

# មជ្ឈមណ្ឌលឯកសារកម្ពុជា

## DOCUMENTATION CENTER OF CAMBODIA

Phnom Penh, Cambodia

www.dccam.org

## Second Quarter Report

April – June 2009

### SUMMARY

#### Activities for the Khmer Rouge Tribunal

This quarter the Legal Response Team provided **2000** document pages to the ECCC, civil party lawyers, researchers and NGOs. 10 students from United States law schools and 2 Cambodian law students began working as legal associates and volunteers at the Center. They are drafting memos on issues before the ECCC, observing the court, and assisting DC-Cam outreach projects.

#### Victim Participation Project

The Victim Participation (VPA) Team assisted the Victims Unit by following up with victim participation applicants who have incomplete forms, hosted a meeting between civil parties and their lawyers, assisted survivors filing victim participation forms, updated the VPA database, provided additional staff training, and made a field trip to Svay Rieng to inform survivors about their participation rights.

#### Documentation and Exhibitions

The Documentation Team keyed/catalogued over **1384** records and worksheets this quarter, all of which were from the Swedish (D) collection. Backup copies were sent to the ECCC and Rutgers University. The team is beginning work on a **family tracing book** that will include a biographical record of Khmer Rouge victims generated from DC-Cam's databases.

The Museum and Exhibition Project Team collaborated with the Swedish Living History Forum by providing research assistance and materials for an exhibition called "**Dinner with Pol Pot**" to be held in September in Stockholm, Sweden.

#### Promoting Accountability Project

The Promoting Accountability Team assisted a visit to the *Duch* trial by Vietnamese S-21 photographers Ho Van Tay and Dinh Phong. In addition, team leader Dany Long

and director Youk Chhang made two trips to Vietnam to see and acquire new films and photographs of Cambodia in the 1970s.

### Public Education and Outreach

This quarter the Living Documents Project brought **463** persons in five different groups to attend ECCC hearings of Case 001 (S-21).

The Oral History Project Team leader received the Margaret McNamara Memorial Fund grant to help her with her master's studies. She was one of 10 recipients, and the first Cambodian to receive the award. This quarter the team wrote a letter to the Cham community updating them about the ECCC, worked on website design, transcribed interview tapes, practiced voice recording for an upcoming radio program, and collected the names of mosques and Cham Hakem to facilitate Cham participation at the ECCC. 10 Cham villagers from Kampong Chhnang were brought to the Center to learn about and attend the *Duch* hearing.

The Phnom Penh Public Information Room received **243** this quarter. The number of requests for "A History of Democratic Kampuchea: 1975-1979" increased due to recent publicity about its incorporation into the school curriculum. The PIR also made a road trip to Kampong Chhnang to hold a film screening and discussion on recent ECCC events.

The Student Outreach Team received nearly 100 feedback reports and letters of appreciation from the 300 students who participated in the March genocide education tour. In addition participating students contributed artwork for a June traveling exhibition the team mounted with the US Peace Corps volunteers. This exhibition, called "**Our Generation**," is intended to encourage students to reflect and learn more about the Khmer Rouge period and share their views with survivors.

The Film Team finished its internship at the Shoah Foundation in Los Angeles, interviewed *Duch* trial participants and captured the live feed of the *Duch* trial for the Cambodia Tribunal Monitor website, worked on pre-production of a new documentary "Water/Land/Rain," and filmed the work of the VPA team in Svay Rieng province.

The Victims of Torture Project Team visited three provinces this quarter to provide psycho-education and train community leaders on mental health issues. Dr. Daryn Reicherter, a mental health expert at Stanford University conducted a mental health training at the Center in April with DC-Cam staff and the staff of other NGOs. The VOT project completed on May 31 and is now arranging for a project evaluator to issue a final report. The program is now being redesigned to conduct national research on mental health with the Transcultural Psychosocial Organization (TPO).

### Research, Translation and Publication

Neon Yin continued ongoing research on the history of the Tuol Sleng Genocide Museum. Translation work on Getting Away with Genocide, Hill Tribes under the Khmer Rouge, and Brother Number One continues. Dara Vanthan is nearly finished

editing the Khmer translation of The Khmer Rouge Tribunal by John Ciorciari. A new book on the ECCC, On Trial: The Khmer Rouge Accountability Process, edited by John Ciorciari, is nearly complete and is expected to be published next quarter.

### **Magazine, Radio and Television**

Two Khmer issues of *Searching for the Truth* were published and distributed to commune and other office around the country, and provided to forums organized by other NGOs. We continue to broadcast articles from *Searching for the Truth* and selections from Brother Enemy on FM 93.25 in Kampot province. The play "Breaking the Silence" is currently be recorded for the radio.

The Center is collaborating with Apsara TV to ensure that footage of the Duch trial is replayed in full after the trial proceedings and before the next trial begins.

### **Beyond the Tribunal**

The Permanent Center team continued to work with the Ministry of Education, USAID, and the law firm of Sciaroni and Associates on the transfer of land to DC-Cam for the Sleuk Rith Institute. The team also worked on a new website and a draft brochure for potential donors.

The Genocide Education Project Team collaborated with the Ministry of Education Youth and Sport in distributing nearly 200,000 "A History of Democratic Kampuchea: 1975-1979" textbooks around Cambodia this quarter. In addition, starting on June 29<sup>th</sup>, the first teacher training on teaching genocide for high school students based on the "A History of Democratic Kampuchea" textbook and a teacher's guidebook was conducted with the participation of 24 national teacher-trainers from the Ministry of Education.

## **1. THE KHMER ROUGE TRIBUNAL: ACTIVITIES AND EVENTS**

### **1) General News**

#### ***Duch* Trial Continues, Expected to Run Till At Least October 1st**

The *Duch* Trial continued throughout this quarter, addressing topics including the establishment of S-21 prison, the implementation of S-21 policy, the existence of an armed conflict, and the functioning of S-21. In June, the Trial Chamber issued a scheduling order for trial hearings until October 1.

#### **International Co-Prosecutor Announces His Resignation**

On June 23, International Co-Prosecutor Robert Petit announced his resignation for personal and family reasons effective September 1.

#### **Khieu Samphan's International Lawyer Issued Warning**

On May 19, the Pre-Trial Chamber issued a warning to Jacques Vergés, Khieu Samphan's international legal counsel, on the basis of prior behavior and some statements made during proceedings, stating, "[W]as his conduct to remain

offensive or otherwise abusive, or was to obstruct proceedings or adopt a conduct that amounts to an abuse of process, the Chamber would impose sanctions[.]” This warning was forwarded to the Cambodian and Paris Bar associations.

#### **New Public Affairs Chief and Head of Victims Unit**

On May 18, the ECCC announced that Reach Sambath, formerly the Court's Press Officer, replaces Helen Jarvis. Helen Jarvis replaces Keat Bophal, who resigned from her position as head of the Victims Unit after 15 months. Director Youk Chhang wrote the ECCC Director and Deputy Directors of Administration to express his concern that the Court did not appear to follow its human resources guidelines in redeploying Dr. Jarvis to the VU without first advertising the position, and also his view that her appointment does not live up to the spirit of the agreement establishing the Court and its promotion of strong Cambodian ownership of and leadership at the Court.

#### ***Ieng Thirith* Provisional Detention Extended**

On May 11, the Pre-Trial Chamber decided that it was necessary to extend Ieng Thirith's provisional extension for another year.

#### ***Nuon Chea* Provisional Detention Extended**

On May 4, the Pre-Trial Chamber decided that it was necessary to extend Nuon Chea's provisional extension for another year.

#### ***Khieu Samphan* Hearing on Extension of Provisional Detention**

On April 3<sup>rd</sup>, Khieu Samphan's hearing on the extension of provisional detention, postponed from February due to the inability of his international counsel to attend, was held.

#### **Co-Investigative Judges Decide Have No Jurisdiction to Investigate ECCC Corruption**

On April 3, the Co-Investigating Judges responded to a request by some defense teams for investigative action regarding corruption at the ECCC and declared that they did not have the jurisdiction to investigate.

#### ***Ieng Sary* Hearing on Extension of Provisional Detention**

On April 2, Ieng Sary's hearing on extension of provisional detention, postponed from February due to his ill health, was held. On June 26, the Pre-Trial Chamber decided that it was necessary to extend his provisional extension for another year.

## **2) Legal Response Team**

### **Documents Provided to the ECCC**

This quarter the Response team responded to document requests from civil party teams, NGOs, and the Office of the Co-Investigating Judges.

<b>Documents Provided to the ECCC, Quarter 2</b>				
	<b>April</b>	<b>May</b>	<b>June</b>	<b>Total</b>
Number of requests	1	2	1	4
Pages of documents	447	232	120	799

**Documents Provided to the ECCC, Quarter 2**

CDs of photographs	0	0	0	0
Film DVDs	0	0	0	0



**Other Activities**

On June 10, students from the University of San Francisco's summer legal program took part in a moot court at DC-Cam. Students representing the defense, prosecution, and civil party perspectives debated issues related to the ECCC. Students from the Cambodian University of Law and Economics attended.

On April 24, VPA team leader Terith Chy provided an orientation for 24 ECCC interns and staff, explaining to them various DC-Cam projects, including Victim Participation.

In addition to his other responsibilities, Response Team leader Dara Vanthan has been attending the Duch trial proceedings to capture the video of the trial proceedings for the Cambodia Tribunal Monitor since March 30th.

**Law Students from the US and Cambodia Join DC-Cam as Summer Legal Associates**

10 US law students began working at DC-Cam as Summer Legal Associates and 2 Cambodian law students began volunteering at the Center:

Name	University	Research Project
Mary Irozuru	Columbia University School of Law	Limits on interlocutory appeals at the ECCC
Kalliopi Lykourgou	Santa Clara University School of Law	Trial time saving measures for case 002
Rehan Abeyratne	Harvard Law School	<i>Nullum crimen sine lege</i> and superior responsibility
Aileen Tsao	Seattle University School of Law	The scope of civil party's role in "assisting the prosecution" under Rule 23
Toni Holness	Temple University Beasley School of Law	Admissibility of torture confessions as evidence
Alex Lewis	Rutgers School of Law – Newark	The nature and scope of the Supreme Court Chamber's appellate powers
Charles Jackson	Northwestern University School of Law	International standards regarding mitigation of sentence for remorse
Elizabeth Nielsen	Yale Law School	Legal regime for addressing administrative and judicial corruption allegations
Spencer Cryder	Tulane Law School	Issues surrounding the advanced

		age of the accused
Adam Coady	Georgetown Law School	Limits on disruptive defense counsel
Savada Prum	Royal University of Law and Economics	Filing ECCC documents
Dany So	Royal University of Law and Economics	Filing ECCC documents

These students are researching and drafting memos on issues before the ECCC, monitoring the court, and assisting DC-Cam outreach projects. The students met with representatives from the Office of the Prosecutor (Co-Prosecutor Chea Leang and assistant prosecutor Anees Ahmed), the Office of the Co-Investigating Judges, the Office of Administration, Defense Support Services, the *Nuon* Chea defense team, and Judge Cartwright of the ECCC Trial Chamber.

### 3) Victim Participation Project (VPA)

#### Assistance to Victims Unit/Civil Parties

In April, VPA held follow up discussions with 30 complainants and civil party applicants. During these calls, VPA team members gathered additional information on the crimes alleged in their applications. In May, the Project collected additional information from 185 complainants and civil party applicants. In addition, the Project submitted one additional civil party application and 5 complaint forms to the Victims Unit, making Victim Participation team's total submission **1643** forms. The team is seeking to reactivate the informal truth commission process from the 1980s when the PRK government's collection of "Renakse" petitions involved around 1,000,000 survivors. The team is searching for the original petitioners in order to give them the opportunity to share their stories again, this time with the ECCC.

From May 27-29, the project brought 28 civil parties to a meeting in Phnom Penh, where they had an update meeting with their lawyers and attended the *Duch* trial at the ECCC.

#### Assisting Survivor Filing Civil Party Application

On June 8, survivor Mao Eng Chhun had approached DC-Cam and has asked that DC-Cam staff help her file a civil party application with the ECCC. Mao's 86-year-old mother, after listening to radio about the possibility of participating in the proceeding of the ECCC, asked her daughter to fulfill her last wish, which Mao did. Mao's brother, Mao Chhay Kea, was allegedly arrested and killed at S-21. DC-Cam staff has since found some documents to support Mao's application.

#### Victims Unit meetings

In April and May team leader Terith Chy attended meetings at the Victims Unit. The May meeting addressed the status of notifications to be delivered to victims. In May Mr. Chy was interviewed by a student from France who is working on his PHD dissertation.

On 26 June, VU and ECCC conducted a workshop on legal representation of civil parties in the upcoming Case 002. Discussion included what the VU/ECCC Admin sees as the problems with continuing the present model of

representation and the VU/ECCC Admin proposed plan for improvements in victim participation support for Case 002.

### Field Trip to Svay Rieng



From June 1-7 the VPA team traveled to Svay Rieng Province and collected 41 victim participation forms. The team was able to reach out to a number of selected villages in 4 districts of the province's 7 districts.

### VPA Database

Since early June, VPA staff has translated descriptions of crimes attached to 56 applications and entered this translated information to the internal VPA database.

### Additional Training of VPA Staff

On June 22, team leader Terith Chy provided additional training to project staff. Mr. Chy went over the Victim Information Forms step by step and explained to staff the required information for each part of the Form. In addition, he trained staff in interview techniques and the types of questions to be asked in order to elicit full and complete information when assisting survivors in completing the Form. Mr. Chy also updated the staff on recent developments at the ECCC and the Victims Unit related to victim participation.

## 2. DOCUMENTATION

### 1) Cataloging and Database Management

This quarter the team continued cataloguing and keying into the MySQL biographical database the 15,018 documents, consisting of 52,609 pages, received from the University of Lund in February 2007. They have all been scanned as .tif documents and sent to the Office of the Co-Prosecutors.

