what he committed during the regime. That added that he was unhappy to hear Nuon Chea say that he did not want to stay and listen to the discussion because it didn’t focus on his case. During the Khmer Rouge regime, That was sent to a mobile unit and forced to work in the rice fields. In 1978, his father was taken from the village to be killed because he was a former Lon Nol soldier. That said that even though the Khmer Rouge regime caused serious damage to the country and its people, the senior leaders

seem unable to humble themselves and feel responsible for the loss. Although That is unable to forget what happened to himself, his family, and Cambodian people, he feels positive about the tribunal and that it will deliver justice to all.

Sao Yoeun, a former revolutionary woman from Sandan district, Kampong Thom province, who involuntarily joined the Khmer Rouge in 1972, felt that Nuon Chea's words were irresponsible for the lives of million Cambodian people that were lost during the regime. Yoeun felt that his behavior in the courtroom, such as his leaving from the court during the proceedings, showed disrespect to the trial and the victims. "How could he not be happy when he stands trial to reveal the truth to all people? He was the one who executed [Cambodian] people," said Yoeun.



Sao Yoeun of Kampong Thom province.

The second day of the proceedings continued on to deal with the implications of the 1996 pardon Ieng Sary had received from King Norodom Sihanouk as well as the amnesty. The proceedings also dealt with preliminary objections regarding the statute of limitations, in relation to the Grave Breaches of the Geneva Convention.



Ieng Thirith (left) and Ieng Sary (right) sitting in the ECCC's courtroom. Photo: ECCC

On the third day of the hearings, the civil party lawyers described in detail the reparations that their clients has requested to compensate for the suffering they experienced under Democratic

Kampuchea. The list included, but was not limited to, the following: the establishment of a public national holiday to commemorate the dead, the construction of a multi-faith stupa or memorial, the preservation of killing fields and other relevant sites, the creation of a museum that deals specifically with the history of the Khmer Rouge, the implementation of genocide education programs in schools, and the initiation of a center that provides psychological treatment and counseling. As Pich Ang, the lead co-lawyer for the civil party, noted: "Those who applied to be civil parties have the intention to seek truth and justice, and to seek reparations awards for the victims as well as for the society as a whole." It is important to note that victims cannot be provided financial awards, given that the Court has the power to provide only collective and moral reparations.

On the fourth day of the proceedings, the DC-Cam's first group of 40 villagers was replaced with a new group of 10 people from Preah Netr Preah district, Banteay Meanchey province. For most of them, it was their first time seeing the trial. They expressed their excitement and appreciation for the opportunity to witness the tribunal and the trial. In the ECCC's compound, Vanthan P. Dara briefed them with background information and some of the hearing content from the three days of the hearing. He then told the group to expect what they were going to hear on the fourth day and ask them to pay particular attention to what the senior leaders might have to say during the proceedings.



The last day of the proceedings provided an opportunity for all parties in the proceedings to submit their oral arguments in relation to any objections to the tentative witness lists announced by the Chamber on the first day. Before beginning to discuss the proposed witness list, Khieu Samphan asked the Chamber to be allowed to speak on his own concerning his witness list. The judge rejected the request and instructed him and his counsel to address the court when it was their turn. Following the co-prosecutors and the other defense team's remarks on the proposed witness list, Khieu Samphan rose up from his seat and spoke to the public. Villagers and reporters carefully listened to what Khieu Samphan had to say. He began his comments by greeting the Chamber, all parties present, and the public. Commenting that this trial was important to him and the Cambodian people, he stated he had been waiting for this moment for long time. Promising to cooperate and contribute in any way he could, he claimed, "I personally am not fully knowledgeable of everything but I'll do my best to make sure that I ascertain the truth to my full capacity."

Khieu Samphan stands up and comments on the proposed witness list at the ECCC's courtroom.

He then remarked that the witnesses proposed to the court mostly belonged to the prosecution; even some of the witnesses his team had proposed have become witnesses for the prosecution. He ended his statement by asserting that he would file a request to add more witnesses to the list in writing at a later date.

