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KHMER ROUGE ARTS

PHOTO: Family’s KR CadresBack Cover

Ieng Sary



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Letter :

PROSECUTING IENG SARY

Former Khmer Rouge troops need to be educated about the Draft Law on the Establishment of Extra-Ordinary Chambers in the Courts of Cambodia for Prosecuting Crimes Committed during the Period of Democratic Kampuchea (the Khmer Rouge law) and the process of the upcoming mixed tribunal. At the same time, they of course have the right to express their opinions regarding the tribunal, including the question of protecting one of their leaders, Ieng Sary. It is a free country now, I would tell them.

But the secretary-general of the Democratic National Movement (DNUM), Long Norin, is confused about what the current peace in Cambodia is all about. Peace to him and to the other Khmer Rouge hardliners means no more executions of Angkar's enemies. We - who were once the victims of Angkar - have no enemies. We never regarded either the former Khmer Rouge troops or the Khmer Rouge leaders as our enemies. The Khmer Rouge have been living among us for over thirty years. We have tolerated them and do not seek vengeance or their deaths; we will let the law judge their acts. The upcoming tribunal does not even allow for the death penalty.

Make no mistake: the DNUM is a Khmer Rouge political movement, modernized by Ieng Sary. He led 3,000 troops out of the jungles, not in order to join the Royal Government of Cambodia, but rather to sustain his power as a Khmer Rouge leader. Even though the defections of these troops led to the official end of the civil war in 1998, and supposedly the end of the Khmer Rouge, in reality the DNUM continues to seek a role in Cambodian society for Khmer Rouge leaders.

Ieng Sary knows that he cannot escape trial for the deaths of more than one million people. He also knows that in the eyes of many Cambodians, the amnesty from the King will not protect him from being tried at the upcoming tribunal. But he continues to fool the former Khmer Rouge troops, even to the extent of blocking the effective reintegration of these cadres and their families into society.

Cambodia must prosecute Ieng Sary. In fact, in doing so, Cambodia will honor the King's wishes, because His Majesty signed the Khmer Rouge tribunal law, which is intended to prosecute the Khmer Rouge leaders, including Ieng Sary. The law does not stipulate that those who have already received amnesty should be left off the list of potential defendants. In fact, in earlier negotiations, the UN made it clear that such amnesties are unacceptable. If Ieng Sary's amnesty stands, the UN will not cooperate. Ieng Sary knows this and DNUM knows this.

DNUM spokesman Suong Sikoeun himself is a life-long supporter of the Khmer Rouge movement, and thus was part of the Khmer Rouge conspiracy. He should be aware that according to the Genocide Convention, conspiracy to commit genocide is a crime (see Article 4 of the Khmer Rouge law). It is clear that Ieng Sary bears not only moral responsibility, but must also be prepared to let the court judge his legal responsibility for the deaths of more than one million people in Cambodia. To resist the Cambodian court is the same as attempting to destabilize Cambodia, and those committing such acts should, perhaps, also be judged by the court.

Youk Chhang

LETTER FROM KHIEU SAMPHAN: APPEALING TO ALL MY COMPATRIOTS

Note: This letter was sent to all Cambodian newspapers

Pailin: August 16, 2001

During the past two years, many of my fellow countrymen have expressed their sympathy towards me. You already understand that by my nature, I have never committed any improper act, let alone crimes. You also know that during “Democratic Kampuchea” I did not have any authority to order anybody to harm or execute anyone, not even one person. There is only one thing that you still wonder about: how could a sincere man like me have agreed to take a nominal position, called “the President of Democratic Kampuchea’s State Presidium”?