Database Management Activities, Quarter 2			
Month	Activity	Documents	Number of Records
April	Listing Documents	Swedish documents (D Collection)	600 records
May	Editing documents	Swedish documents (D Collection)	184 records
	Listing documents	Swedish documents (D Collection)	600 records
June	Checking documents	Swedish documents (D Collection)	1314 pages
	Listing and translating documents	D Collection	650 records

Database Management Activities, Quarter 2			
Month	Activity	Documents	Number of Records
	Printing	Bibliography database	3911 records
	Editing	D Collection	2300 records
	Arranging	Magazine film	2 albums
<b>Total</b> 2ndquarter	2484 records edited, 1850 documents listed		
<b>Total</b> 2009	817 records keyed, 689 worksheets catalogued, 3658 documents listed		
<p><b>B Collection:</b> Confessions from S-21 (Tuol Sleng Prison).</p> <p><b>BCB Collection:</b> Books written by foreign scholars on Khmer Rouge history or acts of genocide in Cambodia.</p> <p><b>D Collection:</b> Confessions; Khmer Rouge notebooks, biographies, and execution logs; interviews with former Khmer Rouge; books and articles, and post-1979 documents on the Khmer Rouge. The keying of this collection is somewhat behind schedule owing to the completion of work for the ECCC this quarter. Work on this collection also included editing spellings in both Khmer and English, and translation.</p> <p><b>J Collection:</b> Confessions from S-21 (Tuol Sleng Prison).</p> <p><b>L Collection:</b> Intelligence documents from the Lon Nol regime.</p> <p><b>R Collection:</b> Post-1979 petitions from the Cambodian people to the United Nations detailing atrocities committed by the Khmer Rouge. The Access listing of this collection has proceeded as planned and is now complete. English and Khmer spellings were also corrected for the Access list.</p> <p><b>S Collection:</b> Interviews conducted by student volunteers.</p> <p><b>Y Collection:</b> Biographies of S-21 prisoners and government leaders during Democratic Kampuchea, collected from books and periodicals.</p>			

The Documentation team is beginning work on a **family tracing book**. This project aims to publishing a biographical record of Khmer Rouge victims (including those in the KR rank and file) generated from DC-Cam's biographical, bibliographical, photographic and geographical databases. Each record includes a victim's biographical information and available information relating to that person. The project aims to publish three thousand books and distribute them free of charges to 1621 commune offices all over the country and major Cambodian communities overseas.

A second aspect of the project is to organize village forums in selected communities to explain villagers about the purposes and organization of the book. At the same time, they will collect feedback from the villagers concerning the accuracy of information in the book, additional requests to search for family members, additional Khmer Rouge documents/information, etc. The team aims to complete the project in approximately 16 months.

## 2) Microfilming

All of the documents microfilmed this quarter were cross-checked and sent to DC-Cam's office at Rutgers University.

Month	Activity	Documents	Number of
May	Developing film	D Collection	10 reels
June	Developing film	D Collection	5 reels
<b>Total</b> 2nd quarter	15 reels developed		

## Digitalization Project

In 2006, Director Youk Chhang received a letter from the ECCC Office of Administration indicating its desire to collaborate with DC-Cam in digitalizing nearly 1,000 reels of microfilm containing hundreds of thousands of pages of DC-Cam documents. DC-Cam has received initial funding for this project from SIDA, Norway, and USAID.

Early this year, as we prepared to move forward with the project with some new collaborators, we learned that David Cohen of the Berkeley War Crimes Research Center approached the ECCC and began plans to conduct a similar digitalization project. David spoke with the Hoover Institution at Stanford University, which expressed interest in helping to fund and conduct the digitalization. The Center is now seeking to ensure that there is no duplication of effort and that the project can be brought to fruition as quickly and effectively as possible. The Center's priorities include:

- o Making all of the documents available to the public for free;
- o Using donor resources efficiently; and
- o Ensuring that the contributions of DC-Cam and other parties are accurately reflected in the presentation of digital archives.

### 3) Museum and Exhibition Project

#### Collaboration with the Swedish Living History Forum Exhibition on Cambodia, "Dinner with Pol Pot"



The team provided materials to be used in an exhibition on Cambodia called "**Dinner with Pol Pot**" to be held in Stockholm, Sweden. The team assisted Bosse Lindquist, a consultant to the Living History Forum, to locate the files in DC-Cam archives, arrange materials on loan to the exhibition, and comment on the exhibition text. The team also scanned 54 original photographs at a high resolution for the exhibition. The Living History Forum is translating the catalogue "Living Hell" from the Gunnar Bergstrom

photo exhibition at Tuol Sleng into Swedish and will make it available for exhibition attendees. The exhibition will open September 8, 2009 and the museum team is invited to attend the opening.

Materials on temporary loan to the Living History for the exhibition include:

- o Photographs shot during the KR time of foreign visitors such as the Swedish delegation, of transport, labor camps, and big work projects such as dams.
- o Negatives of Gunnar Bergstrom's photographs donated to the Center in 2008.
- o 9 original Khmer Rouge Postcards.
- o Artifacts including shackles and iron bar, a blanket, and a spoon.

## Cambodia-Okinawa "Peace Museum" Cooperation Project Seminar

On May 26, 2009, Savina Sirik, Kok-Thay Eng and Sayana Ser attended a workshop of Cambodia-Okinawa "Peace Museum" Cooperation Project. The seminar introduced the audience to the Okinawa Prefectural Peace Memorial Museum; how and why it was initially established; and its mandate, objectives and activities. Because this museum is working to promote peace and remembrance, similar to Tuol Sleng Genocide museum, Okinawa Museum will offer its expertise by giving training to staff members of Tuol Sleng Museum.

### Tuol Sleng Genocide Museum Exhibition

DC-Cam has several ongoing photo exhibitions at the Tuol Sleng Genocide Museum. This quarter, **1022** people expressed their comments in the photo exhibition book.

#### Selected comments:

*May all these who died here never have to suffer again in their afterlife? God! This is crazy! Why did they do this?* - Meas Chan Boramy, Cambodia

*I have looked forward to coming here for 30 years, not to release the sadness and emotion it would bring. I will never be the same.* - Ric, Canada

*I cannot describe how I feel today. The museum is so important to show and explain the devastation that this country has suffered-and risen from somewhere Cambodia has overcome unimaginable destruction may all you innocent rest in peace. Cambodia is a beautiful country with beautiful people.* - Holly, U.K

*I do not really know what to say so I will simply say I hope that those who have suffered can find peace.* - Lorellin, New Zealand

## 3. PROMOTING ACCOUNTABILITY

This quarter team leader Dany Long organized a trip to Phnom Penh and translated for Ho Van Tay and Dinh Phong (the Vietnamese photographers who found S-21 in 1979) between April 6 and 9, 2009. During their visit Mr. Dinh and Mr. Ho attended the *Duch* hearing at ECCC and were interviewed by local newspaper Rasmey Kampuchea, Radio Free Asia, and French TV. They were also interviewed by investigators of the office of Co Investigating Judges, Prof. Alex Hinton from Rutgers University, and ECCC defense lawyers.

Dany Long wrote his final report on his research for the Asia Follows Award from the Asian Scholarship Foundation. The PA team had second field research trip to Monduliri province as part of work on "Comparative Research of Critical Ethnography of Education in Multi-Ethnic Highlands of Cambodia and Vietnam." They visited school sites and interviewed teachers about their daily life, their work teaching students, career history and prospects, understanding of local cultures; students about their family, childhood, experience of schooling and experience of upbringing beyond the formal school; family members of students about their family

life, their child's study and their perspective of education and schooling in general; and community members about the community profile and basic statistics.

From June 5-7, Youk Chhang, Dany Long, Rasy Pheng Pong and Kosal Phat went to Ho Chi Minh City, Vietnam, where they met with photographers Ho Van Tay and Dinh Phong and discussed an exhibition project involving the collection of documents, photographs and other visual documents related to the KR in Vietnam.

From June 16-20, Dany Long and Youk Chhang went to Vietnam to watch 31 documentary films at the Film Research and Archive Center and to see over 200 photographs at the Ho Chi Minh Television Station. They also met with three veteran Vietnamese soldiers. In addition, they selected and copied 59 photographs in Hanoi.

The team also assisted the VPA and Genocide Education projects and transcribed interviews with Khmer Rouge cadre.

#### 4. PUBLIC EDUCATION AND OUTREACH

##### 1) Living Documents Project

This quarter, the Living Documents project brought **463** people to attend the *Duch* trial.

##### **June 14-16: S-21 Trial**

From June 14-16, **65** participants from Kratie and Pursat (Prek Prasap and Rumlech) attended the *Duch* trial through DC-Cam. We selected these locations because we wanted more Cham Muslims and Khmer Krom people to participate in the hearing. These districts also made numerous requests to participate.

##### **June 7-9: S-21 Trial**

From June 7-9, **65** participants from Prey Veng and Kratie provinces (Chhlong and Mesang) attended the *Duch* trial through DC-Cam. The villagers had expressed interest in participating in the hearing.



##### **May 19-21: S-21 Trial**

From May 19-21, a group of **60** commune chiefs, villagers and Cham Muslims from Peam commune, Kampong Chhnang province, attended the *Duch* trial and a training at DC-Cam on how to observe the court. Most Peam villagers were attending ECCC hearings for the first time. We invited mostly village elders to join the hearing so that they could go back and teach what they learn to other members of the villages. There are also a few former S-21 employees

living in the commune. See a full report at [http://www.dccam.org/Projects/Living\\_Doc/pdf/DC-Cam\\_Field\\_Report\\_Justice\\_Under\\_Surveillance.pdf](http://www.dccam.org/Projects/Living_Doc/pdf/DC-Cam_Field_Report_Justice_Under_Surveillance.pdf)

#### **April 29: S-21 Trial**

The Living Documents Team brought a group of **88** villagers from Koh Thom district, Kandal province to attend the *Duch* trial on April 29, 2009 and observe discussions on the establishment of S-21 prison. Many of those invited had not previously heard of Duch, so this was a good opportunity for them to learn about him and S-21. Koh Thom district was also the birthplace of former S-21 chief called Ta Nat who was a predecessor of Duch. Ta Nat also led division 703, which sent several of its members to work at S-21.

After observing the proceedings, some attendees believed that Duch was not being completely truthful. For example, a 55 year-old man, Lach Mao, did not believe what Duch said about torture methods at S-21. Mao was once a Khmer Rouge soldier who was later arrested and sent to a prison at Chrey Pnoeu. He described how the KR tortured him, pulled out his fingernail and shackled him with iron shackles. "If Duch's claim was true, then the method used in the local level security office like Chrey Pnoeu was much more brutal; it's not possible." Chay Ry from the same commune also believed that Duch did not reveal all the facts about torturing prisoners. Ry was arrested and tortured at Koh Kanteay prison camp for about a month. Ry's head was put in a plastic bag for about a few minutes before he lost consciousness. Ry was angry when he saw Duch for the first time. "If I had a chance to see Duch personally I wanted to ask him where the Angkar took rice and other agriculture product to. I wanted to know why they leave people hungry and why they jailed people who stole rice just to fill up stomach."

According to our interviews, villagers were satisfied with the work of the tribunal and glad to see the trials of the former prison chief underway. However not all of them are pleased with Duch's confession which, according to their observation, contained only some truth, not the whole truth. As observed by some interviewees, Duch did not take a full account of the crimes he had committed at the S-21. Instead, he was trying to reduce the weight of his responsibilities and place it to his superiors.

#### **April 23: S-21 Trial**

**185** villagers came from Amleang commune, Kampong Speu province, located near former KR security office M-13, were invited by the Living Documents team to attend the April 23 hearing and listen to Duch's description of issues surrounding M-13, where many people were imprisoned and executed. Both survivors and prisoners' relatives were invited to attend and observe the hearing.

The following are some quotes from people who live near M-13 in Kampong Speu province and attended the M-13 hearings.

- Mak Meoun, 68: "I saw him [Duch] in court. I have known him since 1971. I am happy to see a tribunal is in progress and am also happy to see Duch in court. I want the court to prosecute [them] as soon as they can since they have done many bad things to their own people. Nothing makes me happier than to see the court prosecute them. I totally trust the court. I will feel relieved if the court can find justice for those who died under Duch's rule."

- Yin Neang, 41: "It seems to me that the tribunal will find justice for those who were killed at M-13 because it is a fair tribunal. I think what Duch has confessed to is only a fraction of what he has done.
- Chel Theoun, 41: "I felt both happy and sad when I was in court. I have never met Duch before, but I did know that many of the prisoners were imprisoned near my mother's paddy fields. Once at dawn in 1972, I saw a dog eating human's intestine next to my cottage. When M-13 was flooded, many of the clothes of the prisoners were washed up on the hill next to my house. I think that the tribunal should continue to prosecute Duch."
- Kong Kuor, 67: "I felt very hurt when I saw Duch again. I lost my husband because of him. I want him to die like my husband, brothers, and uncle. I don't want him to be alive. I am happy to see that the tribunal arrested Duch and is prosecuting him. I want to hit him with my own hands. Duch looks different [from the 1970s]. At that time, he was bigger and well built. Yet, at the same time, he looks the same as before. I am sure that he has not confessed everything he has done because he was very brutal. All villagers want him to be prosecuted as quickly as possible. I know the judges have to follow the law, but people are furious and they don't want to follow the law; they want to prosecute him right away."

ECCC Tours/Hearing Attendees	Dates	Number of Participants
	2009	681
	2008	308
	2007	1,209
	2006	5,169
<b>Total to Date</b>		<b>7367</b>

## 2) Cham Muslim Oral History Project (CMOHP)



This quarter, the Oral History Project acting team leader Sayana Ser wrote a letter for the Cham Muslim community updating them about the ECCC. The nearly 400 letters will be hand delivered to the provinces.

The five volunteer team members continued transcribing interviews, practicing voice recording for the upcoming radio program, and collecting the names of mosques and Cham villages so that villagers can be invited to

trial hearings. In May the volunteers worked with Sothida Sin on editing voice recording and burning CDs in the radio office.

The team invited 10 Cham Hakem from Orussey commune, Kampong Tralach district, Kampong Chhnang province, to Phnom Penh from May 19-21 to participate in a training session at DC-Cam and attend the *Duch* trial.

### 3) Public Information Room (PIR)

#### Activities in Phnom Penh

This quarter the Public Information Room received **243** visitors, both individuals and groups, who read documents, watched films, interviewed staff members, requested books and magazines, filmed staff members, conducted research for school, filled out ECCC complaints, toured the Center, and asked about missing family members.

In April, VPA team leader Terith Chy facilitated a visit to DC-Cam by 15 students brought by East Timorese Action Asia and the Center for Peace and Conflict Studies (CPCS) to learn about the Center's projects and activities, documents, and outreach programs. Their visit was intended to help them understand Khmer Rouge history and how victims cope with their past.

The PIR received a large number of requests for "A History of Democratic Kampuchea" because of the recent text book distribution campaign to all junior high schools and high schools throughout Cambodia. In May the PIR announced the opening of a volunteer position so there were quite a number of students submitting their applications.

#### Selected Visitors to the PIR in the Second Quarter

**Students:** Royal University of Law and Economic, National University of Management, Norway University, Royal University of Fine Arts, Indratevi high school, Bactouk High School, Chea Sim Santhormork high school, University of Ottawa, University of Singapore, University of Wisconsin, Northern Illinois University, and University of Connecticut.

**NGOs:** Harpswell Foundation, Cambow/Cambodia Defenders Project, Khmer Krom Association, Japan Heart

**International Organizations:** ECCC, International Committee of the Red Cross

**Media:** French Television, the Straits Times, Singapore, Asia Calling, Tuor Tre (Vietnam), VOD, and the Guardian, France 24, The Phnom Penh Post, VOA, Winnipeg Canada, The New York Times, and GQ New York Magazine

**Government:** Ministry of Commerce, Ministry of National Defense, Ministry of Interior, US Embassy

On May 25, 19 students of USAID Burundi Project visited the Center to learn DC-Cam's work. Terith Chy gave the group a tour of the Center and explained to them each of the Center's projects.



