

# មជ្ឈមណ្ឌលឯកសារកម្ពុជា

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 Problems without Passports: Cambodia  
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## **Justice and Reconciliation for Cambodia**

“Cambodia is like broken glass. Without justice, we cannot put the pieces together.”

-Youk Chhang, director of the Documentation Center of Cambodia (DC-Cam)<sup>1</sup>

Determining the best method of justice and reconciliation after the atrocities of the Khmer Rouge regime is impossible. As many people have explained, there is no justice for genocide. There is no appropriate punishment for violence and cruelty on the scale at which the Khmer Rouge operated. Nothing can be done that will change what has happened, or the extent to which the Cambodian people have suffered. The best that can be hoped for is the initiation and continuation of programs which will facilitate reconciliation and progress for the country at large. This also proves problematic based on the fact that people cope with tragedies in different ways, and there is no single panacea that can be applied universally. For this reason, it is necessary to implement a variety of initiatives in hopes of accommodating as much of the population as possible in the healing process.

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<sup>1</sup> Chhang, Youk. “The Time 100: Heroes and Pioneers.” [Time Magazine](#) online.

The Extraordinary Chambers in the Courts of Cambodia, or the ECCC, is one of the initiatives already in place to achieve this goal. This court started to function in 2007 as a joint tribunal sponsored by the United Nations and the royal government of Cambodia. It was designed to hold trials for the top officials of the Khmer Rouge regime, and has since indicted Ieng Sary, Nuon Chea, Nuon Thirith, Khieu Samphan, and Kaing Guek Eav, also known as Duch. They have been accused of a variety of crimes, including war crimes, crimes against humanity, and grave breaches of the Geneva Convention under international law. Additionally, they may be tried for crimes such as murder, torture, and religious persecution under domestic Cambodian law.<sup>2</sup> The trials were initially estimated to take around three years to complete, but now experts are unsure of how long the proceedings will take. Duch, who served the CPK as the Secretary of the S-21 prison, is being tried first due to the preponderance of conclusive evidence against him.

Within the Cambodian population, the ECCC trials are viewed by many as an important and necessary recognition of the atrocities that were suffered at the hands of the Communist Party of Kampuchea. For the past 30 years, the widespread violence has been alternately denied, ignored, and supported in both domestic and international arenas. While the perpetrators of the atrocities, including the upper echelons of the CPK, have lived comfortably throughout the country, victims have been forced to attempt to rebuild their lives without any assistance. For many of these victims, a guilty verdict for the leaders of the Khmer Rouge would constitute an important step toward personal healing

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<sup>2</sup> An Introduction to the Khmer Rouge Trials. Public Affairs Section. Extraordinary Chambers in the Courts of Cambodia.

and reconciliation. Additionally, Buddhist beliefs and practices factor in as a large consideration because the vast majority, some 95%, of the population identify themselves as Buddhists. While Buddhism conceives of vengeance in itself as a self-perpetuating cycle of suffering, many of Cambodia's spiritual leaders believe that a fair judicial process is consistent with the teachings of the Buddha. Beyond this, many victims and survivors have expressed a need to understand why the CPK acted in the way they did. Craig Etcheson explained, "when one probes beneath the surface public attitudes in favor of a tribunal, what most often comes out is not a wish for retributive punishment, but rather a desire for answers, for an explanation to the elusive, existential question, why?"<sup>3</sup> While these people may not be seeking vengeance, often because of Buddhist teachings, they desire an explanation as to why their family members were killed or tortured. The ECCC trials, therefore, could serve as a useful tool to begin to answer this question about the motives of the Khmer Rouge leadership.

Other Cambodians, such as interviewee Mayane, a female survivor and community leader, are uncertain as to whether the ECCC trials are truly beneficial. Because the trials are so far removed from the Khmer Rouge period, any verdict will not be as effective in bringing about a sense of healing and closure for the victims as it would have been 30 years ago.<sup>4</sup> Many survivors, both perpetrators and victims, expressed the feeling that they now have more pressing concerns to focus on, such as taking care of their families and farming their land. For them, the simple passing of time and the requisite actions of day to day life have forced them to distance themselves from their

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<sup>3</sup> Etcheson, Craig. After the Killing Fields: Lessons from the Cambodian Genocide. 150.

<sup>4</sup> Mayane. Personal Interview. 3 June 2009.

past and move on to some extent. For some of the people who share this mindset, the ECCC trials serve as a painful reminder of the past without necessarily doing anything to foster healing or reconciliation.

