

Justice within Reach

By Ly Sok-Kheang
November 28, 2011

The notorious crimes committed by the Democratic Kampuchea (DK)_regime (1975-1979) are, among other things, infamous inside and outside Cambodia. The Cambodian people have explicitly known those responsible for the mass atrocities. Of the dozen leaders, former ideologue Nuon Chea, former Head of State Khieu Samphan, and former Deputy Prime Minister in charge of foreign affairs Ieng Sary took the highest command of the regime. While they are legally bound to face criminal charges under international and domestic law, former low-level Khmer Rouge (KR) cadres have begun to think of their moral responsibility for those upon whom crimes were intentionally or unintentionally inflicted.



Mr. Phyu Phun (front), former messenger of Ieng Sary, and Mr. Hong Huy (second right), a survivor.

The Extraordinary Chambers in the Courts of Cambodia (ECCC)'s historical court hearing that began on November 21, 2011 against the three senior KR leaders has turned a new leaf for both victims and former low-level KR cadres. It has been more than thirty years that these KR leaders have enjoyed their freedom of movement, thus

irritating Cambodians and the rest of the world. During the intervening years, the hope for justice has been extremely thin, or perhaps not even possible to some who reasoned that the Cambodian government had no political will to pursue justice. Even with its concrete establishment of ECCC and five senior KR leaders being placed under ECCC's provisional detention, such a pessimistic view still persisted. Commentators thought there would be no trial until after all of these leaders had died of natural causes. Now there is a light at the end of the tunnel, as an actual court proceeding has commenced its historical work.

Three KR Leaders Take the Stand

During the three-day hearing, national co-prosecutor Ms. Chea Leang read a summarized statement on the nature of the crimes that each accused should have known or had reason to know in their capacity as rulers. Overall both national and international co-prosecutors Ms. Chea Leang and Mr. Andrew Cayley stressed that the Joint Criminal Enterprise (JCE) bound the three accused in the criminal charges, which includes the forceful evacuation, enslavement, systematic and widespread purges, forced marriage, and genocide on ethnic and religious groups.

However none of these leaders have admitted the historical mistakes made during their leaderships. In turn, they presented various reasons to challenge the prosecution. Nuon Chea made a counter-argument in the afternoon of



Mr. Chhim Phan (right) and Ms. Kranh Ut, (left)

November 22, 2011, by viewing

the trial as injustice. He read that the court merely looked into one side of the entire history, rather than the root causes and effects of the revolution. In this way he compared the proceedings with the notion that only the body of a crocodile is raised for discussion, but not its head and tail. His statement has thus focused on external factors such as Vietnamese aggression and United States bombardment before the DK's rule (1975-1979) and the long-standing and steadfast endeavor to defend and prevent Vietnam from annexing Cambodia. However, he never went deeper into the question of "why" his regime caused nearly two million to die.

Without responding point by point to the prosecution's charges, Ieng Sary read his statement in the morning of November 23, 2011 by stating that he should not be tried. His nearly two-page statement reiterated that: "...In 1996, I received a royal decree of amnesty and pardon from the then-King Norodom Sihanouk." However, his appearance before the Trial Chamber showed great respect for the court.

Third in row to read his statement on November 23, 2011, Khieu Samphan challenged the co-prosecutors by stating that: "...over the last two days, I feel that it is different from what I expected...The co-prosecutors merely make guessing accusations, no-evidence claims, and mixed up this and that issue." Mr. Samphan asked the co-prosecutors to stop the accusation as there was no document to prove that he was a member of the Central Committee officially. He even said the position of "Head of State" was just a sort of decoration.

It has almost become a normal practice for these leaders to try to shun their responsibility. What they should realize is that the regime's extremism and radicalism, which led to widespread and systematic purges, could be among the numerous reasons that led the DK regime to destroy this country across all sectors and to kill nearly two million people.

The regime has indeed sowed the seed of enmity that its legacy has put the relations between victims and former KR cadres at risk. Having gone through a variety of reconciliation efforts since the collapse of 1979, both victims and former low-level KR cadres are now coming together to observe the legal proceedings against these leaders. It is one of the important processes to prove that both sides all have been and are poised to unite to fight genocide.