#### PIR Road Trips

PIR traveled to Kampong Chhnang province for three days from May 27 to 29 to hold a film screening and discussion on recent developments at the Khmer Rouge Tribunal. The Team conducted the screening in a pagoda that was used as a burial site for

victims of the KR and was later turned into a mine field. The team also conducted interviews with three Cham Muslim villagers about their life stories and experiences during the KR time. The team screened two films, "Behind the Walls of S-21" and "Preparing for Justice" to approximately 200 audience members. 200 copies of the magazine were distributed during the screening. The DVD of both films was donated to the commune office at their request.

#### 4) Student Outreach

##### Genocide Education Tour/"Our Generation" Art Exhibit

The Student Outreach team has so far received nearly 100 feedback reports and letters of appreciation from the 300 students from Kampong Cham, Kampot, and Siem Reap who joined the genocide education tour on March 29 - 31. One student named Hou Heng from Hun Sen Chhouk high school drew a picture entitled "Crime on Children in Khmer Rouge regime." The team has selected for publication in the magazine some letters, reports, a slogan, a drawing, and a poem that students sent in. The issue of the magazine including these features will be provided to the students and their schools.

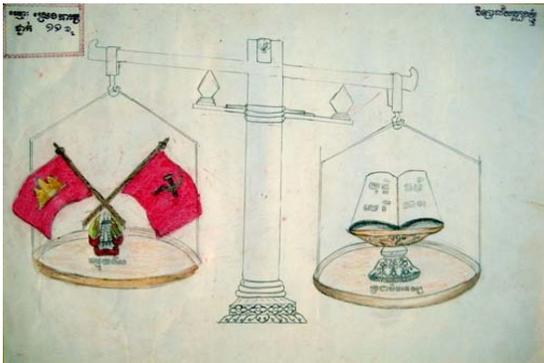
Selected student feedback:

*"I just like every activity of the tour's program, each place I was brought to was interesting and where some people might never go. And the survivors we met told us clearly and in detail about their experiences"*

- Touch Meng Leng, Bun Rany Hun Sen Memot

*"The tour gives me a lot of advantages, brought me to historical sites such as Tuol Sleng museum, Cheung Ek, and other places in Phnom Penh that I had never been to before, especially, it gives more knowledge and understanding about the atrocity of the dark regime...and the tour was also the opportunity for me to know many friends from different provinces in Cambodia. And I had had good meal in the gathering with my new friends as well as the teachers"*

- Yuon Salav, Kralanh Siem Reap



The team also worked with the U.S Peace Corps volunteers in Kampong Cham to mount a traveling exhibition called "**Our Generation**" at the end of June. The exhibition includes drawings, photos and slogans by students from the three high schools who joined the March genocide education tour. Student at each participating school and grade level were asked to draw pictures or take photos that reflected their generation and how it differs from the older generation, especially those who lived during the Khmer Rouge regime. The team also contributed 11 photos from the Khmer Rouge period for the exhibition.

The objectives of the exhibit are to encourage students to reflect and share their thoughts and feelings about their country, history, and culture through art; to showcase student artwork and Khmer Rouge photographs and related documents; to encourage dialogue among the generations about KR history and their daily differing experiences; and to promote awareness of, interest in, and appreciation of the Khmer Rouge genocide among Cambodian students.



The exhibition opened in Tbong Khmum High School on June 19, then traveled to Memot on June 27 and Stung Trang on June 29. It will be in Phnom Penh from July 3-5.

- o Number of students participating in the Art Project:  
Tbong Khmum: 18; Memot: 30; Stung Trang: 26. Total: **74 student participants**
- o Estimated number of guests visiting the exhibition:  
Tbong Khmum: 300; Memot: 400; Stung Trang: 250. Total: **950 exhibition guests**



#### **Other Activities**

On May 20, the Student Outreach Team Leader Sayana Ser traveled to Choeung Ek with Director Youk Chhang and the US Ambassador-at-large for War Crimes to see the Day of Anger ceremony, reenacting events under the Khmer Rouge. On May 21, she gave a guided tour of Tuol Sleng to a group of seven people from Open Society Institute, led by Lara Johnson and Abigail Schwartz.

## **5) Film Project**

### **Shoah Foundation Internship**

April was the last month of the team's internship at the Shoah Foundation in Los Angeles, CA. During their last month, they conducted a second interview with a Khmer Rouge survivor living in Long Beach. They were also trained on cataloguing and indexing video testimony. Cataloging involves entering pertinent biographical information as well as names of relatives from a hardcopy Pre-Interview Questionnaire (PIQ) into a database. Indexing involves using digital time code instead of pages to locate and access precise moments in the video testimony, based upon the search of the end user.

### **Duch Trial at ECCC**

The team interviewed 5 participants who attended the Duch trial about their reactions and opinions and posted them with subtitles on the Cambodia Tribunal Monitor website. The Film team also continued to record the live feed video of Duch hearings and also made a tape catalog for all ECCC hearing tapes. In total, 112 ECCC hearing tapes were cataloged and prepared for the film archive.

### **The Pre-Production of Film: Water/Land/Rain**

Research is ongoing for the proposed film: "Water/ Land/Rain." The team is trying to collect as many relevant news clips, reports, and articles as possible. Danny, a new volunteer with the film team is researching land issues in Cambodia; team leader Ratanak Leng looking at fishery and climate change issues; and Mony, a new volunteer, is responsible for researching "rain."

### **Film Screening**

In May, Ratanak Leng screened a film from Vietnam for a Swedish researcher who is planning to do an exhibition about the killings in Cambodia. In June, the team screened "Cambodia Dream" and "Breaking the Silence " to a group of visiting USC students and DC-Cam legal associates.

### **Field Trip with VPA to Svay Rieng Province**

From June 1-7 the Film team traveled to Svay Rieng province with the VPA project to capture footage of survivor stories and learn what happened to people in this province during the Khmer Rouge regime. Besides interviewing victims, the team also conducted interviews with members of the Victim Participation Project (VPA) about their impression of the project and the challenges they faced during their work.

## **6) Family Tracing**

A woman living abroad wrote the Center seeking information about Heui Tong Chau, born March 7, 1949, with whom she corresponded from 1967 to 1970 before his disappearance. Another woman from Australia requested DC-Cam to look for her sister named Ung Huoy Kheng who used to work for the Care organization as an orphan caretaker in Phnom Penh. In April 1975 she was evacuated to Battambang province. We found her biography in our database. She was arrested and sent to Tuol Sleng on April 10, 1976.

A family living in France sought DC-Cam's help in finding documents relating to their sister's death in Tuol Sleng after finding out her fate through a photo in a Chinese newspaper. The Center was able to provide the family with a confession written by her husband.



Ung Huoy Kheng

Sin Sinet *aka* Srun, lives in Reaksmey Rumdoh village, Soyong sub-district, Baray district, Kampong Thom province. Her father is named Ny and mother is named Sin Sophal. During the Khmer Rouge regime, she left home to live with her grandparent

named Pheach Kim *aka* Sin and Nop Seng in Kampong Som. After the Khmer Rouge collapsed, she never saw her parents again.

Ing Meiha, 39, lives in Thmei village, Stung Treng sub-district, Stung Treng district, Stung Treng province. She is the second among two sisters and one brother. During the Khmer Rouge regime her six members were evacuated to Kot village, Kulun sub-district, Preah Net Phreah district, Banteay Meanchey province. Because of the lack of food, her parents passed away during that time. After liberation on January 7, 1979, she and her younger brother escaped to live in Thailand. In 1983, she returned to her hometown, but she did not bring her younger brother along. Since then, he has disappeared.

Mil Chantha, 55, from Battambang province, is looking for his younger brother, Mil Sovann, called Nop. Sovann is the fourth among six siblings. In 1967, Sovann studied in university; one year later he received a scholarship to study in the Soviet Union. During his studies in the first year in Soviet Union he wrote a letter to his family, but after that he disappeared.

## 7) **Victims of Torture (VOT) Project**

In both April and May the VOT team visited three provinces – Kampot, Kandal and Takeo – to provide psycho-education to villagers and train community leaders on mental health issues. In each province around 15 community leaders, including commune council members, village chiefs, police, and monks participated in the training and 65 mostly middle-aged and elderly women participated in the psycho-education program. In each province the VOT team provided around 6-25 people USD12 each to pay for their transportation costs for seeking medical assistance in urban areas. The team was accompanied by Dr. Kaot Chhunly from the Russian Hospital's mental health clinic.

Dr. Daryn Reicherter, a mental health expert at Stanford University who has worked for many years with Cambodian-American patients in California, arrived in mid-April. He participated in the team's trip to Kandal province and conducted a mental health training at the Center with members of NGOs and DC-Cam staff. The course covered 5 major topics:

1. Treating Victims of Political Torture
2. Outline of Psychiatric Assessment and Treatment Planning
3. The Role and Efficacy of Healing Practices in Treating Traumatic Disorders
4. Psychotherapy
5. Religion and Spirituality After Trauma

The VOT project completed on May 31 and is now arranging for a project evaluator to submit a final report by the end of August.

### **VOT: The Next Phase**

VOT will next conduct national research on Cambodian's mental health needs with the Transcultural Psychosocial Organization (TPO) with the ultimate aim of building the capacity of the VOT program to assist the mental health education of the public, advocate for improved mental health resources on a national level, and the promote the training of providers of mental health services and para-professionals as well as training other providers who do not traditionally address mental health.

## 8) Website Development ([www.dccam.org](http://www.dccam.org))

### Selected New Postings

New items added to DC-Cam's website this quarter include:

- o [Translation Problems at the ECCC](http://www.dccam.org/Tribunal/Analysis/Translation_Problem_at_the_ECCC.htm)  
[http://www.dccam.org/Tribunal/Analysis/Translation\\_Problem\\_at\\_the\\_ECCC.htm](http://www.dccam.org/Tribunal/Analysis/Translation_Problem_at_the_ECCC.htm)
- o [Textual Discrepancies in the ECCC Law Regarding the Crime of Genocide](http://www.dccam.org/Tribunal/Analysis/pdf/DC-Cam_Textual_Discrepancies.pdf)  
[http://www.dccam.org/Tribunal/Analysis/pdf/DC-Cam\\_Textual\\_Discrepancies.pdf](http://www.dccam.org/Tribunal/Analysis/pdf/DC-Cam_Textual_Discrepancies.pdf)
- o [Victims of Security Office M-13 and Duch's Confession](http://www.dccam.org/Tribunal/Analysis/pdf/Victims_of_Security_Office_M-13_and_Duch's_Confession)  
[http://www.dccam.org/Tribunal/Analysis/pdf/Victims\\_of\\_Security\\_Office\\_M-13\\_and\\_Duch\\_Confessions.pdf](http://www.dccam.org/Tribunal/Analysis/pdf/Victims_of_Security_Office_M-13_and_Duch_Confessions.pdf)
- o [Duch on Trial and Villagers' reactions](http://www.dccam.org/Projects/Living_Doc/pdf/Duch_on_Trial_and_Villagers'_reactions)  
[http://www.dccam.org/Projects/Living\\_Doc/pdf/Duch\\_on\\_Trial\\_and\\_Villagers'\\_reactions.pdf](http://www.dccam.org/Projects/Living_Doc/pdf/Duch_on_Trial_and_Villagers'_reactions.pdf)
- o [Victims Reaction to Duch's Apology](http://www.dccam.org/Projects/Tribunal_Response_Team/Victim_Participation/PDF/Victims'_Reactions_to_Duch_apology.pdf)  
[http://www.dccam.org/Projects/Tribunal\\_Response\\_Team/Victim\\_Participation/PDF/Victims'\\_Reactions\\_to\\_Duch\\_apology.pdf](http://www.dccam.org/Projects/Tribunal_Response_Team/Victim_Participation/PDF/Victims'_Reactions_to_Duch_apology.pdf)
- o [Monograph, "Breaking the Silence"](http://www.dccam.org/Publication/Monographs/Monographs.htm)  
<http://www.dccam.org/Publication/Monographs/Monographs.htm>
- o [Script: "Breaking the Silence"](http://www.dccam.org/Projects/Radio/pdf/DCCAM_BREAKING_THE_SILENCE.pdf)  
[http://www.dccam.org/Projects/Radio/pdf/DCCAM\\_BREAKING\\_THE\\_SILENCE.pdf](http://www.dccam.org/Projects/Radio/pdf/DCCAM_BREAKING_THE_SILENCE.pdf)
- o [PIR Road Trips Three-Month Report](http://www.dccam.org/Projects/Living_Doc/pdf/PIR_1st_Quarter_Report.pdf)  
[http://www.dccam.org/Projects/Living\\_Doc/pdf/PIR\\_1st\\_Quarter\\_Report.pdf](http://www.dccam.org/Projects/Living_Doc/pdf/PIR_1st_Quarter_Report.pdf)
- o [Project Evaluation: Living Documents Project](http://www.dccam.org/Projects/Living_Doc/pdf/Living_Documents_Project_%20Evaluation_to%20DRL.pdf)  
[http://www.dccam.org/Projects/Living\\_Doc/pdf/Living\\_Documents\\_Project\\_%20Evaluation\\_to%20DRL.pdf](http://www.dccam.org/Projects/Living_Doc/pdf/Living_Documents_Project_%20Evaluation_to%20DRL.pdf)
- o [List of Complaints Collected](http://www.dccam.org/Projects/Tribunal_Response_Team/Victim_Participation/PDF/List_of_Forms_Collected_as_of_31_May_2009.pdf)  
[http://www.dccam.org/Projects/Tribunal\\_Response\\_Team/Victim\\_Participation/PDF/List\\_of\\_Forms\\_Collected\\_as\\_of\\_31\\_May\\_2009.pdf](http://www.dccam.org/Projects/Tribunal_Response_Team/Victim_Participation/PDF/List_of_Forms_Collected_as_of_31_May_2009.pdf)
- o [Voice on Anti-Semitism](http://www.ushmm.org/antisemitism/voices)  
<http://www.ushmm.org/antisemitism/voices>
- o [Seeking Truth and Justice at ECCC: An Introductory Guide](http://www.dccam.org/Projects/Living_Doc/pdf/ECCC_guidebook.pdf)  
[http://www.dccam.org/Projects/Living\\_Doc/pdf/ECCC\\_guidebook.pdf](http://www.dccam.org/Projects/Living_Doc/pdf/ECCC_guidebook.pdf)
- o [Magazine Issue 113](http://www.dccam.org/Projects/Magazines/Kh_magazine.htm)  
[http://www.dccam.org/Projects/Magazines/Kh\\_magazine.htm](http://www.dccam.org/Projects/Magazines/Kh_magazine.htm)
- o [DC-Cam Field Report: Justice Under Surveillance](http://www.dccam.org/Projects/Living_Doc/pdf/DC-Cam_Field_Report_Justice_Under_Surveillance.pdf)  
[http://www.dccam.org/Projects/Living\\_Doc/pdf/DC-Cam\\_Field\\_Report\\_Justice\\_Under\\_Surveillance.pdf](http://www.dccam.org/Projects/Living_Doc/pdf/DC-Cam_Field_Report_Justice_Under_Surveillance.pdf)
- o [Photo Gallery of "A History of Democratic Kampuchea" distribution](http://www.dccam.org/Projects/Genocide/Photo_Gallery.htm)  
[http://www.dccam.org/Projects/Genocide/Photo\\_Gallery.htm](http://www.dccam.org/Projects/Genocide/Photo_Gallery.htm)
- o [Genocide Education \(Updated information\)](http://www.dccam.org/Projects/Genocide/Genocide_Education.htm)  
[http://www.dccam.org/Projects/Genocide/Genocide\\_Education.htm](http://www.dccam.org/Projects/Genocide/Genocide_Education.htm)

## 9) Cambodia Tribunal Monitor Website

New Postings on the Cambodia Tribunal Website ([www.cambodiatribunal.org](http://www.cambodiatribunal.org)) include around 350 files from the *Duch* trial proceedings in English, nearly 250 in French and Khmer, and footage of the new Wednesday weekly press briefings organized by ECCC with different Court offices.