Beyond these issues, there is the structural problem of who should be indicted. The number of people involved in the CPK is so large that Cambodia does not have the funds, the facilities, or the time to indict every perpetrator. Furthermore, the blurring of distinctions between perpetrators and victims constitutes an additional difficulty. Many Khmer Rouge cadres were recruited or joined the CPK when they were children, and they had been convinced that Pol Pot would lead a revolution that would put an end to the US bombing of Cambodia. They were trained and indoctrinated to forgo their families and all human ties in favor of “Angkar”, or the organization. When the violence began, many were motivated by fear to follow the orders of their superiors, because if they disobeyed they would be labeled as enemies and would be brutally killed along with their families. Interviewee Sok Phat expressed a common sentiment among past members of the Khmer Rouge when he claimed that these motivations, along with the fact that he was not aware of the violence and cruelty propagated by the CPK, indicate that he is a victim rather than a perpetrator.<sup>5</sup>

This fundamental disagreement over who should be held accountable for the actions of the CPK is an understandable result of reliance on a groupthink mentality. In a very real sense, the Khmer Rouge cadres do not consider themselves responsible for their own actions because they do not see themselves as having acted on their own.

Individuality and initiative were largely replaced by proliferation of the belief that each

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<sup>5</sup> Phat, Sok. Personal Interview. 2 June 2009.

cadre was simply a piece of Angkar, and must act in its best interest at all times. A better understanding of this victimization of many of the perpetrators could go a long way toward helping the victims reconcile their feelings of anger and start to move on. The dissemination of this viewpoint has already begun to some extent through the Documentation Center of Cambodia's performances of the play "Breaking the Silence". This play involves the telling of many individual stories that are representative of common experiences during the Khmer Rouge period. It displays a variety of perspectives in an attempt to promote empathy and greater understanding. If more programs like "Breaking the Silence" were initiated by organizations like DC-Cam, it would provide an informal, grassroots venue for healing which would complement the formal punitive justice of the ECCC.

Despite the fundamental problems with the ECCC trial process, it does retain the possibility of providing a sense of justice to survivors of the Khmer Rouge. In order to achieve this, however, it is necessary to improve access to and involvement in the trials. Currently, a large number of the population of Cambodia lives in rural, provincial areas. Despite television, radio, internet broadcasts about the trial process, as well as articles in various periodicals, many people in these provinces either do not know about the ECCC trials or are not able to keep up with their progress on a regular basis. DC-Cam has taken the initiative in this area by informing people about the trials and helping them fill out civil party action complaints. On a personal level, it would be helpful for individuals to feel as though they contributed to the process of bringing perpetrators to justice. For this reason, more must be done to spread the news about the work of the ECCC and to

increase the involvement of victims. One way to do this would be to provide transportation for victims from the provinces to Phnom Penh to sit in on some of the trials. Unfortunately, as Sok Phat explained, many people cannot afford to take the time to go to the trials as they are too busy taking care of their farms and families.<sup>6</sup> In order to reach these people as well, the number of periodicals about the trials should be increased and circulated more fully through the rural areas of Cambodia.

Furthermore, the ECCC trials could work to provide reparations of a more substantial nature to Khmer Rouge victims. In finding Khmer Rouge officials guilty, the court should confiscate part of their monetary and property assets. These assets could then be used to bolster the funds allocated to social programs and other methods of reconciliation. The key with such a strategy would be to ensure that the funds were redistributed by an ethical and unbiased organization, in such a way as to benefit the largest number of victims possible. For example, if the funds were transferred to DC-Cam, they could be used to enrich programs that are already established and are currently providing services for survivors to facilitate healing and forgiveness.

Beyond the ECCC trials and the work of DC-Cam, other initiatives must be started as well. One of the most important objectives of justice and reconciliation programs is to increase the amount of information available about the CPK period. Such programs should have two distinct areas of focus. One focus should be on formal education initiatives, which would be aimed at the Cambodian people and directed by the Ministry of Education. The main venue for such education would be high schools and

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<sup>6</sup> Phat, Sok. Personal Interview. 2 June 2009.

universities, such as the high schools in which the DC-Cam textbook on the subject has recently been distributed. Perpetrator and interviewee Him Huy claimed that “education is the only way out; being uneducated leads to darkness. I want my children to know.”<sup>7</sup> In addition to being added into formal curricula, it would be beneficial to educate impoverished, rural Cambodians that do not have access to schools through other venues, such as local pagodas. This method would prove more difficult based on the limited staff and funds of organizations such as DC-Cam, which would restrict the amount of resources that could be allocated to such initiatives. Regardless of the difficulties, however, education initiatives provide an emphasis on the future which is crucial in Cambodian society because of the disproportionately large percentage of the population which is under the age of thirty. If an effort is not made to educate this sector about the CPK period, within a short time it will be almost entirely forgotten.