Villagers' experiences under the Khmer Rouge and their perspectives to the senior Khmer Rouge leaders on trial

The initial hearing has drawn special attention from people from all walks of life and on both the national and international level as it involves four infamous Khmer Rouge senior leaders: Nuon Chea, Ieng Thirith, Ieng Sary, and Khieu Samphan. The population expects the trial to reveal the truth about what really happened during the Democratic Kampuchea period. It will also serve as a means by which survivors of the Khmer Rouge regime can witness the proceedings, speak about their experiences, share their opinions on the trial, and discuss about whether the court can deliver justice to them. One's personal experiences can play a large part in how they view the Khmer Rouge regime and the trial itself. Although villagers invited to attend the initial hearing are more representatives of the victims, DC-Cam makes a strong effort to include former Khmer Rouge cadres who have served the Khmer Rouge regime. The 10 selected participants we interviewed expressed their opinion and expectations of the trials based on their particular experiences, the level of their understanding of the proceedings, and their personal motivation to participate in the trial. The following are interviews the team conducted with some program participants.

Yim Pan, 60, Kampot province

I think the trial is correct because it helps to make sure that those who committed an act against the international crimes such as grave breaches of 1949 Geneva Convention can be punished. I limit my expectation from this trial. But I hope that the trial would teach younger generation that those who commit crimes, including national and international legal violations, will be brought to trial and punished. I also believe that the tribunal is following the rule of law and setting a model for younger generations. Even though I have lived through the three year genocidal period, I did not know much about execution in my village. It was not until after the liberation day (in 1979) that I realized there was so much killing taking place. I saw the faces of the senior leaders for the first time. They look really old and very weak to me. I don't know how long they are able to stand trial.



Yim Pan from Kampot province

Maet Vansy, 52, Kampot province

I came here for the first time to observe the trial because I was a victim of the Khmer Rouge regime. I had 9 uncles but 8 of them were executed during the Khmer Rouge period. During the

time, at the place where I live, Khmer Rouge selected new people to execute. While they were working in the field, Khmer Rouge called each of them and then they disappeared. I and my husband were also chased and arrested, but we were lucky to escape the death and stay alive. Two other Cham-Muslim families who came with me and my husband were all executed. It seemed that we could survive because we tried to work nonstop to please them [the Khmer Rouge]. Once when we ate in the cooperative, the Khmer Rouge checked on us and told us to eat pork or otherwise we would be executed. I was afraid to die so I closed my eyes and chewed the



Maet Vansy (on the left) leaving the courtroom

pork. When they left me, I stopped and spitted the pork out of my mouth. If we didn't follow their orders, they wouldn't spare our life.

When I entered in the courtroom I felt as though I was just recently liberated. I felt the pain within my heart. As I saw how old those senior leaders are, I did not know how to get angry at them. However, the anger is still buried in my heart, although I know they [Khmer Rouge leaders] were aging and will barely live much longer. I want the tribunal to try them so I can relieve the anger that is buried inside me. When I came here and saw them on trial, I felt some kind of relief. I observed that Nuon Chea was speaking in a mean way. I was not happy that he asked to wear a hat, sunglasses and requested to return to his cell. He should stay in the courtroom to observe the proceedings as he was a wrongdoer. I want him to sit in the courtroom until the end of the trial. And I want the tribunal to find him guilty and sentence him to life in prison.

Matt Him, 55, Kampot province

This morning when I was attending the initial hearing of Case 002 at the ECCC's courtroom, I saw the four senior leaders. I did not feel satisfied when the defense counsel and the accused persons complained to the chamber and raised reasons to let them [accused persons] leave the courtroom for their cells or the rest room. I am not happy because they seemed to be acting irresponsibly for what happened during the Khmer Rouge period. They don't seem to acknowledge the victims' sufferings. The atrocity took place long time ago and we do not want to take revenge on anybody nor do I want the regime to come back again. But we want the senior leaders to speak the truth and be accountable for what happened in between 17 April 1975 and 6 January 1979. When I watched the documentary film [at DC-Cam], I felt that victims are relieved when the perpetrator admitted his wrongdoing. However, when we look at the senior leaders, they pretend they do not know anything and I am not happy about that. They should at least sit and listen to the proceedings. I regret that Nuon Chea did not attend the full session of his own trial. I hope that the tribunal is transparent and can bring justice to Cambodian people,

and that the truth can be revealed to the world about what happened during the Democratic Kampuchea period on Cambodia land. I also hope the result of this trial will be acceptable to both victims and the accused persons. I don't want the court to sentence them to death like the trial in 1979. Instead I want the tribunal to sentence them to life in prison. It fits their actions and makes them accountable for the atrocities they committed during the Democratic Kampuchea period.

Matt SuKry, 49, Preah Sihanuk province

When I was young, my family was already separated. My father escaped to Malaysia in 1976, I fled to Vietnam with my neighbors, my brother went to Thailand to seek refuge, and my mother and my other siblings were locked up in the country. The pain and many questions still remain in my heart.