Comments received from overseas viewers:

*I have been watching the trial on Cambodiatribunal.org. Duch is a demon. That his lawyers with his approval would effort to dissuade with argument his own admissions is clearly the evidence that Duch would try to evade again. If not capital punishment for the horrors he oversaw, then life in prison is the least that should apply. In solitude without contact from outside and one hour of exercise a day.*

*I've tried watching the trial on webcast out of Northwestern: I watched for 2 hours a day every day, until 10 days ago, and remember exactly the moment when I quit, saying out loud, "I cannot stand one moment more of this man--this weasel--", and I was done.*

*I wonder if it would be possible to create a section of pod-casts about the tribunal. These could be interviews ... about the tribunal, perhaps including the expert commentators. This might add an interesting dimension to the blog.*

## 5. RESEARCH, TRANSLATION, AND PUBLICATION

### 1) Historical Research and Writing

Nean Yin continued researching documents for a forthcoming Tuol Sleng history monograph. This included searching weekly reports of museum staff from 1979 to 2001, photographs of staff activities, and the museum's internal rules.

Kok-Thay Eng has been writing a literature review on the relationship between moving forward and knowing the fate of lost loved ones. This literature would support an expansion of the family tracing efforts that DC-Cam has been doing in the past several years through magazine *Searching for the Truth* and the Public Information Room. It will also be used as a base for creating a family tracing book containing names and biographical information of prisoners, petitioners and other persons appearing in forced confessions.

Sok Kheang Ly is researching the social, political, traditional and religious activities grassroots efforts in Cambodia that have contributed to reconciliation.

Khamboly Dy is working on a monograph on the development of genocide education in Cambodia since the 1980s in three parts: the initial efforts in the PRK regime; the challenges of genocide education from 1993 to 2002 at which time

genocide study was absent from the school curriculum; and subsequent informal and formal efforts, including DC-Cam's work and collaboration with the Ministry of Education to conduct teacher training nationwide.

Farina So is working on a paper called "Cham Muslim Women Perspectives on the Khmer Rouge Regime," which is expected to be completed in March 2010. This paper focuses on the plight of the Cham Muslim women under the Khmer Rouge regime and examines whether their experiences are different from other women in Cambodia during that time. It also looks at how Cham women express their experiences of that time.

Socheat Nean is working on a paper called, "Patron and Client Relationship and Trust Structure in the Southwest Zone of the Democratic Kampuchea," which examines power structures in the Southwest Zone of the Democratic Kampuchea. It looks at the relationship between leaders and their followers and how trust was built and retained between these two groups.

A new book on the ECCC, On Trial: The Khmer Rouge Accountability Process, edited by John Ciorciari, is nearly complete and is expected to be published next quarter.

## 2) Translation and Publication of Books

Terith Chy and Charya Chum are translating Getting Away with Genocide by Tom Fawthrop and Helen Jarvis. Socheat Nhea is translating Hill Tribes under the Khmer Rouge by Sara Com & Sorya Sim. Meng Khean is translating David Chandler's Brother Number One from French to Khmer.

Dara Vanthan has almost finished editing the Khmer translation of The Khmer Rouge Tribunal edited by John Ciorciari.

Conde Nast Travelor's listing of "hot" new hotels for 2009 includes the Sothea in Siem Reap, at which "[t]here's even a bedside copy of Cambodia's most famous love story, Tum Teav, translated into English" (published by DC-Cam). <http://www.concierge.com/tools/travelawards/hotlist/2009/hotels/asia/501843?id=501843&lastUrl=/tools/travelawards/hotlist/2009/hotels/asia>.

Miriam Morgenstern, a teacher at Lowell High School, Massachusetts, USA, used "A History of Democratic Kampuchea (1975-1979)" in her fifty-student class, *Cambodia: Culture and Conflict*.



Miriam Morgenstern's Lowell High School class

Penny Edwards at the University of California, Berkeley, is again using "Tum Teav" part of her syllabus in a Southeast Asian studies survey class planned for fall 2009.

### 3) Print Shop

The Print Shop produces 7,050 copies of the Khmer edition of DC-Cam's magazine, *Searching for the Truth*, each month and 700 copies of the English edition each quarter. Team members distribute Khmer copies to embassies, libraries, ministries, the National Assembly and Senate, NGOs, and high schools. The magazine is also sent by taxi to 1537 sub-districts through 19 provisional and 2 city halls.

## 6. MAGAZINE, RADIO, AND TELEVISION

### 1) The Magazine Project

This quarter the team produced two Khmer-language editions (#112, #113). Online, the magazine can be found at:

- o Khmer language: [http://www.dccam.org/Projects/Magazines/Kh\\_magazine.htm](http://www.dccam.org/Projects/Magazines/Kh_magazine.htm)
- o English language: [http://www.dccam.org/Projects/Magazines/English\\_version.htm](http://www.dccam.org/Projects/Magazines/English_version.htm)

Highlights from this quarter include:

Section	Article
Editorials/Letters	United Nations Should Focus on the Past of the Post Conflict Society; Duch Denies that Another "Survivor" Was Imprisoned at S-21
Documentation	Confession of Khen Khaun; Duch's Confession Related to M-13
History	People's Views About M-13 and Duch Confessions; Duch on Trial and Villager's Reactions
Legal	Disagreement of Co-Prosecutors; Reparative Role in Supplementing ECCC
Public Debate	Young Nuon Chea in Bangkok (1942-1950); Confronting the Past
Family Tracing	Wait Until Tomorrow

### 2) Radio Broadcasts

This year Radio FM 93.25 in Kampot province broadcast DC-Cam publications seven days a week, two times a day, from 7 to 7:30 am and 7 to 7:30 pm, including selections from *Searching for the Truth* magazine and Brother Enemy.

The play "Breaking the Silence" is currently be recorded for radio broadcast.

The Voice of America has been broadcasting portions of "A History of Democratic Kampuchea (1975-1979)." Please see <http://www.voanews.com/khmer/democratic-kampuchea.cfm>.

### 3) **Television Broadcasts**

The Center is collaborating with Apsara TV to ensure that footage of the *Duch* trial is replayed in full after the trial proceedings and before the next trial begins. The broadcast will include information for survivors who wish to contact the Victims Unit or receive assistance in filing a complaint or civil party application from an intermediary organization.

## 7. **NATIONAL AND INTERNATIONAL COOPERATION**

### 1) **Visitors**

From June 1 to 14, DC-Cam hosted the University of Southern California's first undergraduate summer research trip to Cambodia, *Problem without Passports Cambodia 2009*, a problems-based course in which ten students from the School of International Relations participated. As the hosting institute, DC-Cam, in collaboration with the USC College of Letters, Arts, and Social Science, provided office space, logistical support and support staff to enable these students to conduct their archival research at DC-Cam and conduct interviews with a number of survivors and perpetrators from S-21 prison; embark on field visits with DC-Cam's various outreach projects in four provinces (Kampong Chhnang, Kampong Speu, Kandal and Takeo); and visit Tuol Sleng museum, Cheung Ek genocide site/museum and the ECCC hearing. The students have written 10 papers that are being edited by Summer Legal Associates for publication in the magazine.

All USC students were given the opportunity to participate in distributing "A Democratic Kampuchea" to Cambodian high school students and producing video clips for the Cheung Ek museum. Such collaboration would not have been possible without the growing institutional linkage between DC-Cam and the USC Shoah Foundation on visual genocide education and beyond. From this vantage point, DC-Cam is poised to further extend its academic and research collaboration with universities around the globe on problems-based education.

A group of Stanford MBA students who visited the Center in March wrote, "The students deeply appreciated learning about DC-Cam's work, and especially your example of vision, leadership, and inspiration. The openness of your conversation, the powerful insights you shared into Cambodia's history, and the passion you bring to your work were a tremendous high point of their entire trip. Your meeting with the students was invaluable in shaping the remainder of their time in Cambodia (and continues to be relevant as we all follow the Khmer Rouge trials from California.)"

### 2) **Participation in Seminars**

From June 19-20, Student Outreach team leader Sayana Ser participated in a seminar organized by the Belgrade, Serbia, based Humanitarian Law Center and the London School of Economics on "the Role of Global Civil Society and Transitional Justice." Ms. Ser discussed "Civil Society and Transitional Justice in Cambodia" and

updated the attendees on the ECCC process, DC-Cam Legal Response team, Victim Participation project, Genocide Education project, and other outreach work.

On May 4-5 director Youk Chang participated in an Fédération Internationale des Droits de L'Homme (FIDH) and Burma Lawyers Council (BLC) seminar in Bangkok concerning the "external leverages to advance human rights and fight impunity in Burma," and discussed documentation work on international crimes in Burma.

On April 27-28, DC-Cam director Youk Chhang and VPA team leader Terith Chy attended a conference, "Fighting Impunity and Promoting International Justice" in the Hague. At the conference, Professor Suzannah Linton presented a comparative report on how 12 Asian countries address the past and the DC-Cam director shared the Cambodian experience and the work of DC-Cam.

### 3) Selected Research Assistance

The Center assisted Katharina Lauritsch's investigations of the exhumation praxis in Asia in preparation for a regional Asian congress in September/October and a publication about the different working strategies in the different countries of Asia. An international congress planned for November in Bogota, Colombia, where the results of the meeting in Asia will be presented and discussed.

The Center provided research assistance to Annie Goldson of NZ, who is making a film about S-21 victim Kerry Hamill. Ms. Goldson is meeting with relatives of Mr. Hamill and the other foreigners taken prisoner at Tuol Sleng when their boat was seized by the Khmer Rouge off the Cambodian coast. They plan to film Mr. Hamill's brother's visit to Cambodia to testify before the ECCC.

In addition, this quarter the Center assisted:

- o Ewa Tabeau, a Demographer in the Office of the Prosecutor at the International Criminal Tribunal for the Former Yugoslavia.
- o Andrew Mertha from Cornell University, who is researching relations between Cambodia and China both pre and post the Democratic Kampuchea era. The Center is assisting him in locating documents and scanning some files.
- o Akbar Meiro from Indonesia under the Asian Fellowship Foundation. He is currently working on reconciliation in Cambodia. The Center is providing technical assistance and hosting his research.
- o Kyle Delbyck, a student from Scripps College, CA. She plans to come in the fall this year to research historical memory. The Center provided guidance for her project.
- o Shay Galto from Northern Illinois University. She researched genocide in Cambodia and interviewed survivors and the younger generation.
- o Tyrone Savage, a scholar from South Africa. Currently he is working in Burundi on transitional issues in that country. He visited DC-Cam in January. He plans

to come at the end of this year to write about transitional justice in Cambodia.

- o Perry Johansson from the Asia Research Institute, National University of Singapore enquired about files relating to Scandinavian friendship visits during the Pol Pot years.
- o Thomas Forster, a Ph.D student with a grant from the Swiss National Science Foundation, will come to the Center to work on dissertation research with on the possibility of characterizing the Khmer Rouge atrocity as a genocide.
- o Henri Locard, a history professor from the Royal University of Phnom Penh. He enquired about materials relating to the Khmer Rouge prison system.
- o Ian Harris, who asked for materials about Ea Si Chou and Son Ngoc Thanh.
- o Elizabeth Kha Do from Stanford University. She is following up on her research last summer on Khmer Rouge persecution of the Vietnamese ethnics.

#### **4) Awards**

Two 2008 Summer Legal Associates received awards this quarter with support from DC-Cam

- o Annie Gell was selected as a Lowenstein Fellowship, which will help her repay her law school debt at Columbia Law School and allow her to embark on a career in international human rights.
- o Randle DeFalco was awarded a Fulbright to conduct research at DC-Cam next year on the criminal implications of starvation under the Khmer Rouge.

#### **5) Use Abroad of Documentary Materials**

This quarter the Center provided photos to the curator of the Queensborough Community College/City University of NY Holocaust Resource Center for a new building on campus that will contain panels devoted to 20<sup>th</sup> century genocides.

This quarter the Center received word that on Holocaust Memorial Day (25th January) in Newcastle Upon Tyne, UK, Bradley Creswick played "Oh Phnom Penh" on the violin, and Daniel Bates 10 years old spoke the testimony of Mam Phai Boun, while Olivia Smithson 10 years old spoke the testimony of Pin Ratha from "A History of Democratic Kampuchea (1975-1979)," by Khamboly Dy (DC-Cam 2007). Jane Arnfield also spoke about her research for "The Gymnast," a solo piece of theater made possible through her residency at DC-Cam in January 2007. She and John Adams also showed "Time for Change," a short film made about DC-Cam.

## 8. STAFF DEVELOPMENT

### 1) Advanced Degree Training

Six DC-Cam staff members undertook advanced degree programs abroad this quarter:

- Socheat Nean is studying for a master's degree in cultural anthropology at Northern Illinois University (US)
- Khamboly Dy is studying for a PhD in global affairs at Rutgers University (US).
- Sok-Kheang Ly is conducting research for a PhD in peace and reconciliation studies at Coventry University (UK).
- Pivone Beang is studying for a master's degree in international museum studies at the University of Gothenburg (Sweden)
- Farina So is studying for a master's degree in international studies at Ohio University (US).
- Charya Chum graduated with an LL.M. from Temple School of Law (US)



Charya Chum graduation



Khamboly Dy masters graduation with Alex Hinton

Farina So, team leader of the Cham Muslim Oral History Project, was awarded the **Margaret McNamara Memorial Fund Grant** on May 19 and is one of ten award recipients worldwide. She is the first Cambodian to receive the award, which includes a \$12,000 grant to help her with her studies. In an interview with Voice of America, she says, "It is such a great honor for me to receive this award," and noted that it would help her pursue her goal of having a career that benefits women and children.