However, I have tried to avoid anything that might fit the notion of “If the wound doesn’t hurt, there is no need to take a stick and scratch it,” and thus will not give a lengthy answer to your question. Now the war, which has torn our country apart for decades, has died out. I do not see any importance in bringing up this tragic past. We would be better off to let everyone be at peace so that all of us can carry on our daily tasks, as we have been doing with the support of the international community in order to reinforce the fundamental principles of democracy and overcome obstacles on a step-by-step basis. Consequently, our country may heal its wounds and be ready to face and resolve other, more complicated issues, which mostly are life-and-death problems of our increasingly poor, tiny country...which are the results of this long civil war. It is for the above-mentioned reasons that I have managed to avoid rejecting or making corrections to some articles that were written inappropriately about me. But, because a special tribunal is being organized to prosecute top Khmer Rouge leaders for their genocidal crimes, I can no longer be silent on these ambiguous or confusing views toward me. That is why I am writing to clarify my political stance and activities, as follows:

1. What were the aims of *Observateur* newspaper?

This newspaper attempted to reflect the opinions of scholars, teachers, and a majority of royal government officials, who strongly supported the neutrality policy of Prince Norodom Sihanouk. At the same time, people thought that democratic measures should be taken to promote social balance in order to amplify the basis of a policy of neutrality.

2. Either as a Secretary of State for Commerce or as a people’s representative, I fulfilled my obligations with all my heart and soul. With the same consideration, I participated in supporting the neutrality policy of Prince Norodom Sihanouk, the head of state.

3. The reason for my escape from Phnom Penh in 1967 is that I was forced. It was not because I decided to abandon my activities under the framework of the National Assembly and choose revolutionary struggle as a solution. The whole story began with farmers in Samlot, Battambang Province, who revolted. Today, most Cambodian historians admit that the farmers initiated the revolt by themselves because area authorities had rudely confiscated their land. Unfortunately, this uprising was brutally oppressed. Most people called scholars, including me, “leftists.” We were accused of being insurgents and had to be brought to trial in a military court. In fact, it was not the only time that we were intimidated. However, after the “right wing” assembly was formed after the 1966 election and after this assembly appointed Lon Nol to control government affairs, all these accusations and intimidation could no longer be ignored.

I would like to say that since I left Phnom Penh, my active role in politics came to an end. In the countryside (Kampong Speu), I did nothing other than hide in fear in farmers’ huts or rice barns. I did not show up for two years because I was afraid that the commune chief or his assistants, or some secret agents of the police or the military might spot me, and that would bring trouble to the whole village. I did not assign communist forces, masses or troops. All of these forces were considered to be strategic by the Communist Party of Kampuchea (CPK). I did not have the right to partake in this task. Nor was I aware of the assembly creating the CPK in 1960 in Phnom Penh. Please be informed that during that time, the CPK leaders were in Rattanakiri Province. Thus, I did not know who the leaders of the CPK were,

let alone meeting and discussing serious business with them.

4. After that, a coup was waged in 1970. Immediately, the Vietnam War climaxed in our country. The neutrality policy of Prince Norodom Sihanouk had warded off this war for 15 years. Although this saved many lives, no matter how hard he tried, our country could only delay this disaster. The storm caused by the Cold War and the Vietnam War had effects far beyond the control of the Prince and our nation. Then the superpowers, who were our enemies, fought each other all at once on our tiny land; nothing could stop it. Could our pathetic country bear this destruction? This was an immediate question. In the face of this dangerous situation, almost all Cambodians living both in the rural areas and the cities, scholars, dignitaries, and overseas university students bolstered their cooperation to save the country. There were two prominent forces at that time:

1. The Communist Party of Kampuchea (CPK), which consisted of stationary forces.
2. Prince Norodom Sihanouk, who was influential both inside the country and in the international arena.

These two forces influenced each other, so they had to work together.