This is the first time I have attended the court hearings [at the ECCC]. I wanted to attend because I learnt that these senior leaders led a lot of the executions and caused family separations. Those leaders include Pol Pot, Khieu Samphan, Ieng Sary and others.

I feel happy that the tribunal can bring those leaders, who led the country to devastation, to trial because I can't really forget what happened to me and my family 20-30 years ago. The tribunal will be able to reveal the truth of their leadership. What I would like to know the most is how they are going to be sentenced.

From my observation this morning I feel that the defense counsel Michael Karnavas and Ang Udom tried to argue for their client [Ieng Sary] regarding the amnesty and pardon granted by the former King and the [1994] law. I would feel happy if Ieng Sary and his groups were sentenced to trial. I think that this trial has provided an opportunity for the defense to argue for them. I am concerned that the defense is one step further than the other parties in the proceedings. Nuon Chea had this behavior and spoke during the hearing which made me feel negative towards him. If he could use those impolite words in the courtroom, I could not imagine what words he spoke when he was in power. Would he use violence and bad words against his own people the same way he did today? I believe that this court would be able to deliver justice to me and Cambodian people because it has already done so successfully with Duch's case. I believe that the court will be able to find them guilty as well.

I think the tribunal is highly beneficial. It helps set an example for the younger generation and teach them that those who commit crimes will be punished for their wrongdoing. It also teaches



Matt SuKry a participant from Preah Sihanouk province.

them that our country is capable of bringing those leaders to trial, even though the atrocity took place 30 years ago.

Mao That, Kampong Chhnang province



"I was unhappy to Nuon Chea's words because he was a kind of man who was very irresponsible, " said Mao That of Kampong Chhnang.

the court, although they had massacred people so unjustly. Their behavior is unfair and that I cannot accept.

I was unhappy to Nuon Chea's words because he was a kind of man who was very irresponsible. I was annoyed as he said he didn't want to stay and listen to the proceedings. It was unacceptable for me to see him behave like he did at the courtroom, wearing a hat and sunglasses.

The tribunal should speed up its work and make sure the accused persons do not die before they are punished. I want to see them live and be held accountable for what happened during the regime. It will not satisfy me if they die before being sentenced.

Svay Bo alias Lai Sim, Malai district, Banteay Meanchey province

I personally feel pity for them [senior leaders on trial] because they are very old and their health is weak. I don't know if others think the same way as I do. Out of my observation at the trial these two days, I noted that the defense lawyer for [Jeng Sary] argued that he [Jeng Sary] had been tried once already, hence he is not eligible for the second trial. I personally have never seen them kill people. I only heard that they committed a lot of executions. In order to achieve reconciliation, I think he should not be the only one to blame for what happened [from 1975 to 1979]. To me, he was a kind person. I personally did not experience the hardship during the Democratic Kampuchea period and I do not know how they operated the work on the ground level. Malai people do only good things.

During the Khmer Rouge regime, I was sent to the work in a mobile unit. During my 6 months working there, I was given only one meal each day. After being evacuated to Battambang, my father, who was formerly associated with Lon Nol, was taken by the Khmer Rouge to executed in 1978. I have always wanted to forget the past because it always makes me angry.

I participated in the court hearings for the second time. I found that the trial is fair and acceptable to me. Even though I did not apply to become a civil party, I personally find this proceeding fair for me. I was not happy at those Khmer Rouge leaders who were not humble to

I joined the revolution in 1970 and became a cook for the army. At the time, I experienced no hardship. My job was to cook and pack food for soldiers. I was only 15 years old at the time. After the war was over, in 1976 I was sent to work at salt fields with other people in the army. I went to the cooperative once in a while to ask for vegetables. At the time, soldiers were required to grow rice and do farm work like ordinary people. I never encounter any killing. It came to my surprise when I heard many stories told by civil parties whose family members died during the regime. I have no family members lost to the regime so I don't have any painful experiences like the others. As I am an ordinary villager, I can't really know who to blame.



"I personally feel pity for them [senior leaders on trial] because they are very old and their health is weak," said Svay Bo (in the middle) from Malai, a former Khmer Rouge stronghold.

In the middle: Svay Bo, on the right: Kheum Kheng.

I personally saw him [Ieng Sary] when he occasionally attended a meeting at my unit. I only saw him riding in a car but never had an opportunity to get close or interact with him. After 1979, he was the one who provided food, medicine, and clothes to all of us at Malai. We were supported with enough food and we went to hospital without having to pay.