Dany Long, team leader of the Promoting Accountability Project, successfully completed his fellowship program in Vietnam under the support Asian Scholarship Foundation, the Royal Patronage of H.R.H Princess Maha Chakri Sirindhorn and the Ford Foundation. He conducted research for a report on "Transcending Citizenship: The Making of Nations Through the Experiences of Vietnamese Cambodian and Cambodian Vietnamese Living in the two countries in 1970s-1980s." He has now been accepted to an MA program in the UK.

Rasy Pong Pheng, a member of the Genocide Education team, has been accepted by University of Sydney and University of London for two different and separate certificate short course programs. In Australia, he will take "Transitional Justice and Peacebuilding," and participate as a guest speaker and facilitator of a special session on Cambodia. For his second course he will take "Key Issues in Peace and Conflict Studies." He will also assist his professor with organizing events for the Cambodian community, learn about the Centre for Peace and Conflict Studies and its activities, and learn how to analyze interviews. In London, he will be taking courses on genocide education. After he passed these two short courses, he then can apply for MA program in Australia in 2010.

## 2) Training

Summer Legal Associate Alex Lewis is working with two groups of staff to improve their writing skills, focusing on organizational issues. Five are volunteers with the Cham Muslim Oral History Project and are working on short magazine pieces aimed at the Cham community. Dany and Savada are law student volunteers who are working on argumentative essays that can be used later for thesis topics or LL.M. admission statements.

## 9. MEDIA COVERAGE

### 1) Selected Articles by DC-Cam Staff, Advisors, and Legal Associates

Norman H. Pentelovitch, *A Tragedy Continued*, Phnom Penh Post, 11 June 2009.

Youk Chhang, *Letter to the Editor*, Cambodia Daily, 13 June 2009.

I do not believe that the nomination of Helen Jarvis to head the Victims Unit is a part of a political agenda of the CPP or the government. Instead, the government might prefer to keep its distance from her political views and performance at the ECCC. On the other hand, the UN's support for Dr. Jarvis' appointment is an invasion of Cambodia's sovereignty and is disrespectful to the victims it claims to serve. With regard to the questions that have been raised about Dr. Jarvis' Cambodian nationality, is there a difference between nationality (citizenship) and ethnicity in Cambodia? Culturally and generally, the Cambodian people are not familiar with this distinction, and they are still in search of identity. For this reason Dr. Jarvis' Cambodian citizenship will have no bearing on how victims perceive her.

### 2) Selected Articles Featuring DC-Cam

#### Internet

Wikipedia - [http://en.wikipedia.org/wiki/Documentation\\_Center\\_of\\_Cambodia](http://en.wikipedia.org/wiki/Documentation_Center_of_Cambodia).

Hiroshima Peace Media Center - [http://www.hiroshimapeacemedia.jp/media\\_center\\_d/w\\_museum/20090309160332694\\_en.html](http://www.hiroshimapeacemedia.jp/media_center_d/w_museum/20090309160332694_en.html). DC-Cam is featured as a peace museum on the website of HPMC, a new wing of the Chugoku Shimbun, founded in 1892 and now one of Japan's largest newspapers with a circulation of 720,000.

Launched on January 1, 2008, HPMC transmits peace-related reporting via the internet in English and Japanese.

**Print**

Men Kimseng, *Learning to Teach About the Khmer Rouge*, VOA Khmer, 29 June 2009

Susan Postlewaite, *Khmer Rouge Story a Vague One for Young Cambodians*, 5 Apr. 2009, <http://www.google.com/hostednews/ap/article/ALeqM5jz9mmH7CtLfq0JOI5ow6YVoACGOwD97BQML00>

Cheang Sokha and Georgia Wilkins, *First KR Textbook Launched*, Phnom Penh Post, 21 May 2009

Christi Hang, *DC-Cam Launches Campaign to Distribute Textbooks on KR*, Cambodia Daily, 21 May 2009

Straits Times, *1st Textbook on KRouge*, 20 May 2009, [http://www.straitstimes.com/Breaking%2BNews/SE%2BAsia/Story/STIStory\\_379367.html](http://www.straitstimes.com/Breaking%2BNews/SE%2BAsia/Story/STIStory_379367.html)

Bosse Lindquist, *Silence of Phnom Penh*, <http://www.youtube.com/watch?v=D4LLh464hhk&feature=Playlist&p=DD02653581DAD28C&index=0>

Radio Australia, *Cambodia Releases First Ever Textbook on Pol Pot Era*, 25 May 2009, <http://www.radioaustralia.net.au/connectasia/stories/200905/s2579877.htm>

Sothearith Im, *Cambodian-Muslim Woman Earns Grant for US Studies*, VOA Khmer, 25 May 2009, <http://www.voanews.com/khmer/2009-05-25-voa6.cfm>

Mom Kunthear, *Students at Buddhist Centre Get KR Textbook*, Phnom Penh Post, 02 June 2009

Taing Sarada, *Researchers End Documentation Study*, VOA Khmer, 08 June 2009, <http://www.voanews.com/khmer/2009-06-08-voa3.cfm>

## 10. BEYOND THE TRIBUNAL

### 1) Permanent Center: The Sleuk Rith Institute

DC-Cam is preparing to establish a permanent center called the **Sleuk Rith Institute**. The name we have chosen for the Institute reflects our core objectives, as well as our Cambodian heritage. *Sleuk rith* are dried leaves that Cambodian religious leaders and scholars have used for centuries to document history, disseminate knowledge, and even preserve culture during periods of harsh rule. They represent both the beauty of knowledge and the power of human perseverance during times of peril. The Sleuk Rith Institute will embody and represent a permanent stand against genocide, in Cambodia and throughout the world. It will include a research and training institute, library, museum, and press.

This quarter the Permanent Center Team continued to work with the Ministry of Education, USAID, and the law firm of Sciaroni and Associates on the details of the transfer of land from the Government to DC-Cam for the new Institute. Sciaroni is now working on a draft concession agreement and supporting documents and hopes to have everything in place for the transfer by the end of August.

This quarter the team, together with the architects and a graphic designer, developed a draft brochure and website for prospective donors. They also developed a job application form. The team created an equipment and furniture list and is making a cost estimation to be added to the Institute's construction and design costs for a financial statement requested by USAID. The team received the first draft of the museum programming memo being prepared by an outside consultant.

## 2) Genocide Education

In April and May the project team collaborated with the Ministry of Education Youth and Sport on preparing the teacher training program, inviting national and international experts on genocide studies to be guest speakers during the seven-day training in July, and translating guidebook's materials.

### Collaboration with the Ministry of Education Youth and Sport

With a view to a long-term collaboration between DC-Cam and the Ministry of Education Youth and Sport, Mrs. Tun Sam, a deputy minister of MoEYS, was assigned to work closely with the Center's Genocide Education project, including the publication of the guidebook, the distribution of "A History of Democratic Kampuchea," and preparation of the teacher training program. The Ministry officially agreed to publish the teacher guidebook and it was sent to the printer in April.



### Textbook Distribution

Around 175,000 copies of the DK history book in Khmer will be distributed to 1321 school by late September. This quarter 50,000 copies were distributed. For example, in May the team traveled with Director Youk Chhang and US Ambassador-at-large Clint Williamson to Ang Snuol High School, where they distributed around 2000 copies of the textbook to students from grade 9 to 12. Also in May, the team traveled to Stung

Meanchey commune, Meanchey District, Phnom Penh, at the request of the French NGO "Pour un Sourir d'Enfant." There they distributed the textbook to nearly 2000

poor children who live at the Stung Meanchey dump site and receive general education and vocational training from the NGO.

From June 2-4 the team traveled to Kampong Chhnang and Pursat provinces to distribute the DK history book to upper and lower secondary schools. 51 schools in Kampong Chhnang received 6,640 copies and 36 in Pursat received 4,690. The team held two distribution ceremonies in each province. The ceremony began with remarks by school principals and the head of the provincial education department. Mr. Dy then briefed the students on DK history and opened the floor for questions.



Textbook distribution in Meanchey commune

For more details about the distribution, please visit [http://www.dccam.org/Projects/Genocide/Genocide\\_Education.htm](http://www.dccam.org/Projects/Genocide/Genocide_Education.htm).

### Teacher Training Program

Starting on June 29 and going to July 7, 2009, DC-Cam collaborated with the Ministry of Education, Youth, and Sport to conduct training sessions for 24 Cambodian officials from the Ministry of Education as well as 12 staff members from DC-Cam. The participants met at the Senate Library in Phnom Penh to attend the seven-day training seminar designed to offer pedagogy instruction on ways to teach Democratic Kampuchea history in Cambodian high schools using Khamboly Dy's textbook, "A History of Democratic Kampuchea (1975-1979)."



During the training workshop, Khamboly Dy and expert David Chandler went over all chapters in the textbook while Christopher Dearing and Phala Chea presented the teacher's guidebook that accompanies the text. Films, songs, field trips, and guest lectures were also incorporated into the training. Additional experts

acting as guest speakers included Sambo Manara, Ros Chantraboth, Miriam Morgenstern, George Chigas, Frank Chalk, John D. Ciorciari, Phala Chea and Laura Summers.

The National Training workshop was the first step in a tri-partite process to train history, literature, and morality teachers throughout Cambodia to teach DK history. Together with local and international experts, the trainees received in-depth training in order to serve as teacher-trainers in subsequent training workshops. A full report of the training will be available in the next quarterly report.

The following are remarks by David Chandler, "History for DC-Cam" made at the opening of the genocide education training:

*It's an honor to be here, and it's also a genuine challenge to try to give you a clear idea of Cambodian history up until independence... two thousand years or more in half an hour!*

*Most people, especially foreigners, think of Cambodian history only in terms of Angkor and modern times, or more specifically Angkor and the Khmer Rouge period. As I hope to show in my brief talk, Cambodia has much more history than that.*

*I will be suggesting to you that all of Cambodian history, from the earliest times right up to 2009, is rich, interesting and continuous. You are all the heirs of an extraordinarily long, vibrant and fascinating past, and you can all be very proud of it.*

*Basically, for my short talk I would divide this enormous stretch of time -- from the beginning of Cambodian history until 1953, when the country gained its independence from France -- into four periods. Each of these can be seen in terms of a major theme or two.*

- 1. Prehistories, Funan and Chenla. Theme: Indianization. Dates: 5000 BCE-800 CE*
- 2. Angkor. Themes: Imperial Power, Urbanism and Ordinary People, Dates: c. 800 c.1450*
- 3. Middle Period. Themes: Transformation, Isolation and Outside Pressures c. 1450 -1863*
- 4. Colonial Era. Theme: Cambodia Enters the Wider World 1863 - 1953.*

#### *Prehistory, Funan and Chenla.*

*We have evidence of cave dwellers in northwestern Cambodia living as long ago as 5000 BCE. They were Stone Age people, and several other very early sites have now been excavated. By 1000 BCE people living near present day Kg Chhnang were casting bronze (lovely specimens of their work can be found in the National Museum). Their tools and ornaments and weapons resembled those found in Bronze Age sites in northeastern Thailand. This doesn't mean that the early Cambodians were "Thais". You have to remember that there were no national borders in Southeast Asia until the colonial era, and also that the people of what is now north-eastern Thailand in those far-off days probably spoke Khmer, or a related language. These people were growing rice and eating fish, so the mainstays of the Cambodian rural diet in 2009, were the mainstays in the country in 1000 BC. This is one of the much continuity in Cambodian history.*

*The phenomenon we call Indianization, which I have chosen as the major theme for this period, really only begins to be recorded in the early years of the Christian era, when Indian jewelries and tools have been found at a coastal*

*cite associated by scholars with what the Chinese called the kingdom of Funan.*

*Funan was an important trading kingdom, and the fact that it had an extensive network of canals suggests that it was able to mobilize a large labor force when needed. Unfortunately, no local written records survive from Funan. Information about it comes from archaeological digs and Chinese sources, assembled over several hundred years. The latter are useful because, without saying so, they trace the growing complexity of Funan as its rulers selected linguistic, cultural and administrative elements from India in the complex and rewarding process that we call Indianization.*

*Indianization was not colonization, but rather consisted of a series of choices made by local elites when they encountered Indian culture, either in India as pilgrims or via trade or in Cambodia (Funan) via Indian traders, bureaucrats and priests. The process took place in unrecorded form between over 500 BCE and 500 CE, more or less. It happened because of trade relations with Cambodia selling exotic forest products and Indians trading these for manufactured goods, especially textiles. The most enduring aspects of Indian culture that were accepted by the Khmer were its gods (and some of these were more popular than others) and its ideas of governance. The Khmer never adopted the caste system that prevailed in India. When Khmer became a written language in about 300 AD, Indian characters were adapted for its alphabet. Indianization was not the first time, or the last, when the blending and adaptation of cultural elements from outside Cambodia helped to form the ongoing cultural history of the country. A key point is that Indianization was not an imposition of control, or colonization, as was the case with China and northern Vietnam.*

*In the 4th and 5th centuries CE, Cambodia's political center of gravity shifted inland from the coastal area of "Funan" into south central Cambodia, with a city located at what is now the village of Angkor Borei. "Chenla" was the name given this successor kingdom by the Chinese. The capital of Chenla was probably Isanapura, or Sambor Prey Kuk in Kompong Thom. During three years the first inscriptions in Khmer and Sanskrit were carved on stone and started to produce a documentary record for Cambodian history and society. Michael Vickery's invaluable work on these inscriptions, which appeared in 2005, has revolutionized our knowledge of the closing years of this early period.*

#### *Angkor. Themes: Imperial Power and Ordinary People*

*All of you are reminded of Angkor every day, whenever you see the Cambodian flag, hear the national anthem, or notice the name of many shops. You see an echo of Angkor in the Independence monument. Many of you have probably visited it, some of you more than once. Angkor is a marvelous tourist site for over a million foreign visitors a year, but for you, as Khmer, it's also something else: a beautiful reminder of your ancestors' extraordinary achievements in the fields of art and architecture, city planning, road building and hydraulic engineering, to name only a few.*

*For many years, archaeology in Cambodia, dominated by the French, concentrated on the kings, temples and the inscriptions that they found at of Angkor so as to build a picture and a chronology of the empire. They named twenty-six kings, located the remains of more than a thousand temples and deciphered more than a thousand Khmer and Sanskrit inscriptions. In restoring the major temples at Angkor, the French also learned a great deal about Cambodian religion and, from the bas-reliefs of the Bayon, a certain amount about the daily lives of ordinary people.*

*The inscriptions told scholars about royal concerns (often expressed in elegant Sanskrit poetry) and a certain amount about the administration of the empire, particularly as the administration was linked to temples erected by kings or by powerful members of the elite.*