Integrating the Differences



Ms. Chiem Kin, a wife of Ta Val, former Mobile Unit Chief, Region 5

The term "genocide" legally refers to the worst crimes that have taken place in world history. The DK regime's senior leaders have been charged with international crimes including genocide against the Vietnamese (including Khmer Krom people) and the Cham people, representing the second largest population of Cambodia. The severity of the crimes brought about untold suffering that many survived the regime only to find themselves in a state of great depression and trauma. This mental status has become a huge barrier to daily life since the DK's collapse. More or less it hampers healthy inter-personal relations, especially between former KR cadres and victims. The genocide has spiritually and socially divided these groups. However, as years have elapsed, change has been visible and the discriminatory notion of "us" versus "them" has

vanished from time to time.

The nightmare of the genocide, rather, helps integrate the differences among the former adversaries. Ms. But Kimony, a survivor from Battambang Province, spoke frankly about her tolerance and leniency toward all the low-level KR cadres as they just executed their superior's orders. She made the comment without knowing that Mr. Chhim Phan, who sat close to her, was among many former KR cadres. Paying great attention to other participants' views with his eyes frequently looking to the ceiling, Mr. Chhim seemed to be satisfied. Although he did not say anything about it, his wife Ms. Chuon Rin nodded in agreement and murmured "that's right."



Mr. Chhim Phan at ECCC

However, a challenging question to them was raised about whether any former KR cadres went beyond their superiors' orders because they were induced by personal greed, grudges, or vengeance. All thirty participants seemed to be quiet for a while before Ms. Kimony

proceeded to say that if so, the survivors had the

right to get angry with them. However, Mr. Suon Sokhen, the first deputy chief of Sangkat Svay Pao, Battambang Province, and Mr. Kung Vatha, deputy chief of Social Affairs Office of Battambang Province, acknowledged that there would be some former KR cadres who indeed acted brutally on their own decision. But many, including Mr. Chhim, had to acknowledge this and express regret for what they had done wrong. According to interviews with three KR cadres and eight survivors, they repeated a conciliatory phrase of vindictiveness that is ended by not being vindictive. The phrase implied that they all did not want to see other junior KR members, except the current accused, tried. They have demonstrated their preparation for forgiving those low-level KR cadres, whose moral responsibility would be adequate.

The Moral Responsibility of Former Low-Level KR Cadres

So far the three KR leaders—Nuon Chea, Ieng Sary and Khieu Samphan—have never accepted that the death of nearly two million people and the untold suffering brought to bear upon the survivors were the result of their regime. So the legal

proceedings at the ECCC have become the last approach to get these KR leaders to publicly acknowledge their guilt through an avalanche of inculpatory evidence. However not everyone is excited by the trial. Among the thirty people invited by DC-Cam, Mr. Phy Phuon, revolutionary name Chiem, former Ieng Sary's messenger, told DC-Cam's team members that he was very disappointed with the charges on his former boss. Mr. Phuon, an ethnic Jaray, decided not to visit the court hearing again on the second day and instead returned to his home village in Malai District, Banteay Meanchey Province. He informed DC-Cam's team members that he had an urgent task at home.



Ms. Chuon Rin at ECCC

However, it is recalled that their ideologies, policies, radicalism, and extremism are known to have inspired thousands of DK's low-level cadres to take turns killing each other and their people in every place. DK's legacy left most former KR cadres regretful and sorrowful for their acts. Mr. Chhim Phan of Malai District confessed during his interview that it was his superior's orders that forced him to kill a couple in front of Preah

Net Preah Pagoda. Mr. Chhim Phan stated: "...it was Sam Art who

ordered me to kill the couple. In the meeting when the event occurred, thousands of villagers from the entire commune of Preah Neth Preah were invited to attend in order to witness the killing of the couple. The idea (known by the KR as the People's Court) was to warn others not to follow the same mistakes as the couple; otherwise they would meet the same fate. Youk Chhang, who was fourteen at the time and lived just a few hundred meters from the killing site at Trapeang Veng Village, was also called to join the meeting and witnessed the killing with his own eyes. In the meantime, Mr. Chhim stated that after executing the order, he was so scared to recall such a traumatic event. He has lived with a great fear of personal safety after the DK's collapse. He fled along with the defeating KR forces and never returned to the Preah Net Preah District until now.