Kheum Kheng, 53, Malai district, Banteay Meanchey province.

I received education from great uncle Ieng Sary much more than Khieu Samphan.... At training, they never taught us to become absolute or to crush the enemies. They told us about the situation of the country on the national and international level. What difference was that we were independent in constructing our country, for example, building dam and digging canal. I did not know about any execution at work site. From my work experiences, I had proper time to break and have meal. I worked from 7 am to 11 am and then I took a break for lunch at cooperative. Every 10 days they fed us with desserts to encourage us to work. Although it was not the same as family dining, it was acceptable for me. Since the country had just ended the war, each of us needed to work hard to rebuild the country. At work, we were happy, we laughed together.

Following the Coup D'état in 1970, there was no more schooling. In the countryside, we usually went to pagoda to help with the chore. The soldiers came in and asked me to go with them. They wanted me to join the art group because I had light skin. I joined the artist troupe in Region 32 from 1973 to April 1975. After the victory, I left the art troupe and worked as a cook.

I worked as a cook for the Ministry of Foreign Affairs from June to December 1975. I did not see great uncle Ieng Sary very often when I was in K1. He only talked to us once in a while and told us to work hard and serve the guests well. Usually we did not receive direct instruction from Ieng Sary. My direct supervisor was Chroeng from Takeo province. My chief then assigned me to work in the Royal Palace for two months. I helped cook food for the palace guests and the King. They taught me how to make vegetable and how to make food. There were at least 20-30 guests at a time. There were more than 3 people to help cooking when we received guests.

After living there for one year and three months, I was reassigned the other work in the field. They sent me to work at unit K-90 at Chraing Chamreh (a fish raising place). I worked there until March 1977. On 15th November 1978 I got married.

After getting married I returned to B1. On January 7 under Ieng's instruction, the staff and I took a train to Svay Sisophon, but we didn't see Ieng Sary. Until 1981, Ieng Sary went to Malai to hold a meeting. I only met him then. We began to build houses, health care center, and cultivate the land.

I was shocked to learn that Ieng Sary Khieu Samphan Ieng Thirith, and Nuon Chea was arrested by the court. I felt as if I lost my loving parents. This is my second time to visit the ECCC. I feel different from the first time I came. This time, I feel shocked because I saw great uncle Ieng Sary on trial. I think that Ieng Sary doesn't involve in this trial and he's very old now. He can't sit for long. The victims said that Ieng Sary should sit and listen to the proceedings in the courtroom because he had executed countless people. However, I don't believe he pretended. As you see, he was really difficult to move, even when he wanted to go to the bathroom. I pitied for Ieng Sary the most because I was deeply attached to him as I was working under his supervision.

I heard people say about execution during the DK period. In fact, I don't know how the execution took place. There were executions that caused by the lower level people. I wondered if the decision truly came down from the four senior leaders [on trial]. It's hard to believe that the leaders directly ordered lower level cadres to execute people.

Sao Yoeun, 55, Sandan district, Kampong Thom province

This is the first time I have attended the ECCC's hearing. I wanted to attend the trial because I want to know how they will put the Khmer Rouge on trial and how villagers will participate in this proceeding. I feel happy witnessing justice with my own eyes. I observe that some victims who lost their family members to the regime filed complaints to the court to tell their stories. I also lost my brother to the regime and my cousin was handicapped.

In 1972, I saw Khieu Samphan, Hou Nim, and Hou Yun at my village, Sandan. They came to inspect the village. They considered Sandan as a model village of the revolution. I and two other children from my village were selected to train and become an absolute red tie girl, although I refused to do the job at first. They completed my biography and sent me to the frontline for

training. At that time I was only 12 year old. My chief named Kraen trained me and 30 children at a military school. I was often criticized at meetings when I did not eat rice porridge with papaya tree trunk.

Out of my observation, the most interesting thing of the trial is how they [former Khmer Rouge leaders] behave in the courtroom. He [Nuon Chea] should have known he did wrong to [Cambodian people], but he did not pay respect to the 3 million victims and to the trial process. He kept walking out of the courtroom while the proceedings were still ongoing.

When I saw them on trial I feel pity for them on one hand, but on the other hand I felt angry because they executed so many people. I was not happy with Nuon Chea's words. How can he not be happy with the trial? He needs to stand trial to reveal the truth and to admit that he deceived his own people. I think the tribunal will be able to alleviate people's desire to vengeance. I want only justice. To me justice means that people stay in peace and give up hatred for one another.