*They gave the temples and everything else that they learned to the world as a gift, and they gave a gift to the Cambodian people.*

*What was missing from French efforts was a concentration on the daily lives of ordinary people of Angkor--your ancestors: hundreds of thousands of unrecorded men and women who grew the rice, raised their families, fought the kingdom's wars and built the temples. French scholars saw Angkor as a challenge, as a collection of beautiful ruins and as a site for six hundred years of royal history.*

*In the last fifteen years or so, several dramatic changes have occurred in relation to our thinking about Angkor and the early history of Cambodia. For one thing, digging at pre-Angkorian settlement and burial sites has revealed many complexities in ordinary life. Mapping and in the Angkor region has also developed into a fine art, using satellite photography to discover Angkorian rice fields, canals and roads. Have concentrated on showing what a large and crowded city it once was--probably housing as many as 700,000 people in the 12th century CE at the time when Angkor Wat was being built.*

*The name of the city was Yasodharapura. We know a lot more than we once did about the city in terms of settlement patterns, streets, household goods, ceramics, roads and canals. Although ordinary men and women only appear in Angkorian inscriptions as names of slaves, they are now emerging as the lively and inventive inhabitants of a large, complex and interesting city as well as the marvelous artists and architects we always knew them to be. And these people belong to you.*

*At the same time, traditional archaeological concerns--with the kings, their temples and their inscriptions--have yielded a lot of new information about such things as the reign of Jayavarman VII, the astronomical meaning of Angkor Wat, and the nature and scope of international trade. In 2009, we know more about history at the top than we did, as well as more about the daily lives of ordinary men and women and about the 1000 square kilometer urban complex where they lived. Angkor, instead of being a grand mystery, has become a combination of imperial grandeur and the work of people whose language, lives and attitudes many if you would find sympathetic and easy to understand.*

### The Middle Period. Themes: Transformation and Outside Pressures

*No documents survive that tell us exactly when, how or why Angkor declined as a great city after the mid-fifteenth century, and the process was obviously complex, stretching over several hundred years, but some important transformations had already taken place in Cambodian society over a century before Yasodharapura (but never Angkor Wat) was abandoned.*

*The most important these were the mass conversion of the Cambodians to Theravada Buddhism, the same Buddhism that is followed by most Cambodians today. The conversion probably occurred in the thirteenth century, because when a Chinese diplomat visited Yasodharapura in 1296, the population was already following this religion. The conversion put Cambodia on a similar course to the one being followed at the same time in neighboring Siam and indeed the next few hundred years can be seen in part as a fruitful exchange of culture between these two countries. Unfortunately for Cambodia, Siam in the sixteenth century began to demand subservience and tribute from the Khmer, and continued to do so until the arrival of the French in 1863. The Cambodians did not lose all the wars that they fought with Siam, but the ones they lost led to sizeable transfers of people from Cambodia to Siam as prisoners of war. An important trend of the middle period was the simultaneous shrinkage of territory under the control of the Cambodian king and the decline in Cambodia's population.*

*Another new factor for Cambodia in the middle period was the rise of a powerful neighbor to the east. By the mid seventeenth century, the Nguyen rulers of southern Vietnam gave royal factions in Cambodia an alternative set of patrons to those in Siam. The Vietnamese also blocked Cambodia's access to the sea, and from about 1650 to 1850 the kingdom was isolated from the outside world, and carried out very little international trade.*

*However it would be incorrect to view the middle period primarily in terms of suffering and decline. This was the period when the masterpieces of Khmer literature were written--the Chhap and the Reamker, to name only two-- and it was the period that connected Angkorian civilization to the society that the French encountered when they arrived in the kingdom in 1860. The connecting tissue between Angkor and the colonial period was made up of Cambodian popular culture, its rich language, and much of its social organization. In other words, you as Khmer are the heirs of this period, perhaps even more than the Angkorian period or the colonial era.*

### The Colonial Era: Cambodia Joins the Wider World

*When French explorers arrived in Cambodia in the early 1860s, they were seeking to expand French commercial interests in Southeast Asia, and believed that Cambodia, or more precisely the Mekong, were a gateway to China. The French had already occupied southern Vietnam as a colony, and were eager to increase the control over the region.*

*Civil wars, rebellions, invasions from Siam, and a prolonged Vietnamese protectorate had engulfed Cambodia for the preceding fifty years. Thai and Vietnamese forces clashed in Cambodia, and the ensuing warfare depleted the country. Its population had been decimated, many of its WATS destroyed, and the newly installed king, Norodom, who was fearful of Siam, sought French protection (or more precisely, accepted it when it was offered). The French were happy to provide this protection, but to Norodom's surprise and displeasure, protection over the next thirty years turned into extensive political and economic and economic control. The king was marginalized. Although Cambodia was officially a Protectorate, with its own King, it was too all intents and purposes a colony by the end of the 19th century, and the French, who built their palaces and kept them from performing any significant political activities, placed all the next three kings of Cambodia on their thrones.*

*In drawing up a balance sheet of French colonialism in Cambodia, it's important to stress the lasting contributions the French made (using Cambodian labor to be sure to Cambodia's infrastructure, urbanism and archaeology.) Tides provincial capitals were planned and laid out by the rich; so were most of Cambodia's paved roads, and most of the city of Phnom Penh. It is easy to see this benefited the French perhaps as much or even more than the Khmer. French worked in archaeology, on the other hand, while bringing prestige to France, was of long term benefit to the Khmer, and perhaps Rankles finest legacy. When the provinces of Battambang and Siem Reap, annexed by Siam in the 1790s, were returned to Cambodia after France had exerted pressure on the Thai, the site of Angkor returned to Khmer jurisdiction, and French archaeologists could begin their serious and helpful labors of restoration. There are negative aspects of the colonial period which I'll discuss in a moment, I think from the vantage point of 2009 we can say that the French never did as much damage to Cambodia as was inflicted on the country by foreign powers during the Vietnam War, by Khmer and foreigners in the civil war that followed, or under the Khmer Rouge regime. At the same time, the colonial period had several negative aspects, and some of these have lingered into 2009.*

*Probably the major defect if the French protectorate was that it failed to educate Cambodian people, and allowed them no opportunities, before the 1940s, to participate in the political process. They prepared the country very poorly for independence. Until World War II there was only one high school in the kingdom, and no university.*

*Another flaw in the colonial system was the judiciary. The French put no sophisticated legal system in place, and almost no local lawyers and judges received adequate legal training.*

*On balance, however, probably the major positive contribution made by the French Protectorate was the fact that Cambodia survived to become an independent state, and was not absorbed by its neighbors, as seemed almost inevitable before the French stepped in, not so much to protect the Khmer as to increase their own power and prestige.*

*In 1975, a Khmer Rouge spokesman declared, proudly that "2000 years" of Cambodian history had ended. I hope I've made it clear in these brief remarks not only that Cambodian history extends back further than 2000 years but also that it is fascinating to study, and one that Cambodians can be proud of.*

*David Chandler. Professor Emeritus of history at Monash University, Dr. Chandler is a renowned historian of Cambodia, whose published works include *The Tragedy of Cambodian History: Politics, War, and Revolution since 1945*, *Brother Number One: A Political Biography of Pol Pot*, and *Voices from S-21*. He was DC-Cam's lead advisor on the development of the textbook.*

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THIS REPORT WAS PREPARED BY ANNE HEINDEL,  
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WITH  
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## APPENDIX I

### GENOCIDE PREVENTION: GENOCIDE EDUCATION PROJECT NATIONAL TEACHER TRAINING FOR LOWER AND UPPER SECONDARY SCHOOL OF CAMBODIA

Senate Library, Phnom Penh, Cambodia  
June 29-July 7, 2009

PAPER FOR THE DC-CAM GENOCIDE STUDIES TRAINING

John D. Ciorciari

This paper is based on the introduction to a forthcoming DC-Cam book entitled "*On Trial: The Khmer Rouge Accountability Process*"

This paper discusses the Extraordinary Chambers in the Courts of Cambodia (ECCC), better known as the Khmer Rouge Tribunal. The ECCC is a special judicial body housed in a revamped military building complex on the western edge of Phnom Penh. It is a hybrid or "mixed" tribunal, established and operated by officials of the United Nations and Royal Cambodian Government. Since opening its doors in 2006, the ECCC has been entrusted with the monumental task of conducting criminal trials and delivering a measure of justice to the victims of Khmer Rouge misrule. I briefly discuss some of the forces that drove the tribunal's creation, analyze its basic legal and institutional features, assess its progress to date, and discuss its potential to contribute to justice and reconciliation in Cambodia.

#### WHY THE ECCC IS SO IMPORTANT

The ECCC is an institution with profound moral, legal, political, and even educational significance. It represents the latest stage in a long, tortuous process of dealing with the Khmer Rouge legacy in Cambodia. Between April 17, 1975 and January 6, 1979, the Khmer Rouge regime ruled Cambodia with an iron fist, renaming it "Democratic Kampuchea" (DK) and implementing an infernal reign of terror. Khmer Rouge atrocities are not simply shards from the country's shattered past. They continue to haunt countless Cambodians today and contribute to unhealthy divides in Cambodian society and politics. After three decades of waiting, Cambodians have an opportunity to pursue a modicum of justice and take another important step toward reconciliation.

The atrocities committed in Democratic Kampuchea are certainly not the only past wrongs casting shadows over modern Cambodian society. They were embedded within decades of conflict that involved abuses by myriad domestic and foreign actors. Nevertheless, the Pol Pot era was the most gruesome, savage, and shocking act in that tragedy. Nothing will erase survivors' pain, but to the ECCC's many supporters, the Khmer Rouge trials represent an indispensable stand against impunity that can help Cambodians come to terms with the past and move on with their lives.

#### Challenging Impunity

The single greatest reason for holding the Khmer Rouge trials is to deliver a measure of justice to a society that has suffered impunity for too long. In January 1979, when the overthrow of the DK regime raised the curtain around Cambodia, official documents and physical evidence revealed abuse on a staggering scale. The Cambodian countryside is still littered with the remains of Khmer Rouge brutality. Makeshift prisons, rusting torture devices, and thousands of mass burial pits provide daily reminders to Cambodians of the agony that they or their parents suffered during the Pol Pot period. The Documentation Center of Cambodia (DC-Cam) has identified roughly 20,000 mass graves and almost 200 former Khmer Rouge detention centers across the country, many with chilling remains of makeshift torture devices.

Most scholars believe that the Khmer Rouge regime consumed somewhere between one fifth and one third of the country's population. In fact, the piles of human remains are so vast, and survivors' accounts so abundant, that the world may never have an accurate estimate of the carnage. Even that shocking death toll paints only part of the picture; the Khmer Rouge tragedy can never be reduced to mere statistics. Every individual life lost was a father or mother, sister or brother, son or daughter, husband or wife, friend or companion. While the sheer number of Khmer Rouge crimes demands justice, the stories of individual victims issue even more powerful pleas.

Documents and abundant witness testimony tell of unimaginable suffering and cruelty. Khmer Rouge cadres required villagers to watch as their loved ones faced firing squads for the most trivial or arbitrary offenses, such as stealing rice or vegetables to avoid starvation. Some pregnant women, accused of ill-defined "anti-revolutionary" behavior, were strung up and disemboweled for all to see. Witnesses even tell of Khmer Rouge soldiers tossing infants into the air and catching their live bodies on bayonets. In makeshift prisons, Khmer Rouge interrogators tested baseless accusations of espionage or subversion by strapping their victims to rusty bed frames, burning them with embers, ripping off their fingernails, and dunking them in cold water to the point of drowning. Without ever facing trials, countless prisoners were taken to mass burial pits, where Khmer Rouge executioners killed them with axe-handles to avoid wasting precious bullets.

Those who avoided untimely death fared little better. Rampant rape and religious persecution plagued the country. Sick and elderly Cambodians endured endless hours of forced labor, occasionally unearthing the corpses and bones of their lost loved ones as they toiled in the field. Most ordinary people slaved away, furtively eating bugs and bark to stay alive, wondering if they would ever see their families again. The regime denied them even the most basic rights of worship, free expression, and intimacy. Children learned in school to disavow their parents and devote their lives only to *Angkar* (the "Organization.") Indoctrinated to kill, those young cadres were criminal perpetrators, but in many respects they were victims of the regime as well. The scars of the DK era run deep.

Until quite recently, even the most senior surviving architects of Democratic Kampuchea walked about freely. Some lived in comfortable villas while their victims wrestled with the demons of the past. The ECCC provides a long-overdue opportunity to challenge that abhorrent legacy of impunity. Three decades after the fall of the Pol Pot regime, no senior Khmer Rouge official has ever been convicted of a crime by a credible court of law. However, that may soon change. Since commencing operations in 2006, tribunal officials have taken a crucial first

step against impunity by detaining five former Khmer Rouge officials and charging them with criminal offenses.

The trial of one DK official—Duch, the former chief of the infamous Tuol Sleng Prison in Phnom Penh—has already begun. Four other surviving senior leaders are also in the dock: Nuon Chea, Ieng Sary, Khieu Samphan, and Ieng Thirith. All carried high-ranking titles and were members of the shadowy committees that defined the inner circle of Democratic Kampuchea.

The clock is ticking. Many senior Khmer Rouge leaders have died in the past decade—including Party Secretary Pol Pot, Defense Minister Son Sen, Central Committee member Ta Mok (also known as “the Butcher”), Education Minister Yun Yat, and Zone Commander Ke Pauk. Many second-tier perpetrators of Khmer Rouge terror also lived out their final years in relative comfort without facing so much as a slap on the wrist. All five current defendants are advanced in years, and some or all could pass away or lose their mental capacity before facing legal condemnation. Allowing all Khmer Rouge leaders to pass freely from the scene would be a grave affront to the millions of innocent victims whose lives they tore asunder.

### **Delivering Justice**

For the ECCC to succeed, one thing is clear: it has to deliver a significant measure of justice in the eyes of Cambodians and the international community. Justice is a complex concept, especially in the wake of such wide-ranging atrocities. Conducting a process and producing outcomes that satisfy diverse audiences' notions of justice will be no easy endeavor. Issuing a few guilty verdicts is certainly not enough. As we will argue, the ECCC needs to prioritize retributive, restorative, and procedural aspects of justice.

Justice means many different things to Cambodians and international observers of the trials. Notions of *retributive justice* provide much of the foundation for criminal law. The moral logic behind legal retribution is simple: an offender committed a social harm and must be condemned and punished by the state. The ECCC's success will certainly be judged in part by its ability to issue moral condemnation and mete out punishment where it is due. However, retribution is only one aspect of justice. Victims may derive satisfaction from seeing Khmer Rouge leaders shamed and punished, but even life sentences will hardly make victims whole.

