

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

**Justice Not a Panacea**

October 16, 2013

**Introduction**

Now that the trial proceedings against senior Khmer Rouge (KR) leaders have already taken 212 days, now it has reached a final, yet, important stage. Each party, namely the civil party, prosecution, defense, and the accused persons, have been allowed to make a closing



Villagers go through security check-point at the Extraordinary Chambers in the Courts of Cambodia (ECCC)

argument on Case 002/01. The closing argument is defined by Black's Law Dictionary as the form of "...a lawyer's final statement to the judge or jury before deliberation begins, in which the lawyer requests the judge or jury to consider the evidence and to apply the law in his or her client's favor." That was followed by a thorough examination into both exculpatory and inculpatory evidence submitted by the above-mentioned parties. The accused persons and their defense team are, undoubtedly, able to exercise their rights to make a final say.

The general public, including 150 villagers facilitated by the Documentation Center of Cambodia (DC-Cam), travelled from three provinces: Takeo, Kampong Speu and Kampong Chhnang province, in order to observe the process in a patient manner. This article will

briefly highlight the October 16 hearing. This will follow with an examination of the overall reflection on the hearing and the significance of justice for those who died during the KR period (1975-1979), the expectation from the final judgment of the Extraordinary Chambers in the Courts of Cambodia (ECCC), and any further views to seek compensation.

### Highlighting "October 16" Hearing

The October 16 hearing focused on issues ranging from forced evacuation and forced marriage to compensation through museum of memory, memorials, teaching of Khmer Rouge history, permanent exhibit, etc. The team of co-lead lawyers of the civil parties took turn and made a long reading from their well-written papers.

**Forced Evacuation:** The co-lead lawyers of the civil parties called the evacuation of



One hundred and fifty villagers gather right in front of ECCC's Courtroom

people from one place to another as a Joint Criminal Enterprise (JCE), which implicated the accused persons, Nuon Chea, former DK ideologue, and Khieu Samphan, former DK Head of State. Their policies and plans were to undertake a forced evacuation to achieve revolutionary goals and to ensure that cooperative and construction sites could fulfill

demands to build the DK into an independent and self-reliant

economy. Another notable fact was that the forced evacuation was aimed at taking full control of the cities and defending the revolutionary interests, thus making sure that none of the enemies were left behind.

The first evacuation began in Phnom Penh to Cambodia's countryside, while the second one began in one place to another. Nuon Chea confirmed the forced evacuation of Phnom Penh. The worse consequence of the evacuation was the deliberate carelessness of the KR revolution, which placed the people in a vulnerable circumstance. Having directly experienced the tragic event, many civil parties to the Case 002/01 were quoted and stressed the huge magnitude of this serious crime. The evacuees were less or were not informed about the evacuation plan. More evacuations took place after July and August 1975 and 1977. The forced evacuations took the same manner of operation and were inhumane. The evacuees travelled by foot at long distances. No food, no medication, no shelter and other basic needs were provided. For example, evacuees were forced to take on a train and were not cared for, which led to their hardship or death

The "new people" or the "April 17 people" were branded as the enemies while the "base people" received more tolerance. The family members of the "new people" were divided into different categories. In other words, the KR intentionally reduced their food rations as a form of punishment for those people.

The team of co-lead lawyers of the civil parties expects that justice for them make the trial historically important. Their role, they hoped, is to gain a wider acknowledgement that is deemed essential for Cambodia's reconciliation process. The team reiterated that over the past 30 years, many civil parties have yet to recount their traumatic stories. Although there were some health risks, thousands of civil parties were selected. The civil parties provided with many information that greatly helped the ECCC in its endeavor to build up the legal case.

***Forced Marriage and Reparation:*** The team of co-lead lawyers also underlined that forced marriages were also inhumane acts that the Democratic Kampuchea (DK) regime inflicted upon the people. The regime or Angkar (literal meaning, "Organization") acted as parent figures to all of the people who were arranged for marriage. The team of co-lead lawyers of civil parties raised the issue that one of Angkar's goals was to ensure population growth. However, this was regarded as a form of violation of individual's rights and privacy as well as a sign of discrimination. The co-lead lawyers of the civil parties raised few other points: First, no marriage between base people with new people was allowed. Second, monks were forced to disrobe and were forced to get married, which violated a core Buddhist principle. Third, forced inter-marriages between Khmer and Cham people were arranged without seeking consents from the individuals. Punishment would carry out if anyone dared to refuse the arranged marriage. As this was implemented throughout Cambodia and affected the Cambodian people and ethnic minorities, the co-lead lawyers of the civil parties viewed it as direct DK's policies. At this point, the co-lead lawyers linked this policy to the senior KR leaders who were responsible and issued the implementation of this policy. The day-long reading of the closing statement by the team of co-lead lawyers ended with a set of proposals for reparations to all of the KR survivors, especially the civil parties to the Case 002/01.