Kob Aishah, Baray district, Kampong Thom province

When I gave a speech in Siem Reap I requested collective reparation in a form of a Sorav (Muslim Praying Hall) to pray to those who died during the Khmer Rouge. As the [civil parties] lawyer proposed to the court a list of reparations, I feel relieved and regained my strength. The discussion about reparation on the third day made me feel much more relieved than any other day. I wanted the court to sentence them [the accused] to life in prison, or otherwise I will not feel at peace. Also, when I see lawyers working hard to represent us I feel even more relieved. Now, I want to attend the trial again because the participation helps alleviate the pain I endured. I feel that those leaders are not responsible for what they did to their own country.

Chan Sopheap, 60, Kandal province

I am satisfied with the reparations the civil party lawyers requested at the court today. If the court decides to grant the reparation, my only wish is to build a center for orphans to help raise and educate children to become good citizens. I do not want to see these children suffer the same pain we did during the Pol Pot regime. If we can, we should help drugged orphan children to have a better life. In addition, the reparations should include creating a shelter for victims of the Khmer Rouge who have lost their family members to the Khmer Rouge regime.



Chan Sopheap (in the middle)
from Kandal

I have paid great attention to the fact that the Khmer Rouge senior leaders have been presented all at once on the court stage. My concern is that they are so old and sick. I also feel pity for them, for they are aging. I feel that if we use anger to solve the problem we would not be able to get the truth from them. Although they did not kill people with their own hands, they

were the most important leaders during the period. I will be supportive to any decision that the court issues. The only thing I want is justice and the truth.

Conclusion

Citizen participation in the Initial Hearing of Case 002 is an important means of informing the public about the nature and progress of the Khmer Rouge tribunal. The survivors' participation in the trial is particularly significant, given that they are victims of the Khmer Rouge and to whom the justice must be delivered. The trial indeed is a sign, a step towards a democratic society, as informed citizens would be able to constitute a more active public. Villagers are granted opportunities to learn about the court's progress, participate, observe the trial, express their concerns, and evaluate the results of the trial. To make their participation more meaningful, they receive educational training on what to expect from the trial.

Generally, the villagers had positive impressions of the tribunal and its mission to deliver justice for Cambodian people. However, their perspectives on the trial, particularly on those four senior leaders on trial, are rather different, depending on how they experienced the regime. Most victims invited to attend the initial hearing perceive the trial as correct and appropriate, given that there were so many killings that had taken place during the Khmer Rouge regime. They feel that the leaders should be held responsible for the atrocities that took place more than 30 years ago. They also believe that the behavior of the accused is unacceptable and disrespectful to the both the living and dead victims. On the contrary, a few program participants from Malai, a former Khmer Rouge stronghold, held contrasting views. They see these senior leaders as having been helpful, supportive, and courageous. For them, blame should be placed on the lower level Khmer Rouge who directly committed the atrocities. It is important that we continue to inform the public of how the majority of Cambodians experienced tremendous suffering and how those who had committed the atrocities are finally being held accountable for their actions.

Media Coverage



Phan Chhuong, from Preah Netr Preah, is being interviewed at the ECCC.

Several DC-Cam villagers were interviewed by a few local newspapers and radio including Reaksmeay Kampuchea, The Cambodia Daily, The Phnom Penh Post, and VOA Khmer. Former Khmer Rouge members from Malai were fully covered in an article on Reaksmeay Kampuchea "Expectation of Cambodian citizen on Case 002" on June 29 and quoted in The Phnom Penh Post's article "Royal Pardon focus for tribunal" on the same day. They were also interviewed and participated in a talk show on VOA Khmer. Several DC-Cam participants from Preah Netr Preah district were quoted in an interview conducted for an article of the Cambodia Daily "Dam Victims Appeal for Case 004 Investigation" issued on July 1.

From the interview with the team and local newspaper reporters, former members of KR revolution appeared to feel pity for their