One of the key issues relating to retribution will be the scope of the prosecution. Trying only a handful of leaders means that many mid-level Khmer Rouge officers will go free. So will low-level cadres, who committed an overwhelming majority of the physical abuses that continue to haunt survivors to this day. The United Nations and Cambodian government agreed to prosecute only “senior leaders” and others deemed “most responsible” for the atrocities of the DK era. Like other tribunals, the ECCC has been accused of “selective justice.” The tribunal will not be able to erase all of the impunity that lingers after the DK era but it needs to do its best to identify and successfully prosecute key architects of Khmer Rouge terror.

One problem with focusing on criminal trials and retribution is that even guilty verdicts provide little *restorative justice*. Throwing a thuggish Khmer Rouge leader in prison does not compensate victims or “restore” their well-being before the crimes in question. Providing restorative justice in a country as badly ravaged as Cambodia is

a tall order, but taking some significant steps to address victims' needs is vital. Victims should, after all, be the primary beneficiaries of the accountability process.

Restorative justice has historically been a weakness of international tribunals, and it represents a special challenge for the ECCC. Money is never a substitute for lost loved ones of serious human rights abuses, but like other tribunals, the ECCC lacks the resources to issue much beyond token financial compensation. The ECCC has taken an innovative approach to restorative justice. It has established a mechanism for civil party participation in the trials and envisioned restorative awards in the form of "collective or moral reparations," such as memorials to honor victims or centers that provide basic health or educational services to survivors. The success of the ECCC's restorative efforts will go a long way toward determining public perceptions of the tribunal.

A third imperative feature of the ECCC process is *procedural justice*. Achieving a just outcome requires holding fair trials. To some observers, it is doubtlessly enervating to watch Khmer Rouge defendants receive basic due process rights that the DK regime so cruelly denied to millions. Most people harbor few doubts that the defendants now in custody are guilty of serious wrongdoing, even if their specific crimes remain unspecified. Some observers would probably consider it just simply to line former Khmer Rouge leaders against a wall and pull the trigger. In the aftermath of any widespread human rights abuses, the thirst for retribution is a powerful and understandable impulse. This is true even in Cambodia, where religious and cultural norms and the passage of time have softened public vindictiveness to some degree.

Nevertheless, defendants' rights must be respected if the ECCC is to be a model for justice and not a kangaroo court. Every international tribunal since Nuremberg has been lambasted by someone as "victor's justice" or "show trials." These critiques are not entirely unfounded—tribunals inevitably do reflect the political realities in which they are created. The best way to reduce the force of such critiques is to promote transparency and fairness. The Nuremberg Tribunal set an important precedent in this regard by acquitting a few Nazi defendants for lack of evidence. Other international tribunals—including those for the former Yugoslavia and Rwanda—have also acquitted some defendants. The ECCC is bound by a complex set of substantive laws, procedural rules, and rules of evidence that are designed to promote fairness. If the ECCC is to set an example of justice, it must stick to them.

Fair trials require that convictions be based on sound legal proof, and even the most odious defendants must be able to mount defenses. Guilty verdicts cannot be foregone conclusions. There is extensive potential evidence available against Khmer Rouge leaders—including official DK documents, witness testimony, and physical remains—but proving individual defendants responsible for particular offenses is not as simple as it may seem. Where particular crimes cannot be proven, defendants have to be acquitted.

Treating Khmer Rouge defendants in this way may be morally or politically tough to swallow, but the ECCC will only fulfill its mandate with an even-handed administration of justice. The ECCC may never be able to provide "complete" retribution or restoration to Cambodians, but it does have control over running a fair process. In addition to setting an example of fairness and transparency, sticking to due process principles can facilitate a useful transfer of knowledge and expertise between Cambodian and international officials that helps to strengthen

Cambodia's beleaguered and notoriously corrupt judicial system. One tragic legacy of Democratic Kampuchea is that few intellectuals survived the Pol Pot era, leaving the country with a dearth of lawyers and other professionals. Without a critical mass of well-trained judges and lawyers, it is difficult if not impossible to build a strong legal system. The potential for knowledge transfer has been a key justification for the establishment of hybrid tribunals, in Cambodia and in other war-torn states.

The retributive, restorative, and procedural aspects of justice are not mutually exclusive, even if they are sometimes in tension or suggest different ways of using limited resources. Retribution can challenge the culture of impunity and provide moral condemnation of offenders. Proponents of the trials hope it would also deter future criminal behavior and help to uphold the rule of law. Restorative justice can help to repair social and economic damage and thus facilitate reconciliation. Setting an example of procedural fairness can pave the way toward a more robust rule of law, addressing the future as well as the past. In Cambodia, like other societies plagued by mass human rights atrocities, all of these aspects of justice are crucial. The ECCC's challenge is to optimize them under conditions in which time and money are limited and in which the demands for justice would be difficult for any tribunal to deliver.

### **Performing a Truth-Telling Function**

To many observers, the ECCC also holds the promise to perform an even wider range of functions than running fair trials and issuing verdicts of guilt or innocence. If it conducts its affairs soundly, the tribunal can serve as an invaluable truth-telling mechanism in a country where public education about the Khmer Rouge tragedy has been sorely lacking. Essentially all survivors of the Pol Pot era know that mass human rights abuses occurred between 1975 and 1979, but few know the full extent of the atrocities. Even fewer have the faintest notion of why the Khmer Rouge leaders and cadres inflicted such agony on their own people. In thousands of interviews with DC-Cam, most victims show more interest in seeking an explanation than in seeking revenge. To cope with the past, those who bear the scars of Khmer Rouge rule and lost loved ones want to know why.

In addition to benefiting survivors of Democratic Kampuchea, public dissemination of facts about the Pol Pot period can help their children by showing the need for a just and orderly society and the perils of a breakdown in the rule of law. Most of Cambodia's current citizens were born after the Khmers Rouges were thrown from power. They have no first-hand experience of the extraordinary suffering of their parents' generation. Some young Cambodians hear about the terror from relatives and teachers, but for many others, the period is a darkly shrouded mystery. Without an understanding of the Pol Pot era, many youths have difficulty understanding the psychological, emotional, and social challenges that their elders face.

For years, Cambodian schools offered little if any instruction about the Khmer Rouge period. Only recently have some textbooks been approved and introduced into public school curricula. The ECCC can serve as one credible source of history about the regime, alongside the accounts given in textbooks, museums, and other media. Court reports, media coverage, public visits, and outreach by ECCC and NGO officials can all help to provide answers. Only if they are armed with knowledge of the past can young Cambodians make sense of their country's troubled history, achieve a greater degree of closure than they have to date, and prepare themselves to prevent human rights abuses in the future.

## Setting an International Example

The ECCC also has importance well beyond Cambodia's borders. It is one of the most recent embodiments of an expanding international effort to hold venal regimes accountable for their abuses and promote greater respect for basic rights. Since the era of Nuremberg, key members of the international community have worked to devise international proceedings to address the limitations of domestic criminal proceedings in post-conflict societies. During the 1990s, the United Nations established ad hoc international tribunals for the former Yugoslavia and Rwanda and later a permanent International Criminal Court in The Hague.

The UN-administered tribunals have been criticized on a number of grounds, including their cost and their relative distance—geographic and otherwise—from the victimized societies. The ECCC is one of the few examples of an alternative “mixed tribunal” model that involves shared duties between the United Nations and the government of the affected state. Proponents of the model believe mixed tribunals will better enfranchise victims, facilitate transfer of expertise, and deliver justice at a lower cost in countries that need money for many other uses. Opponents of the hybrid court model fear that partnering with suspect governments could water down the trials' legal and procedural integrity, undermine the UN's reputation, and reduce the likelihood of credible justice. Some also fear that holding trials locally could reopen old wounds and backfire in the quest for reconciliation. The ECCC's performance will be a crucial test for the mixed tribunal model.

## Affecting Cambodian Politics

The ECCC's mandate is a legal one, but it has great political relevance in Cambodia as well. In 1979, when the Pol Pot regime was overthrown, a new Vietnamese-backed government took over in Phnom Penh. That government—which renamed the country the People's Republic of Kampuchea (PRK)—based its claim to power and legitimacy primarily on having saved the country from Khmer Rouge terror. Years later, the PRK leadership founded the Cambodian People's Party (CPP), which governs Cambodia today. The CPP and its long-time leader, Hun Sen, continue to derive public support by emphasizing their role in purging the country of the Khmer Rouge problem.

Opposition parties, including the royalist Funcinpec, the Sam Rainsy Party, and the Human Rights Party, have attacked that claim and accused the CPP of worsening rather than improving respect for human rights in Cambodia. Some foreign governments and human rights organizations have said the same. The Khmer Rouge trials could indeed have some impact on public perceptions of the CPP. If they proceed well, the CPP will probably reap a modest political benefit. If the trials are botched, they may have an opposite effect. A shoddy process would likely contribute to public and international donor frustration with government—and particularly judicial—corruption in Cambodia. The trials are unlikely to become an existential issue in national politics, as they are sometimes portrayed in the foreign press, but they could generate some meaningful near-term diplomatic and domestic disruptions. That gives them importance well beyond the courtroom.

## Overall: A Herculean Set of Tasks

The goals above are a tremendous amount to ask of a single tribunal. One of the ECCC's greatest challenges is to manage public expectations about what it can realistically accomplish. Even if the tribunal is wildly successful, a series of

criminal trials will be no panacea. The ECCC cannot cure all of the ills of a society struggling to overcome mass atrocities. It cannot replace lost loved ones, and it cannot rectify all of the political and economic problems that flow from the Khmer Rouge reign of terror. It cannot alone transform Cambodian governance, put an end to criminality and corruption, bring about a major improvement in contemporary human rights in Cambodia, or address a host of other developmental needs.

The tribunal's importance lies more in its ability to serve as a catalyst and bellwether for change in Cambodia. It can become a necessary, highly visible step toward a more promising future by challenging impunity, setting an example of a just trial, sharing information about the Pol Pot period, and drawing attention to victims' needs. The ECCC can also focus renewed domestic and international attention on issues of governance and human rights and increase the prospects for future progress. If it performs all of these functions ably, the ECCC will have done a great service indeed.

## **THE ECCC'S BACKGROUND AND PROGRESS TO DATE**

The next section briefly discusses the ECCC's origins, basic features, performance, and prospects. I begin by discussing how the ECCC came to be established and analyze the particular form that it took. I then critique its operations during its first three years of operation, looking at three aspects of its work—its judicial findings, its institutional management, and its outreach to victims. Finally, I examine how the ECCC can best deliver credible justice and contribute to genuine reconciliation in Cambodia going forward.

### **The Rough Road to Justice**

To understand the ECCC's strengths, shortcomings, and progress to date, some background is essential. I therefore begin with a review of the history and politics behind the ECCC's establishment. There have been countless calls for justice in Cambodia since the demise of "Democratic Kampuchea" (DK). Victims, human rights advocates, domestic political parties, and foreign governments have all pressed for accountability to varying degrees. Nevertheless, the tribunal's creation was a slow, painful process. The ECCC did not open its doors until almost three decades after the fall of the Khmer Rouge regime.

The delay in the tribunal's creation owed primarily to power politics. The Khmer Rouge movement was forged in the crucible of Cold War conflict, and subsequent treatment of Khmer Rouge members has always been embedded in broader domestic and international competition for influence in Cambodia. Despite heroic efforts by some individuals and non-governmental groups, calls for Khmer Rouge accountability were buried beneath broader political and strategic considerations during the latter stages of the Cold War. A serious international push for accountability began only after the negotiated withdrawal of Vietnamese troops from Cambodia, eighteen months of United Nations administration, and UN-sponsored elections brought a measure of peace to the country and marginalized the Khmers Rouges as a political and military force.

Beginning in 1997, the United Nations and Cambodian government began a decade-long diplomatic dance to establish a tribunal. Disputes flared over the "balance of influence" between UN and Cambodian officials on the tribunal, the

scope of the tribunal's jurisdiction, the defendants to be charged, and the laws and procedures to be applied. Finally, in 2003, more than a quarter century after the collapse of the Khmer Rouge regime, the United Nations and Royal Cambodian Government hammered out an agreement (the "UN-RGC Agreement") to establish the ECCC. The following year, the Cambodian National Assembly passed a law—approved by the UN—to govern the tribunal proceedings (the "ECCC Law").

The UN-RGC Agreement and was a product of grueling political battles and frequent compromises between the Cambodian government and United Nations. Some of the key sticking points related to the tribunal's temporal, personal, and subject-matter jurisdiction. It would be empowered to try only certain former Khmer Rouge officials for certain crimes committed during the specific period of Khmer Rouge rule. Another key bone of contention related to the balance of influence on the court. Unlike other tribunals, which had been dominated by international civil servants, the ECCC was designed in a manner than ensured a narrow preponderance of Cambodian personnel. The UN-RGC Agreement and subsequent ECCC Law drew sharp criticism from many Western observers, who argued that it conceded too much authority to the Hun Sen government and compromised on considerations of integrity and justice.

All international criminal tribunals reflect political realities and carry important political implications. The ECCC is certainly no exception. For better or worse, the tribunal's jurisdictional limits and organizational structure were deemed necessary to achieve buy-in from the relevant parties. Nevertheless, the legacy of tough negotiations and political compromises has left residual discomfort and distrust. Much of the political friction that surfaced during the UN-Cambodian negotiations continues to haunt the ECCC proceedings. In particular, the tribunal's jurisdiction and the appropriate balance of influence remain key subjects of debate, as Cambodian and UN officials argue over the possible inclusion of additional defendants and spar over the ways to improve the tribunal's management.

### **The Tribunal Takes Shape**

The 2003 agreement between the United Nations and Cambodian government and the 2004 ECCC Law contained the blueprint needed to create the tribunal. It set out the substantive laws that would govern the proceedings and set forth many of the organizational and administrative features of the ECCC. This section discusses the tribunal's basic features and how the tribunal took shape after the signing of the ECCC Law.

In addition to deciding what time period to cover and who to prosecute, the architects of the ECCC had to define the tribunal's subject-matter jurisdiction. This meant deciding which of the many possible crimes of the DK regime to prosecute. Cambodian and UN officials drew from both local and international law and ultimately settled on eight crimes, including genocide, war crimes, crimes against humanity, torture, homicide, religious persecution, and a few lesser-known, previously untried international offenses.

The legal definitions of some of these crimes were not obvious. Justice requires that Khmer Rouge defendants be tried only for crimes that existed at the time of the acts in question, and both international criminal law and Cambodian law were in flux during the 1970s. As Heindel describes, the ECCC Law left open some important questions about the precise "elements" (i.e., the specific acts and criminal intent) that prosecutors must prove to secure convictions for particular

offenses. It also left open some complex legal issues surrounding the “forms” of criminal responsibility. In cases of mass human rights abuses, holding high-ranking leaders accountable usually requires proving that they issued orders, engaged in conspiracy, or otherwise bore indirect responsibility for the crimes of their colleagues or subordinates. The ECCC's legal formulation of direct and indirect criminal responsibility could have a major practical impact on the trials.