The question arose: How could we integrate these two powers? Could Prince Norodom Sihanouk cooperate with the leaders of the CPK? Certainly, he could not. This was why I was needed to serve as a bridge. My social class and my experience with senior political leaders in the country determined my role here. To act as a link, I had to be a recognizable leader of the country's struggle forces. In reality, I did not have an obligation as such a leader. This made me feel very uneasy. But, with circumstance being what they were, I was required to overcome my temptation. So, I made a "sacrifice" and took on this obligation in order to participate in saving our country as much as I could and according to my circumstances. Therefore, you, my compatriots, can see the circumstances in which I was entangled (a symbolic position) in our country's struggle. In short, the circumstances were a consequence of the 1970 coup and the superpowers' fight in our land during the Vietnam War. With these realities, I would like to prove that I had not intended to conspire in the murderous acts that would occur during 1975-1978, as I had not been aware of the plan at all.

In addition, once I took the position as one of the country's top struggle leaders, even though the war had ended in 1975, people will never forget it. However, being labeled as a leader of the struggle in the country qualified me to be able to continue to take the title of "the President of the State Presidium of Democratic Kampuchea," although I had yet to have any authority. If I denied this title, what would happen to me? I would be counted as a traitor, and this was also correct because DK was a legitimate state of Kampuchea born from the struggle of Kampuchean citizens against foreign interference, and it was also a member of the United Nations. All of the points mentioned above are critical factors relevant to my past activities that I want to tell all of you about. In the following explanation, I would like to inform, you, my compatriots, about my rank and roles in the CPK.

As you already know, my social class and good relationship with the senior leaders of our country helped me to assume the tasks of "front" and "foreign affairs," jobs that dealt with the upper social class and international affairs. For the same reason, they never gave me serious tasks, even tasks in the CPK, which included such things as recruiting people and military tasks, or tasks with any real authority. Only cadres who came from the peasant class and those who the CPK thought were well informed about class attitudes and who had passed a series of tests, were allowed to undertake these tasks. My rank in the CPK and in DK was not equivalent to the ranks of a zone or regional cadre, and nothing compared with those responsible for cooperatives.

It is true to say that I became a "candidate" of the Party Center in 1970 and a "full-rights member" in mid-1976. However, based on the principles of "democratic centralism," all important tasks were decided within the framework of the Standing Committee or by a separate meeting between organizations and cadres responsible for the regions and zones. The Party Center's meeting was actually a way of instilling a new philosophy and stances into cadres, in order to carry out decisions made by organizational committees about political lines or various policies, to discuss past mistakes, do some criticism and self-criticism, or check the results of previous missions. Therefore, I did not have the right to participate in decisions on important matters. For example, until now, I did not know when the evacuation of people from the cities was discussed and approved.

I also had not been apprised of the mass murders. In about mid-1978, I accidentally learnt of a case of arrests and barbarous acts taking place in Preah Vihear Province. My wife, who was in tears, told me about it. Her siblings and relatives, along with many other people, were shackled on both their hands and legs for over a year, causing nasty wound on their bodies. However, when the captives were released and the regional party secretaries were arrested, I knew that this was an act of individuals. The rules prohibited me from travelling without permission. At the same time, the secret and strict discipline of “you know only what you do; you do not know, hear, or see other people’s tasks” prevented other people from telling me about this tragedy. This also stopped me from knowing about anything that was happening in the country. I only knew what the leaders of the CPK allowed me to. Only when the movement failed did my relatives, victims, and witnesses tell me about this massacre, which would cause one’s head to tingle upon hearing. In the end, I definitely deny the third point mentioned in the report written by a group of U.S. researchers working for the so-called “Organization for International Justice.” It stated that in 1977 after the chief of Office 870, formerly named Doeun, had been arrested, I was “promoted” to replace him. This was not true. I have never been the chief of Office 870. I had not known any decision made by the Standing Committee of the CPK to capture or execute anyone; how could I possibly examine the practice of these decisions? For truth and justice, I request that the writers of this report examine it again completely; I want to know where they got this information relating to me. In fact, I was only an ordinary member of this office. My obligations in this office are stated below:

1. Keeping in contact with Prince Norodom Sihanouk and the Queen, who were staying in the Royal Palace during that time.
2. Setting prices of produce harvested by various cooperatives. But, I could not meet this obligation, since there was no bartering among cooperatives or between cooperatives and the state.
3. Carrying out the decision of the Standing Committee on distributing equipment collected from Phnom Penh to the zones and regions.
4. Contacting foreign ministries of commerce in order to import equipment as ordered by the Standing Committee.