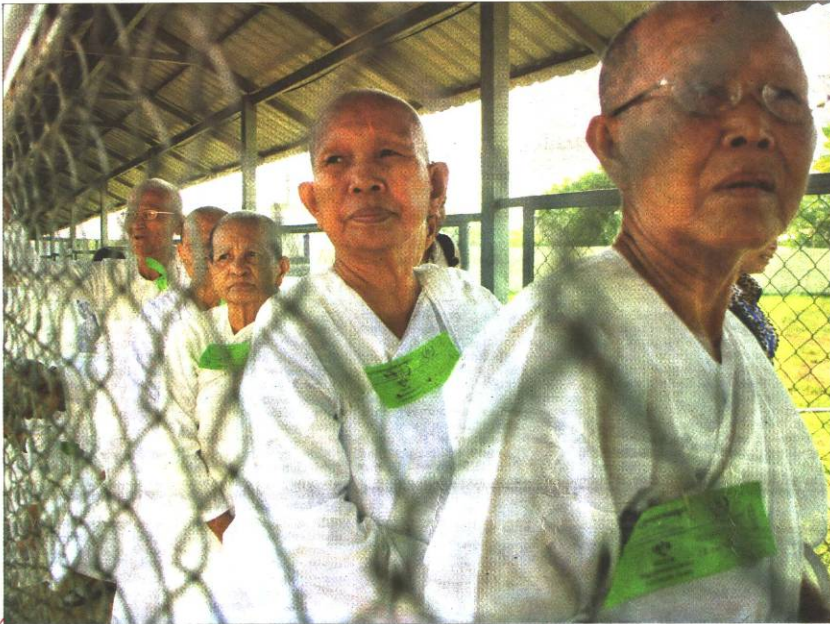
former leaders and consider the trial as "revenge and bias." Svay Bo alias Lai Sim from Malai district, Banteay Meanchey province, said outside of the courtroom, "I personally feel pity for them [senior leaders on trial] because they get very old and their health is weaker... I personally have never seen them kill people....He should not be the only one to blame for what happened [from 1975 to 1979]. To me, he was a kind person." Similarly, Kheum Kheng, 53, a former cook at the Ministry of Foreign Affairs and at the Royal Palace during the DK period was quoted in Reaksmey Kampuchea newspaper on June 29, "I used to live and work with great uncle Ieng Sary when I was only 16 years old and have never seen him do bad things. He was a good, pure, and modest person. I suggest to the ECCC to try them fairly and unbiased."

Some of the villagers from Preah Netr Preah who experienced the hardship and starvation at Trapeang Thmar dam site reported to The Cambodia Daily their daily harsh working condition. Chhit Yoeurk, 64, from O Chroeu, Banteay Meanchey said "Sometimes we worked from 7 am to 5 pm with an hour break, when we were given porridge. ... Often we were forced to start working at 7 in the morning until 9:30 or 10 pm without rest. Then they treated us with rice, not porridge." Another villager, Thon Thy, was quoted, "We became weak and fell sick very often because of long hours of work under the sun and rain, without enough sleep... or food and water." Thon Thy is a former member of Children's work brigade who was assigned to dig the dike. Mun Muth, 54, also from Preah Netr Preah said in the interview, 'Life there was a living hell on earth. We were forced to work day and night. We were not fit event to be called animals."



Chhit Yoeurk from Preah Netr Preah

Below are published articles:



A group of Buddhist nuns enter the Khmer Rouge tribunal for the second day of hearings in Case 002 yesterday on the outskirts of Phnom Penh. SUNAN CHANNABONG

Royal pardon focus for tribunal

James O'Toole

THE Khmer Rouge tribunal continued yesterday with the second day of hearings in the trial of the four most senior surviving leaders of Democratic Kampuchea, with debate focusing largely on the 1996 pardon and amnesty granted to former KR foreign minister Ieng Sary.

In addition to Ieng Sary and his wife, former KR social action minister Ieng Thirith, the case also features former KR head of state Khieu Samphan and Brother Number 2 Nuon Chea.

For the second day in a row, Nuon Chea left the hearing early in the morning, telling the judges he would return to the Trial Chamber when his own case was considered.

Yesterday's hearing instead focused on Ieng Sary, who received a pardon signed by then-king Norodom Sihanouk upon defecting to the government in 1996.

Sihanouk pardoned Ieng Sary in relation to his 1979 conviction in absentia at the People's Revolutionary Tribunal, convened shortly after the fall of the Khmer Rouge, where he was

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THE PHNOM PENH POST | JUNE 29, 2011

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News

Day two for KRT's Case 002

KR Tribunal Contempt proceedings considered

Continued from page 1

sentenced to death in absentia along with regime leader Pol Pot, Ieng Sary also received amnesty from prosecution under the 1994 Law to Outlaw the Democratic Kampuchea Group, which criminalised membership of the Khmer Rouge.

In a decision earlier this year, the court's Pre-Trial Chamber ruled that the pardon and amnesty were no bar to Ieng Sary's current prosecution.

The pardon, the judges said, related only to his 1979 conviction; the amnesty, they ruled, applied only to the 1994 law and not to the charges under domestic and international law that Ieng Sary currently faces.