Equally important are the laws and rules established to safeguard the rights of defendants. As argued above, the ECCC can only be deemed a success if it enables defendants to mount defenses and adheres to common notions of procedural justice. Legal defenses are available to Khmer Rouge defendants under the ECCC Law and other relevant sources of law. Internal Rules were agreed only in 2007 to govern the internal operations of the ECCC.

Finally, it is worth touching on the judicial and administrative structures laid out in the UN-Cambodian agreement and the ECCC Law. Much of the concern over the ECCC's form and procedure relates to the mixed character of the tribunal. Investigative, prosecutorial, and judicial duties will all be divided between Cambodian and international personnel. There are some strengths of the model—such as the potential for complementary skills and expertise and the possibility of useful knowledge transfer. There are also some problems with the ECCC's form and the possibility of institutional deadlock or procedural complications in certain cases.

### **Assessing the ECCC's Performance to Date**

When the ECCC finally took shape and commenced operations in 2006, it was given an unofficial three-year mandate and a corresponding budget to tackle Khmer Rouge impunity by putting some surviving DK officials on trial. Over its first three years, the ECCC has validated both the hopes of its proponents and the fears of its critics. To its supporters, the ECCC has taken major steps toward justice. To some critics, the tribunal has been a farce and a failure. The truth lies somewhere in between.

Since 2006, notable progress has been made. Investigations have been conducted, five key suspects are in custody, numerous pre-trial proceedings have transpired, and the trial against Duch has begun. The tribunal has also established workable administrative organs and has improved its outreach through the establishment of a new Victims' Unit. Conducting effective criminal trials is no easy task, especially when the scale of the crimes committed is so vast. The challenge is even greater in a new institution using multiple languages, serving diverse donors, and implementing rules and procedures based on a complex blend of local and international legal traditions. Viewed in this light, the ECCC may even have exceeded expectations.

Nevertheless, the accountability process is far from complete, and the ECCC has hit frequent bumps in the road. A number of disputes, problems, and scandals have arisen, impeding the tribunal's efficiency, sometimes undermining its perceived legitimacy, and occasionally jeopardizing its existence. Many of the challenges at the ECCC have involved tension between Cambodian and international officials. Tough compromises have been necessary throughout the process to keep the tribunal functioning. The tribunal has often moved slowly, and some analysts have particularly criticized the pace of criminal investigations. The ECCC was created with a three-year mandate and corresponding budget. It is now clear that the tribunal will consume much more time and money than originally envisioned to

complete its mission. To critics, it has also failed to provide adequate outreach to victims and issued legal judgments of variable quality. Perhaps even more damning are allegations that some ECCC officials have mismanaged the institution and allowed corruption to creep into the process. Some observers, including prominent human rights advocates, have even advocated shutting down the ECCC.

#### *The ECCC's Legal Judgments*

Since mid-2007, the Pre-Trial Chamber a unit composed of three Cambodian and two international judges, has conducted a number of public hearings and issued a number of important decisions. Many have related to procedural rights and the lawfulness of the ECCC's detention of the defendants. A number of the charged persons have filed appeals against the Co-Investigating Judges' detention orders, arguing that they are either too sick to be in detention or unfit to stand trial. Duch has sought release on the grounds that his rights were violated by a lengthy pre-trial detention by the Phnom Penh Military Court—which began in 1999 and extended well beyond the three-year maximum in Cambodian law. Ieng Sary has argued that he should be immune from prosecution due to the principle of "double jeopardy"—he was convicted in absentia of genocide in a brief trial in 1979. Ieng has also appealed his detention, pointing to the amnesty and pardon he received when he defected to the government in 1996.

The Pre-Trial Chamber has rejected all of the foregoing appeals. It has also had to grapple with other diverse issues. These have included the rights of civil parties to participate in the process, the forms of criminal responsibility that will be accepted at trial, and the scope of the defendants' right to translation of case file documents.

#### *The Tribunal's Institutional Management*

The ECCC is not only a court of law – it is also a complex bureaucratic organization subject to various forms of political oversight and influence. The ECCC cannot perform its mandated judicial and public outreach functions without running an effective institution. The ECCC faces steep challenges that all international and hybrid tribunals have faced—how to set up a sophisticated bureaucracy from scratch, manage complex donor relations, assemble a diverse staff, manage linguistic and logistical headaches, and tackle tough criminal cases.

The ECCC has made important strides, but it has also faced significant administrative challenges. Foremost among these has been the problem of alleged corruption in the tribunal. In 2007, an audit conducted for the UN Development Program noted allegations of kick-backs, illegal hiring practices, and other malfeasance. A few ECCC employees later issued corroborating claims. The episode sparked a significant crisis, provoking recriminations between the United Nations and Cambodian government and prompting some donors to suspend financial contributions. The ECCC has since taken some responsive measures, issuing new guidelines and creating a new anti-corruption commission. However, concerns about corruption have not evaporated, and the measures taken to date have failed to satisfy some donors and external observers.

Another concern about the ECCC's operations surrounds the length and financial cost of the process. The ECCC began with an agreed budget of roughly \$56 million, of which the international community contributed the lion's share. That budget was intended to cover the entire trial process for a period of three years. However, by early 2008, the ECCC estimated a need for a further \$114 million to

complete its work. Donors were not enthusiastic, especially in the wake of corruption allegations. The tribunal eventually shaved its budget request by a significant margin but has still requested roughly \$50 million in additional funds. It now estimates that the trials of four defendants will not begin until 2010, making further funding requests likely. Should the ECCC decide to prosecute additional defendants, the price tag will further rise. Donors have taken some measures to improve budgetary and management oversight, but budgetary tugs-of-war will likely continue.

Critics argue that the ECCC is proving wasteful and that money could be more productively used for development projects given all of Cambodia's needs. Supporters of the process respond that the ECCC is still much cheaper than the wholly international processes carried out for the former Yugoslavia and Rwanda. Moreover, the funds provided for the tribunal would not necessarily be furnished for other ends. Hall evaluates these arguments and assesses the measures that donors and the ECCC have taken to promote sound financial management.

#### *The ECCC's Outreach to Victims*

A third key aspect of the tribunal's operations is its outreach to survivors of the DK era and other ordinary people. Robust victim participation is essential if the ECCC is to be successful. The Khmer Rouge trials are not just an antiseptic legal exercise; they represent an effort to help millions of Cambodians heal and to advance principles of justice and human rights in a society that has seen too little of both. The ECCC can fulfill those missions only if Cambodians are able to follow, understand, and meaningfully participate in the process.

The ECCC is part of an evolution of victim participation in international and hybrid international tribunals. Limited victim access has severely compromised the effectiveness of the ICTY and ICTR, in contrast to the Special Court of Sierra Leone, which has made considerable advances in connecting the local community to the proceedings.

Under the framework for victim participation at the ECCC victims can participate directly in the trials—by issuing formal complaints, serving as witnesses, or joining the proceedings as civil parties. They also can participate through educational sessions, visits to the court proceedings, and village discussion forums. There are many challenges that the ECCC faces in responding to the needs of millions of Cambodian victims. These include the legal complexities of including civil parties, the difficulty of managing voluminous victim complaints and coordinating NGO activities in the field, and the need for strong outreach and witness protection programs.

#### **The ECCC's Prospective Role in Justice and Reconciliation**

The final section of this paper discusses how the ECCC fits into broader efforts to achieve a measure of justice and reconciliation in Cambodia. As stressed above, the tribunal is not a cure-all for the wounds inflicted by Khmer Rouge terror. It is part of a broader process of healing that is taking place on both societal and personal levels. At both public and private levels, Cambodians pursued various forms of reconciliation long before the tribunal was created. Those efforts have helped survivors and their families begin to rebuild and have contributed to improved social stability after decades of armed conflict.

The ECCC has the potential to deliver meaningful justice and contribute to genuine reconciliation. To do so, it needs to devote tremendous effort and energy to enhanced public outreach. It must focus as much on the needs of ordinary Cambodians as it does on the imperatives of a sound judicial process. That is a great deal to request from a tribunal that is already entrusted with a complex set of criminal cases. However, even perfectly run cases with well-reasoned verdicts will ring hollow if the public is not able to follow and understand the process.

Of course, the ECCC is not acting alone, and it is not the only body with responsibility to reach the public. It is just one prominent institution working on an array of problems which government agencies, international organizations, NGOs, religious groups, and ordinary citizens have also begun to address. The tribunal draws useful attention to the Khmer Rouge legacy. Schools, NGOs, health clinics, and other providers of education and counseling need to seize this opportunity to address crucial public needs for information, counseling, and dialogue. We note some of the efforts underway and stress the importance of an all-hands effort to make the ECCC-led process a success and to follow up on the trials with a continued commitment to justice, reconciliation, and the rule of law.

## APPENDIX II

### Victims' Reactions to Duch's Apology: Is Forgiveness Possible?

Terith Chy

"All I asked for is forgiveness. Even if you cannot forgive me now, please leave the door open for me in the future," said Duch at the start of his trial in Phnom Penh, seeking forgiveness for the atrocities he perpetrated during the Khmer Rouge period. In light of the grave nature of the alleged crimes, it is hard, if not impossible, to anticipate victims' reactions to Duch's plea for forgiveness. In order to better understand their reactions, I decided to conduct a number of interviews with Duch's victims and other survivors. Those questioned were individuals who survived the torture chamber at S-21 and the relatives of those victims who perished under his supervision. All of the six civil parties questioned – with the exception of one, who is unsure – stated that they cannot forgive Duch for the atrocities perpetrated against them.

At the Documentation Center of Cambodia (DC-Cam), the Victim Participation Project (hereinafter "Project") has held series of meetings to update civil parties recognized in Duch's case on developments in the proceedings. On May 27-29, the Project brought twenty-eight civil parties to a meeting in Phnom Penh where their lawyers (Civil Party Group 1) and I briefed them on developments in the proceedings. In addition, these civil parties attended the hearing at the Extraordinary Chambers in the Courts of Cambodia (ECCC). Their reactions to Duch's apology were as follows:

**Hor, Banteay Meanchey:** Hor is a civil party and was himself a direct victim of S-21. He was one of only a few lucky prisoners released from the torture chamber of S-21. Hor does not have full use of his left hand as a result of the beatings and torture he endured in Tuol Sleng. According to the annotation on his confession, Hor was released from S-21 on 8 March 1976 after spending around five months in Tuol Sleng. Seeing Duch in the Court, Hor told me that his past came flooding back to him. He said, "I started to remember everything, eating... sleeping, defecating." Although Hor conceded that Duch was likely placed in a difficult position due to his fear for the safety of himself and his family, he stated that he believed that Duch still had choices open to him.

**Sophan, Kampong Cham:** Sophan is a civil party recognized in Duch's case. Her sister was taken to Tuol Sleng. She explained that it was a case of "guilt by association," as her husband had previously worked for the Embassy in Beijing, China. She stated that she had decided to become a civil party in order to seek justice for her sister and other victims. When asked if she could forgive Duch for his crimes, she said "[I] cannot forgive him in light of what victims suffered. He has to be tried and deserves the punishment imposed by the Court. I cannot forgive him." Sophan believes that Duch must have a very cruel nature in order to be able to do what he did. She added, "I do not believe Duch followed orders. From my experience living through the regime, they [the regime] would keep alive only those who are cruel."

**Piseth, Svay Rieng:** Piseth's wife – whose sister perished at Tuol Sleng – was recognized in 2008 as a civil party in Duch's case. Sadly, following severe illness, she passed away in late 2008 before seeing Duch prosecuted in a court of law. Her sister was brought to Tuol Sleng and presumably executed there as were dozens of thousands of other inmates. Piseth now acts as his wife's representative in the trial. His ultimate purpose is to fulfill his wife's unrealized dream, namely, to bring a case against Duch and see him convicted and punished. According to Piseth, he seeks to claim reparation, be it personal or moral or collective, and to seek justice for his wife's family and all the victims who perished under Duch's supervision. In response to Duch's apology, he said, "I believe people in general, including me, cannot forgive him. He will have to be judged and punished for the crimes he has committed." He added that when his wife was still alive, she wanted to confront Duch.

**Khon, Kampong Thom:** Khon is a civil party active in the proceedings against Duch. His brother was arrested and detained at S-21 and disappeared thereafter. He intervened in my conversation with Piseth, saying that, "With the anger I have, I want Duch to be sentenced to life. I want him to live and see the development of the country he once made poor. Now I want him to see this very country develop from being poor to rich." Khon feels satisfied with the tribunal proceedings so far. For him, revenge is still necessary, though it does not need to take the form of retaliatory physical abuse. He said, "Although we cannot physically beat him the way he did to us, I do not want him to enjoy freedom as we do." He wishes to request that the defense stop cross-examining issues that are not important in order to shorten the proceedings. Victims, such as himself, have been waiting too long for justice by now.

**Phally, Kampong Cham:** Phally is also a civil party recognized in Duch's case. His elder brother, who once served in the Khmer Rouge's revolutionary army in the Eastern Zone, was arrested and taken to S-21. Phally never saw his brother again. Phally filed an application to become a civil party in order to seek justice for his brother. To him, justice means seeing Duch prosecuted and tried fairly. Phally expressed great satisfaction with the judicial process. He said, "[The tribunal] has satisfied 70 percent of my expectations." In addition, Phally wishes to seek personal and financial reparation for the loss of his brother. He plans to use any financial reparation to hold a funeral ceremony for his deceased brother. According to him, it is culturally important that a ceremony be held for those who have passed away. He is not sure whether he could forgive Duch and leaves Duch to be handled by laws of the country. "Even if we take revenge, it would not be possible to reverse our victimhood."

**Sophea, Kampong Thom:** Her father was arrested and taken to Tuol Sleng three weeks before she was born. She has never fully understood why her father was arrested. She had always hoped that her father was still alive somewhere and that would return to her one day. It was only in 2006 that she found out the fate of her father. "In his photograph found at DC-Cam, my father looks very gentle." Her goal is to seek justice for her father, whom she has never seen and never will. The loss of her father greatly impacted her entire family's living and her educational possibilities. "It has been 30 years and I cannot lift myself out of poverty because I do not have a father." In order to help her family, she had to quit school, dashing her dream of becoming a teacher. Sophea does not believe the accused, Duch, has honestly and whole-heartedly confessed, despite making a show of

cooperating with the tribunal. "His cooperation is simply to avoid a longer sentence," she said. She cannot accept Duch's apology and never will, no matter what. "I cannot reconcile with him," she added. As for reparations, she understands that the tribunal can only award collective and moral reparation and, thus, hopes that the tribunal would award something that would benefit future generations of Cambodians. Personally, she wants the history of the Cambodian genocide to be taught in schools in order that they remember the country's tragic past. In addition, she hopes that a foundation be established to help poor and unfortunate women victimized by the Khmer Rouge regime.

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