The other area of focus for education initiatives would be aimed at informing tourists and members of the international community of what happened under the Khmer Rouge regime. The majority of foreigners and tourists traveling to Cambodia go to the province of Siem Reap to see the famous ancient temples of the Angkor Wat complex. The city of Siem Reap is thus aimed almost entirely at accommodating tourists, with its revenues coming directly from the selling of souvenirs and tourism-related activities. This effectively allows people to travel to Cambodia and spend time there without ever coming in contact with memorials or scars that would indicate the genocidal past of the country. The Ministry of Tourism should create programs which would work to tie popular tourist areas, such as Angkor Wat, to their history during the CPK period as well

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<sup>7</sup> Huy, Him. Personal Interview. 8 June 2009.

as the ancient Angkor Empire. This would serve as a way to disseminate information about the violence and genocide in an educational setting to a wider variety of tourists, rather than simply to serve the macabre interests of a small number of visitors. While these memories are painful and disturbing, and some people may prefer to forget about the past in order to move on, education about the CPK regime is extremely important, both for prevention of recurrences in the future and for honoring the memory of those who suffered so greatly.

It has been suggested by some that a truth commission be created to collect and disseminate information about the Khmer Rouge period, both to the Cambodian people and to the larger international community. While this method has been effective in facilitating healing in other countries which have suffered genocides and serious atrocities, its utility in the Cambodian case is more doubtful. This is true because the Documentation Center of Cambodia already performs many of the actions traditionally allocated to truth commissions. Its staff members gather testimonies, locate and examine physical evidence such as mass graves and killing sites, and circulate publications which offer information about the CPK period as well as its aftermath and the justice process. This grassroots approach is more efficient than an official truth commission because of the general lack of confidence in the government that the people feel. This is justified by the fact that many members of the current government, including Hun Sen himself, served as low level cadre under the CPK regime. These officials would thus have a vested interest in some aspects of the past being forgotten.

Another suggestion by interviewee Mayane was for those that survived the Khmer Rouge regime to write down their personal and family histories.<sup>8</sup> This would allow them to record the past in their own words and from their own perspectives. Each family could then decide whether to keep the records for themselves and their posterity, or to donate it to a foundation in which it could be preserved for future generations as well as members of the international community. This would serve to promote personal healing insofar as telling their stories would help victims and perpetrators alike come to terms with their own past. At the same time, it would facilitate communal healing by allowing people to read about the sufferings of those around them, and so better be able to relate to and empathize with them.

Regardless of what types of programs are created and utilized, it is necessary that they are initiated by the Cambodian people themselves. According to Youk Chhang, while the international community can and should be involved in reconciliation efforts, the leadership of such efforts must be Cambodian. The Cambodian people have to own the healing of their country in order for it to be truly effective. Beyond this, programs should be initiated by grassroots organizations given the current state of the government. It is largely viewed as being corrupt and not acting in the interests of the people, thus the majority of the population would be less likely to trust programs directed by government officials. If new social programs and initiatives were localized, it would allow the Cambodian population to be integrated and engaged in the process, and thus come away with some sense of ownership in the country's healing. Also, the perceived gap between the elites and the rest of the population would make it difficult for most people to identify

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<sup>8</sup> Mayane. Personal Interview. 3 June 2009.

themselves with government-led reconciliation efforts, and therefore they would be less likely to provide a means of personal healing.

In addition to issues related to the creation of programs and initiatives, there is the basic concern of the current state of Cambodia. Any attempts to address problems of reconciliation and justice will be futile if they are undertaken outside of the context in which the problems occur. While the Khmer Rouge genocide certainly continues to have an effect on the national consciousness of Cambodians, it is just one of a number of social and political issues currently facing the country. Any solution must be comprehensive in addressing such issues if it is to truly enrich the lives of the Cambodian people in a meaningful way.