Although the People's Revolutionary Tribunal (PRT) tried in absentia the late Pol Pot, Prime Minister of DK, and Ieng Sary in August 1979, there was no specific legal measure against the low-level cadres. However, many-including Mr. Chhim Phan

found themselves morally responsible for their acts. Mr. Chhim said, "...although those who suffered from that event blamed and attacked me, I would not get angry. In my mind, I did not commit the crimes by my own will ...even if a person who is tied with hot anger punches and kicks me, I would not respond at all..." Mr. Chhim said that was a kind of moral acceptance of his guilt.

Nevertheless, "superiors' orders" was a common phrase that most low-level cadres used, to some extent, to reduce the sense of guilt. Mr. Seng Chon of Kampong Chhnang Province and Ms. But Kimony of Battambang Province are convinced by this argument, but find it hard to tolerate them if they acted on their own anger or malice. This interwoven nature of crimes of low-level cadres remains ambiguous in many ways. In return, Mr. Chhim has adopted religious approaches to pray for the couple. On many occasions, Mr. Chhim Phan reiterated that he found this visit important and feels relieved as he can disclose the tremendous burden of guilt. He has never spoken about this publicly since he committed the crimes.

Conclusion



DC-Cam Director Youk Chhang talks to Mr. Chhim Phan (left)

Most participants consider this trial observation trip to be beyond significant but also a responsibility, thus being favorable for building mutual understanding. Asked about a joint visit with former KR cadres, six survivors from Battambang Province decidedly said it was good and that they felt no discrimination toward those cadres.

They all stayed, ate, travelled, and observed the court hearing together during the three-day court observation. This has been one of the most constructive visits to restore previous uneasy relations in the legacy of the DK regime. Moreover, the participants obtained the information on the trial of only "senior KR leaders and those most responsible." It helps send a message to all the people to maintain better interpersonal relations, namely between the victims and former KR cadres, in our

society. Mr. Hong Huy was quoted by British Broadcasting Corporation as saying that he, "...felt no bitterness against people like Mr Phan. It was the top leaders, the people now on trial, who were really to blame."

During the visit, there was a challenge facing the participants. Ms. Chhun Rin, the wife of Mr. Chhim Phan, fell down when she stepped on a cement-made stair. She stood up only to find one of her knees bleeding at the entrance of the ECCC. Rather than underestimating her injury, DC-Cam's team member sent her to a professional hospital in the center of Phnom Penh. This led to the cancelation of a post-hearing meeting at DC-Cam on January 22, 2011. Mr. Chhim said his confession now coincided with his wife's leg injury. While he felt so sorry for that, he said if he failed to do this, her condition might be worse.

APPENDIX

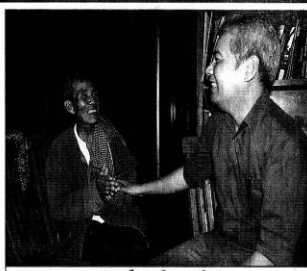
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NATIONAL

Guilt Still Haunts Khmer Rouge Killer of Secret Lovers

BY KUCH NAREN
AND ALICE FOSTER
THE CAMBODIA DAILY

From the moment that former Khmer Rouge commune official Chhim Phan beat a couple accused of being secret lovers to death with a hoe in 1977, his life became a living nightmare.

Today, Mr Phan is a 72-year-old grandfather with a kindly manner, but he cannot escape the image of the dead couple he publicly executed for the "morality offense" of loving each other in Banteay Meanchey province's Preah Netr Preah commune.

"When I hit him, I kept my eyes closed. I just heard the sound," Mr Phan said in a soft voice, gesturing to show how he lifted the hoe to strike first the man, then the woman. "After I finished, I was not sure if they were dead or alive. I just moved back."