I would like to make it clear that the office chief, Doeun, was responsible for “political tasks.” His tasks were highly secretive; no one knew about them. I did not remember who was chosen to replace Doeun. Nobody said a thing about this replacement or dared to talk about it. What I remember is the period from the end of 1976 to the beginning of 1977, when top leaders of the CPK, as I observed, looked worried, even though they tried to control their emotions. Then, I thought that the military situation along the eastern border was probably unfavorable, as I saw that hospitals in Phnom Penh were full of wounded youths and lines of trucks transported wounded soldiers from the battlefields almost every day. It was in this circumstance that I was given more autonomous rights to make decisions within the framework of my tasks described above, especially on importing medical supplies, including antibiotics to meet the demands of the Ministry of Social Affairs and various hospitals.

I have told you enough. As you can see, in the beginning I was only a scholar who did not have any goal, except trying carefully to fulfill my obligations to the nation. During these few decades of transformation and complication, I am well aware of my shortcomings. I think that I cannot escape an obligation that was destined for me. Never have I had the ambition to be a famous leader, or thought of killing someone.

I would like to avail myself of this opportunity to express my deepest respect to the souls of our innocent countrymen, who were victims of the killings and heinous acts during the Democratic Kampuchea regime. To those who lost their loved ones to the regime, I am sorry. It was my fault to be too foolish, and failed to keep up with the real situation. I tried my best for the sake of our nation’s survival, so that we might enjoy development and prosperity like other nations. I am so surprised that this turned out to be mass murder.

Respect and profound love,

THE FIRST SESSION OF THE FIRST LEGISLATURE OF THE KAMPUCHEAN PEOPLE'S REPRESENTATIVE ASSEMBLY APRIL 11-13, 1976

Plan on Decisions to be Taken in the First Session, First Legislature April 13, 1976

Respected and Beloved Kampuchean People's Representatives:

From April 11 to April 13, 1976, we have opened both committee and plenary meetings for discussions and reviews of all aspects of the agenda of the Kampuchean People's Representative Assembly's first session in the first legislature.

Having debated for three consecutive days, the floor is in unanimous agreement with the essential points of the agenda and is moving towards a final decision. Based on the unanimity provided by our session, the chairmen of the meeting have prepared a draft of decisions to be taken in the first session, first legislature.

We, on behalf of the chairmen, would like to read the draft decision to the floor for final approval and adoption:

After the successful election to choose the members of the Kampuchean People's Representative Assembly on March 20, 1976, the Assembly has conducted its first plenary meeting for the first period.

This meeting was held for three days from the morning of April 11 until April 13, 1976 in the capital city of Phnom Penh in a great and warm atmosphere of solidarity. The meeting focused on all important issues, which have been declared in the agendas. The issues were thoroughly discussed in accordance with the Constitution of Democratic Kampuchea and with great spiritual responsibility for the revolution, nation, workers, peasants, laborers, male and female youths, and cadres of the Kampuchean Revolutionary Army.

After a thorough examination of all issues, which are listed in the agendas, the Assembly has formally adopted the following:

1. About the Evaluation of the Outcome of the General Election Held on March 20, 1976

The assembly's unanimous adoption: The general election held on March 20, 1976 under the careful supervision and monitoring of the election committee and the committee of the Ministry of Interior, has been conducted meticulously according to the principles of the Constitution of Democratic Kampuchea. Workers, peasants, laborers, male and female youths, and cadres of the Kampuchean Revolutionary Army have actively participated in the election in a super-solidarity atmosphere and with strong belief in the Constitution of Democratic Kampuchea, in their representatives, and in anticipation of a brighter future for Democratic Kampuchea, their home country.