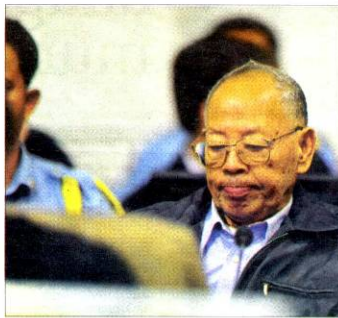
This ruling is not binding on the Trial Chamber, however, and defence lawyers argued yesterday that the court could not prosecute Ieng Sary.

"Ieng Sary negotiated that he would only reintegrate [with the Cambodian government] if he received an amnesty from any future prosecutions for any alleged acts," defence lawyer Ang Udom said. "This was a non-negotiable condition."

American defence lawyer Michael Karnavas acknowledged that amnesties or pardons for individuals suspected of mass crimes may be "distasteful".

As in Ieng Sary's case, however, they were often necessary to end armed conflict, he said.

"I agree that everyone de-



Ieng Sary sits at the Khmer Rouge tribunal yesterday. ECCUP/POOL

serves justice, no doubt about it, but I also am a fundamental believer in the power of the law, and the law has to be applied whether we like it or not," he said.

Prosecutors argued, however, that the amnesty did not apply to genocide and other charges listed in the current indictment against Ieng Sary and that, in any case, amnesties could not be given under international law for crimes of such gravity.

Officials from the United Nations and the Cambodian government were clearly aware of the issues surrounding Ieng

Sary's prosecution as they drafted regulations for the court. "There has been only one case, dated 14 September 1996, when a pardon was granted to only one person with regard to a 1979 conviction on the charge of genocide," the 2003 agreement establishing the tribunal states. "The United Nations and the Royal Government of Cambodia agree that the scope of this pardon is a matter to be decided by the [tribunal]."

Prime Minister Hun Sen, then serving alongside Norodom Ranariddh in a coalition government, said in 1996 that Ieng

Sary's pardon and amnesty had been specifically tailored to allow for future prosecution.

"If you study the wording of the royal [pardon and amnesty], you will see that there is still the possibility to try the crimes committed by Ieng Sary," Hun Sen said.

"We paid much attention to the wording of the pardon ... there are no words in it which ban the accusation of Ieng Sary in front of a court which may be formed in the coming times."

Trial Chamber president Nil Norn said yesterday that proceedings this week, originally scheduled to conclude on Thursday, will now stretch into Friday after running behind schedule. Subsequent hearings involving witnesses' testimony are not expected until August or September.

Towards the conclusion of yesterday's hearing, the parties discussed the Ieng Sary team's claim that the statute of limitations for grave breaches of the Geneva Conventions in existence under Cambodian law at the time of the alleged offences had expired, barring their inclusion in the current case.

The prosecution reminded the court, however, that the first defendant convicted at the tribunal, former S-21 prison chief Kaing Guek Eav, was convicted of grave breaches of the Geneva Conventions, and the defence claim appeared unlikely to find favour.

As they did during the first day of the trial, victims and other interested members of the public filled the courtroom gallery to catch a glimpse of the Case 002 defendants.

Sar Saroeun, 55, of Kampong Cham province, said outside the court that he had served as a driver in the Khmer Rouge until his 1978 arrest and transfer to a road construction site in Kampong Speu province.

He claimed to have attended lectures by KR leaders including Nuon Chea and Khieu Samphan after the regime took power in 1975 in which audience members were exhorted to seek out enemies within their ranks.

"During the Khmer Rouge regime, they taught me how to kill and how to find enemies," Sar Saroeun said.

"I would like the tribunal to find the real face of these people and show that they committed these crimes."

Other former members of the movement, however, are less enthusiastic about the case. Svay Bo, 57, said at the court yesterday she had followed the ousted regime leaders to northwestern Cambodia in 1981, settling in the KR stronghold of Malai district, in Banteay Meanchey province.

Fighting back tears, she said she pitied the defendants and "never saw them killing anyone". "For me personally, they only did good things," she said. ■

JUDGES at the Khmer Rouge tribunal are actively considering contempt proceedings against people who have leaked confidential court documents as well as media outlets that have published them, a court spokesman said yesterday.

The comments followed the publication on Monday of confidential documents by the New Zealand-based Scoop news site. "The co-investigating judges have already made clear that they may pursue by legal means anyone publishing from confidential court documents," court spokesman Lars Olsen said, referring to a June 9 statement.

"Contempt of court procedures against persons who forwarded confidential documents without authorisation and against those who published them are under active consideration by the office of the co-investigating judges," Olsen said.