As Mr Phan walked away from the spot, he briefly glanced at the bodies lying on the ground—it was an image that would take over his mind in the following weeks and months. "I feel really regretful, and it's always a nightmare up to the present time," he said. "Even though I was forced to do it, I was scared at the time that I would be killed if I refused the order."

Mr Phan was recently found by the Documentation Center of Cambodia (DC-Cam) in Banteay Meanchey's Malai district. He is one of many former Khmer Rouge officials who the organization has found in the countryside in order to document their stories.

At the Khmer Rouge tribunal last week, during the beginning of the second case against former regime leaders, Mr Phan and his wife of more than 40 years sat alongside victims in the public gallery. Though he had killed the young couple with his own hands, Mr Phan blamed the accused for killings under the regime.

"They made me feel suffering and pain," he said. "I feel that I was one of the Khmer Rouge victims because they created me to be a killer."

Mr Phan has never had the courage to find out the identities of the two lovers he beat to death, or to even visit the execution site. He also claims that he was not involved in any other killings during the Pol Pot regime.

He feels guilt, though.

Mr Phan said that he frequently goes to the pagoda and Buddhist ceremonies to pray that the spirits of the dead couple find peace and do not take revenge.

"I don't know how much I can

pay back to them," he said. "Maybe, when I die, hell will have recorded my mistake for killing them, or maybe the pair had karma...in a previous life that caused me to meet this situation."

DC-Cam director Youk Chhang, then 14 years old and the tallest boy in his children's unit, was among the many hundreds of people brought to watch the killing of the lovers at the so-called People's Court where Mr Phan struck those terrible blows.

"The whole village said, 'kill, kill, kill,'" said Mr Chhang. "I only remember that he hit the man first, but [the man] resisted to die."

The woman who was killed was a married woman in her twenties and an evacuee from Phnom Penh.

She was being punished for falling in love with the local Khmer Rouge chief of logistics who gave her food.

Khmer Rouge district committee members, including Sam Art, who ordered Mr Phan to carry out the executions, were called for "re-education" in 1977 and never returned, according to a DC-Cam report.

"Phan was the only commune committee member to survive the purge," said the report, noting that Im Chaem, a suspect in the tribunal's Case 004, had come from the southwest to purge the district.

Mr Phan said that unhappiness, anxiety and sleeplessness still plague him.

"I feel that the guilt has caused a nightmare in my life," he said.

National Brief

Body of Drowned B Kak Woman Identified by Husband

The husband of a Phnom Penh woman who reportedly threw herself off a bridge last week, allegedly in despair of being left out of a land titling plan for Boeng Kak lake families facing eviction, said he found her body in Kandal province on Saturday. Doeung Phou said that after local residents in Kien Svay district found the body of a woman stuck in a patch of reeds along the banks of the Mekong River, he drove down to identify his wife, Chea Dara, and had her body cremated that afternoon. District police chief Pa Sam Eth said his officers received a call from local residents about the body and met Mr Phou at the river. He said they handed over custody of the body, but made no attempt to determine the cause of death. (*Chhom Chansy*)

List of Villagers who Attended Case 002 Hearing November 21-22, 2011

Number	Name	Sex	Age	Brief Background
1	Hong Huy	M	58	Khmer Rouge survivor and Preah Net Preah Commune chief
2	Sum Sal	M	52	Former Khmer Rouge prison guard of Tra Yong Prison, Banteay Meanchey Province
3	Chhim Phan	M	72	Former Khmer Rouge Preah Net Preah Commune deputy chief,

Banteay Meanchey Province

4	Thib Samphat	M	54	Former prisoner of Ta Yong prison, Banteay Meanchey Province
5	Praing Sal	M		Former Khmer Rouge Poy Pring security guard, Banteay Meanchey Province
6	Nhonh Soeum	M		Former Khmer Rouge Poy Pring security guard, Banteay Meanchey Province
7	Ban Mit	M		Former Khmer Rouge Poy Pring security guard, Banteay Meanchey Province
8	Nao Ream	F	44	Survivor who is now living inside the house used as Poy Pring prison under the Khmer Rouge regime
9	Chiem Kin	F	59	Ms. Chiem Kin was a militiawoman during the Democratic Kampuchea (DK) period, while her husband, Ta Val, was Chief of a Mobile Unit in Region 5. As a result of widespread purges carried out by the Khmer Rouge central command, Ta Val was arrested and sent to Tuol Sleng “S-21” prison. Ta Val’s confession from Tuol Sleng is now archived at the Documentation Center of Cambodia (DC-Cam). During her first-ever visit to DC-Cam and ECCC, Ms. Chiem stated that she did not know the place where her husband was killed. The visit provided her with two valuable pieces of information regarding her husband’s fate. First, Ms. Chiem realized that Ta Val ended up being imprisoned, interrogated, tortured and executed at S-21. She was pleased to