### **Participants' Views on the Hearing**

Selective representatives of the 150 villagers echoed the closing statement of the team of co-lead lawyers of the civil parties. They merely found it reflective of the reality that the KR regime caused that led to the sufferings to the Cambodian people. The villagers' supportive positions came from not only the KR survivors but also the younger generation. Mr. Kun Chhoeun, 63, of Kampong Speu province and Mr. Meuy Chay, 63, of Takeo province tried to follow all the points made by the team. Regarding the evacuation, Mr. Chhoeun echoed the team because he had witnessed the horrible living condition and deaths of the new people in comparison to the base people. Mr. Chay was also a victim of forced marriage that the KR had arranged for him. He had no rights to turn down the arrangement. However, his family bonds continue until now. He has eight children and 16 grand children. Although the forced marriage has opened the floor to debate about whether their lasting family bonds are "*Kou Prenh (literally mean "destined mate")*" or "*Kou Kam (literally mean "bad karmic mate")*,"<sup>1</sup> it was morally and legally intolerable and unacceptable, considering the serious violations of individual's rights, the death threats and execution for refusing to comply with the arrangement. While Mr. Iem Huot, 65, of Kampong Chhnang province

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<sup>1</sup> Ly, Sok-Kheang, "Love and Marriage under the Khmer Rouge Regime," Please visit DC-Cam website: [http://www.dccam.org/Projects/Living\\_Doc/Love%20and%20Marriage%20under%20the%20KR%20Regime.pdf](http://www.dccam.org/Projects/Living_Doc/Love%20and%20Marriage%20under%20the%20KR%20Regime.pdf)

acknowledged that dozens of forced marriage were arranged, Ms. Pen Saophea, 33, a local leader in Kampong Chhnang province instead was reminded of the historical turning points, especially the forced evacuation, described by her parents since she was young. These were among some of the many criminal charges brought against the KR leaders.

### Justice in Debate



A participant from Takeo province

The closing statement on Case 002/01 heralded that justice would be delivered no later than mid 2014. Five representatives out of 150 villagers invited by DC-Cam's Witnessing Justice project believed that "justice" is important to them, to the younger generation and to the country. When asked how important it was, they voiced their mixed viewpoints of the term and appeals for reparation as the ECCC is due to wrap up its work. Mr. Huot and Mr. Chhoeun said the justice would appease them even with the many challenges to the court's operations such as financial shortage/salary riot, disagreements over the nature of charges against other potential candidates for prosecution, accusation of the government's interference in the ECCC's work,

consecutive resignation of judges/prosecutors/others, the death of Ieng Sary, and Ieng Thirith mental condition in which she was ruled unfit to stand trial. While Mr. Chay believed that a reparation program for the KR survivors would usher in a new set of constructive reconciliatory efforts, Ms. Saophea was unconvinced by this. She said that a handful of KR leaders were being tried, while making cunning refusals to acknowledge the existence of the serious crimes committed between April 17, 1975 and January 6, 1979 and instead portrayed themselves as innocents and nationalists.

On the contrary, Mr. Lay preferred the trial of only "senior KR leaders and those most responsible" because they were the architects of the KR atrocities. He said that although there might be a premature death of one of the accused, the primary goal would remain in which is to prove that their regime was responsible for the deaths of the Cambodian people. To him, it is not as important to bring those accused persons to prison. What is more important is more about how the Cambodian people and the outside world would come to accept the reality of the atrocities that the KR regime caused the people.

When it comes to the upcoming judgment of the Case 002/01, seven participants interviewed had two sets of views. First, as lay persons, they expressed their thought of an appropriate punishment the accused persons should get. Generally, they wished to see the ECCC sentence the accused to life even if the sentence cannot bring back their lost relatives. Second, they refrained from giving any suggestion, but left it to the ECCC itself to hand down its judgment in accordance with the law.

## Conclusion

The closing statement touched upon many tragic events such as forced evacuation, forced marriage and others inhumane acts committed by the KR regime between April 17, 1975 and January 7, 1979. It is expected that these well-structured charges against the two accused would result in a fair judgment for the Cambodian people. As usual, the people including the 150 invitees hope for justice. It is normal to hear many people say that justice is important for relief and closure. It sets a good precedence for the people and the country. The judicial justice reaffirms the existence of the KR tragedy for the Cambodian people. The regime left an unforgettable legacy of how criminal acts can be prosecuted in the court of law. This means that no matter how long ago the event took place, wrongdoers will never ever get away from justice. A reparation program would add more weight to the reconciliation efforts that the Cambodian people have made immediately after the KR regime was defeated in January 1979.