The base problem of corruption must be addressed before handling other issues. Because of the pervasive nature of corruption in Cambodia, it affects all other aspects of the country. Even the ECCC trials have recently faced allegations of corruption on the side of the Cambodian judges and prosecutors, which the defense lawyers have exploited in order to draw the credibility of the trials into question. After a survey in 2008, the NGO Transparency International determined that Cambodia ranks 166<sup>th</sup> out of 180 countries on the Corruption Perceptions Index, with the 180<sup>th</sup> country being the most corrupt based on the perceptions of its population. Furthermore, the survey showed that the judiciary was viewed as being the most corrupt sector, a fact which is particularly troubling given the current ECCC trials. The other sectors, while perceived as being less

corrupt than the judicial system, also face problems of corruption, as evidenced by the fact that 47% of respondents to the survey reported having paid a bribe in the past year.<sup>9</sup>

Recently, USAID has also published a Cambodian Corruption Assessment, in which it has outlined the various types of corruption that regularly occur in Cambodia and measured the extent to which they are occurring. According to this evaluation, the fall of socialism in Cambodia introduced the problem of state capture by allowing politicians to buy up the majority of the large state-owned enterprises which formed the basis of the country's economy, such as it was. This trend served to widen the existing gap between the wealthy elites and the average citizens. These elites also enjoy more freedom and influence than the majority of the population. This is evidenced by the fact that powerful members of the government are not held accountable for their actions and are not subject to the rule of law. For example, Prime Minister Hun Sen's nephew once drove his car into the carts of some flower vendors. When the vendors protested the destruction of their property, his guards shot and killed them. Hun Sen's nephew, however, was only sentenced to 18 months in prison, and he was moved to comfortable quarters after only a few months on the basis that he required medical treatment. He was released from the medical facility a short time later. The unequal application of justice is further compounded by the fact that few members of the press are willing to criticize the government, despite technically having journalistic freedom. The television in particular is almost entirely controlled by the Cambodian People's Party, of which Hun Sen is a member. Beyond these types of corruption, USAID also acknowledges that "survival corruption is a way of life for the poor". They are forced to participate in a culture of

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<sup>9</sup> Corruption Perceptions Index 2008. Transparency International.

corruption in order to live, as they do not have the influence or power to take a stand against it.<sup>10</sup> In many ways, the system of corruption and impunity signifies a continuation of the suffering faced by the Cambodian people.

Until the culture of impunity is ended, the Cambodian people will continue to be victimized by the powerful members of society. Corruption, by its very nature, restricts access of the majority of the population to justice, education, and the means of escaping the poverty cycle. For example, vast amounts of aid money which could be used to industrialize and stimulate the economy are being diverted away from the people and into the hands of a few government elites. Joel Brinkley, in an article in *Foreign Affairs*, reported that Cambodian government officials steal between \$300 and \$500 million a year from an annual budget that generally equals out to around \$1 billion.<sup>11</sup> The pervasive, systemic problem of corruption also reaches the education sector, as many times children must bribe teachers for good grades or pay for the answers to exams. This trend is particularly difficult to control because of the extremely low salaries received by teachers, generally about \$40 a month.

It is clear that effective government is a crucial prerequisite to any type of development. Until the preponderance of corruption comes to an end and good governance takes effect in Cambodia, there will be no way of raising the people's standard of living and thus ending the perpetual suffering that began with the Khmer Rouge regime more than three decades ago. The traditional methods of fighting corruption, such as educating people about the problem and increasing worker's salaries,

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<sup>10</sup> Cambodian Corruption Assessment. USAID. August 2004.

<sup>11</sup> "Cambodia's Curse." *Foreign Affairs*. March/April 2009.

are important but not sufficient steps to eradicate corruption as prevalent as that faced by Cambodia. In addition to these methods, a two-directional approach must be undertaken in which the public is mobilized to demand an end to the culture of impunity while the government implements reforms to fix the problem. Implementing anti-corruption reforms, however, proves difficult based on the fact that government officials generally benefit disproportionately from impunity and corrupt practices.

Overall, if anything is to be done to improve the lives of the Cambodian people as a whole, the current culture of impunity must come to an end. If corruption continues unhindered, as it is now, the ECCC trials could be remembered in history as yet another way in which the Cambodian government failed to work in the interests of its people. Alternatively, if it is cleaned up and its reputation is restored, the ECCC could act as an important step in the right direction in the fight against impunity and injustice. This is a necessary step to begin the healing process, both in terms of the atrocities suffered over thirty years ago at the hands of the CPK and the less evident sufferings that continue to this day. In this way, ending the corruption would help pull the country out of its immense poverty by allowing funds to benefit the people directly and, more holistically, return to the Cambodian people the sense of dignity and pride they have not had since before the Khmer Rouge period.