get such an important story about her husband, even if it confirmed her worst fears. Second, she gained information that will help her to search for family members on her husband's side of the family. After 30 years without any clues about her husband's fate, Ms. Chiem now has some information. Currently, Ms. Chiem's children are searching for their father's relatives.

10	Phy Phuon alias Chiem	M	63	Ieng Sary's messenger
11	Yun La	M	52	<p>Khmer Rouge survivor:</p> <p>In 1975, he was drafted into the Khmer Rouge army in Kompong Leng District. In late 1978, he witnessed the killing of hundreds of new people in a rubber plantation farm in Kampong Cham Province.</p>
12	Lach Phat	F	71	<p>Complainant:</p> <p>She gave birth to her child during the evacuation. Later, her child died. Her husband was arrested, detained, and executed.</p> <p>Her daughter was put into a sack and drowned to death in a lake.</p>
13	Kem Sok	F	63	Complainant:

Under the Khmer Rouge regime, she lost her father named Kem Thok, her husband named Vorn Mich, and her daughter named Mich Kim Muoy.

14	Sin Sinet	F	48	Civil Party: During the Khmer Rouge regime, she worked in a children's unit at office K 9 at Orussei, Phnom Penh. Her grandfather was arrested and executed at Tuol Sleng.
15	Hun Chim	M	75	Civil Party: His brother was arrested and killed at Kraing Ta Chan prison.
16	Chhau Dum	M	67	Civil Party: His father was killed during the purge of Eastern Zone cadres.
17	Kranh Ut	F	52	Civil Party: Her husband was arrested and killed at Sang prison. When her daughter became sick, Khmer Rouge medical staff injected her to death.
18	Leng Sarath	F	54	Civil Party: She was detained at Sang prison, Tonel

Bati under the Khmer Rouge regime.

19	San Sok		Civil Party: During the Khmer Rouge regime, he lost his grandma named Koy Hin, his wife named Tiv Kim Ky, his sister named San Leng Ngann, his nephew named Um Sei La, his niece named Um Srey Pon, and his brother-in-law named Um Phan.
20	Chea Oeun		Petitioner and complainant: Father-in-law named Touch Kung, mother-in-law named Pin Rum, sister-in-law named Touch Ry and Touch Rin, brother-in-law named Touch Sokhan and Touch Sokhen, wife named Touch Roeung, son named Chea Morokot, and a foster brother named It Thun Rith
21	Nou Neary	F	Chief of Svay Por Sub-District, Battambang Province
22	Choun Sokhean	M	Deputy chief of Svay Por Sub-District, Battambang Province
23	Sam Ton	M	Member of sub-district council, Svay Por Sub-District, Battambang
24	Uk Kim	M	Member of sub-district council, Svay Por

Sub-District, Battambang

25	Em Sary	F	Member of Department of Women's Affairs, Svay Por District, Battambang
26	Yos Samoeun	M	Worker Chief, Svay Por District, Battambang
27	No Sadah	F	4 Village, Svay Klaing Sub-District, Krouch Chhmar District, Kampong Cham (Cham-Muslim)
28	Kup Aishah	F	Trapeang Chhuk Village, Beong Sub-District, Baray District, Kampong Thom (Cham-Muslim)
29	Khnuor Kaitoam	M	Sre Prey Village, Orusseï Sub-District, Kampong Tralach District, Kampong Chhnang (Cham-Muslim)
30	Math Him	M	Treoy Koh Village, Kampong Bay Sub-District, Kampong Bay District, Kampot (Cham-Muslim)

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