## APPENDIX:

### 'Citizen reporters' spread the word on Khmer Rouge trial

Delphine Thouvenot

AFP

Friday, Oct 18, 2013

PHNOM PENH - Un Chhouen left his farm long before dawn, eager to ensure he was on time for Cambodia's Khmer Rouge tribunal, where the former regime's top leaders are on trial.

His task was clear: to absorb proceedings from the public gallery in the case of the regime's two surviving leaders and relay the highlights to friends and neighbours back in his remote village - plugging the information vacuum left by the mainstream Khmer press as interest in the long-running trial wanes.

The 64-year-old farmer is one of thousands of citizen reporters who have been asked to spread the news from the UN-backed tribunal - an uphill battle given widespread indifference to the complex legal proceedings, among citizens and officials eager to put the country's bloody past behind them.

From novice monks to battle-scarred former soldiers, thousands of Cambodians have been invited to the trial, which is being held on the outskirts of Phnom Penh.

While they have no formal reporting role, the observers take pride in spreading the word on the trial proceedings.

In the dock are "Brother Number Two" Nuon Chea, 87, and former head of state Khieu Samphan, 82 - the sole surviving leaders of the regime who are on trial for crimes committed during the Khmer Rouge's 1975-1979 rule.

Taking up the invite on Wednesday, Un Chhouen donned a simple blue shirt and flip-flops before boarding a bus chartered specially for the hearing.

"The commune chief asked me to come to represent the village," he said proudly.

"I did not believe in the ideas of the Khmer Rouge. But we knew nothing, we were ignorant," the former soldier said, adding he had fought unwillingly in the Khmer Rouge's ranks until 1971. Some two million people, or about a quarter of the Cambodian population, died of starvation, disease, overwork or torture and execution under the regime.

Like many others, Un Chhouen said he was trying to figure out if the defendants are telling the truth "when they say they knew nothing" of the horrors of those years.

Equally problematic is explaining the complex court process to his village.

"I don't know what I can tell my friends, they are very poorly educated people. At the court they sometimes use language I cannot understand," he said, showing AFP his few scrawled notes in Khmer. Just like many Cambodians, he also has deep personal motives for following the trial.

"Some of my relatives were killed after being accused of being 'CIA agents'. But they were simple farmers," he said.

Officials at the court are keen for the country to embrace the trial and its potential to offer a form of catharsis for a nation still traumatised by the regime.

"It is important for the Cambodian people to have a chance to witness this trial," Lars Olsen, court spokesman, told AFP, hailing the "remarkable" attendance of nearly 100,000 members of the public over the two-year trial.

The aim of the citizen reporter programme is to spread word of the legal process - and hopefully the spirit of reconciliation - from the courtroom to Cambodia's rural areas.

The court is only the second international tribunal to be established in a country where atrocities have taken place, after one in Sierra Leone. Reliant on funding from donor nations, the court was established in 2006 after nearly a decade of negotiations between Cambodia and the UN, which provides technical assistance.

#### Muted interest

But for citizen reporters the task is hardly easy. Outside the tribunal gates, few aside from the occasional foreign reporter or legal expert express interest in the complex proceedings, despite the fact the court streams hearings online ([http: www.eccc.gov.kh/en/live-stream](http://www.eccc.gov.kh/en/live-stream)). While Cambodian media have covered the process, interest has waned as the closing statements were heard this

week.

By Thursday leading local newspaper Koh Santepheap featured only a small piece on the trial, tucked away on page 11 after the horoscopes, although the English-language Cambodia Daily did carry the trial on its front page.

Moreover, the courtroom - which was packed on Wednesday - was only partially full a day later, with the closing statements set to run until the end of the month.

During brief adjournments, observers discussed the trial in a modest open-air cafe outside the tribunal, just yards from the small prison where Nuon Chea and Khieu Samphan spend most of their days.

Sok Kheang from the Documentation Center of Cambodia (DC-Cam), a non-governmental organisation whose mission is to research and record Cambodia's "killing fields" era, busily typed up notes from a community leader attending her first hearing.

"We want to help connect the tribunal and the villages," Sok Kheang said, as the community leader expressed her surprise at prosecution comments on the enormous number of deaths during the forced evacuation of the capital's two million inhabitants in April 1975.

In addition to the citizen reporter scheme, DC-Cam has been training history teachers how to tackle the Khmer Rouge period in classrooms.

Some 3,000 teachers have been trained, DC-Cam said, in teaching methods which at times use role plays to get students to put themselves in the position of a Khmer Rouge cadre.

<http://news.asiaone.com/news/world/citizen-reporters-spread-word-khmer-rouge-trial?page=0%2C0>

This article was seen posting on other websites:

<http://www.thesundaily.my/news/859591>

<http://au.news.yahoo.com/thewest/a/-/world/19452238/citizen-reporters-spread-the-word-on-khmer-rouge-trial/>

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