The United States-based Christian Science Monitor published two articles earlier this month that quoted extensively from confidential documents relating to the court's controversial Cases 003 and 004, sparking the statement from the judges.

Scoop cited the judges' rejection of a Case 003 civil party application by Rob Hamill, who lost his brother to the Khmer Rouge, in explaining its decision to publish. THOMAS MILLER

All the News Without Fear or Favor

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Dam Victims Appeal for Case 004 Investigation

Im Chaem denies involvement in crimes of the Khmer Rouge regime

BY JULIA WALLACE
AND KUCH NAREN
THE CAMBODIA DAILY

More than 500 families affected by the Trapeang Thma dam, a brutal Khmer Rouge worksite where thousands were forced into slave labor, wrote to Khmer Rouge tribunal investigators yesterday to request a more thorough examination of the court's troubled Case 004.

Three of the victims also submitted applications to be civil parties and seek reparations in the case,

their lawyers said in a statement.

Trapeang Thma was investigated as a crime scene in the court's major case against four senior regime leaders, which went to trial this week. But it is also apparently connected to Case 004, which has stalled in the face of government opposition. Prime Minister Hun Sen has said repeatedly that the case will not happen.

Two of the suspects in Case 004, former Preah Netr Preah district chief Im Chaem and former Northwest Zone deputy secretary

Ta Tith, are believed to have had some authority over the dam site.

In yesterday's letter, the 550 families asked for an opportunity to be interviewed as witnesses "to provide full information on Case 004," and say they would like to become civil parties or complainants in the case. They also ask judges to investigate Case 004 "independently, free of interference from politicians and outsiders."

"We have recently felt such sorrow and painful suffering: We

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Case 004...

CONTINUED FROM PAGE 1

heard the court was aiming to dismiss Case 004—related to the Trapeang Thma dam, which is where the victims used to work as well as where hundreds of thousands of people were killed," they wrote.

At least 15,000 slave laborers were forced to build the dam, working between eight and 13 hours a day in filthy conditions with minimal rest. The project was spurred by the Pol Pot regime's determination to increase rice production at any cost, according to the indictment in Case 002.

"Many were killed by being beaten and thrown into the reservoir basin," the indictment says of the worksite. "Others would be made to dig their own graves and then clubbed to death. Witnesses report pregnant women being beaten, killed and thrown into the reservoir basin, as the [Communist Party of Kampuchea] cadre would say that the dam would hold firmly only if pregnant women were killed and placed at the sluice gate."

Victims of the dam labor interviewed yesterday at the Khmer Rouge tribunal described brutal work quotas and rampant starva-

tion at the Trapeang Thma site.

"Sometimes we worked from 7 am to 5 pm with an hour break, when we were given porridge," explained Chhit Yoeurk, 64. "But often we were forced to start working at 7 in the morning until 9:30 or 10 pm without rest. Then they treated us with rice, not porridge."

"We became weak and fell sick very often because of long hours of work under the sun and rain, without enough sleep...or food and water," said Thon Thy, 51, a former member of a children's work brigade assigned to dig ditches at the dam site.

"Life there was a living hell on earth," added Mun Muth, 54. "We were forced to work day and night. We were not fit even to be called animals."

Im Chaem, a protegee of Southwest Zone Secretary Ta Mok, was installed as Preah Netr Preah district chief during Mok's massive purge of the Northwest in mid-1977. She controlled an area into which thousands of people had been forcibly transferred to labor on other irrigation projects, living in constant danger of arrest and execution. She has also been accused of sending laborers from her district to work on the Trapeang Thma dam in neighboring Phnom Srok district.

She denied those charges yesterday in a telephone interview from her home in Oddar Meanchey province, where she is now a CPP commune chief.

"I didn't send people to construct the dam, and I wasn't involved with other crimes during that regime," she said. "If I had committed a crime, I would be coming out to take responsibility."

She said she arrived in the Northwest after the dam was complete, and sent people there only to cultivate rice in the irrigated area.

"We just implemented the orders. Leaders at the village, commune and district level had no power to object to orders released by superiors, or they would face serious penalties," she said. "Of course, there was killing stemming from individual hate. People just attacked people, then put blame on upper leaders."

Im Chaem went on to dismiss speculation that she was a suspect in Case 004, saying she was certain "it was just a rumor."

"The government already said the tribunal should stop with Case 002," she said. "I'm happy because I feel protected by the government. Especially Prime Minister Hun Sen is protecting my life."