2. About the Management of the Assembly's Work Procedures and the Organization of the Standing Committee of the Assembly and Various Committees of the Assembly Itself

The Kampuchean People's Representative Assembly was founded by the fresh blood of laborers and peasants, which had been flowing like rivers in the struggle and in the fight a thousand years ago.

All members of the Assembly are the flesh and blood of workers, peasants, laborers, and the Kampuchean Revolutionary Army, who joined in revolutionary struggles, underwent hardships and misery together in the fight against imperialism, old and new types of colonialism and its lackeys, experienced happiness and despair together for years, and still, we can now live together in the class of

laborers working in factories, railroads, harbors, rubber plantations, salt fields, dike systems in rice fields, and water channels in syndicates, in cooperatives, and in various departments of the Kampuchean Revolutionary Army fighting relentlessly to build up our nation and to defend our country. This is the true background of our representatives; there would be no qualification in terms of representativeness and democratic nature better than the above-mentioned points. Until today and from now on, our Assembly shall maintain the nature of laborers, peasants, and be our revolutionary army's representatives into the future.

With this viewpoint, the Assembly has unanimously adopted the basic principles of work procedures as follows:

1. Each member of the Kampuchean People's Representative Assembly must continue to be representative of their previous local bases, sharing misery and happiness with people, trying to understand the feelings of the people, and being informed about people's requests, especially staying close to syndicates and factories, cooperatives, dike and irrigation systems, work sites, and their own units; participating in building up and defending the country with workers and peasants, laborers, male and female youths and cadres of the Kampuchean Revolutionary Army in order to suit their ranks as real representatives of workers and peasants, laborers, and the Kampuchean Revolutionary Army.

2. The Kampuchean People's Representative Assembly shall conduct a plenary meeting once a year, in order to promote the political line inside and outside of the country and to observe the activities of the state presidium, government, and judicial committee. They shall also observe good and bad points and rectify annual work targets of the three state organs.

3. During the period between each plenary meeting of the Kampuchean People's Representative Assembly, there shall be a permanent organization of the Assembly that is responsible for practicing and observing the practices and decisions of the plenary

meetings of the Assembly. This organization is called the Standing Committee of the Kampuchean People's Representative Assembly.

At the same time, the Assembly has also selected members of the Standing Committee and members of other commissions of the Assembly.

The Standing Committee is composed of the following:

1. Comrade Nuon Chea, President
2. Comrade Nguon Kang, First Vice-president
3. Comrade Peou Sou, Second Vice-president
4. Female Comrade Ruos Nim, Member
5. Comrade Sar San, Member
6. Comrade My Chham, Member
7. Comrade Kheng Sokh, Member
8. Comrade Matt Ly, Member
9. Comrade Thang Sy, Member
10. Comrade Ruos Preap, Member.

3. On the Examination, Judgment and Decision on the Request for Retirement by King Norodom Sihanouk by Virtue of His Statement Dated April 2, 1976 and the Government Statement Dated April 4, 1976 on the Request for Retirement of the King Dispatched to the Assembly

Having thoroughly examined and discussed the two statements, the People's Representative Assembly unanimously does hereby agree with the request for King Norodom Sihanouk's retirement.

By virtue of the great achievements of King Norodom Sihanouk, a patriotic monarch who has made interest-bearing contributions to the nation and the people of Kampuchea for national liberation against the heinous and barbarous aggressive war of American imperialism and its reactionary clique of traitors, including Lon Nol, Sirik Matak, Son Ngoc Thanh, Cheng Heng, In Tam, Long Boret, and Sosten, the National Assembly does hereby agree with the government's requests regarding the following:

1. Entitle King Sihanouk "The Hero with the Highest Patriotism."
2. Build a memorial that inscribes his aforementioned achievements.

3. Guarantee that King Sihanouk's and his family's living standard is as high as his honor and his status as Head of State and President of the National Liberation Front of Kampuchea with a yearly pension amounting to US \$8,000.

4. On the Examination, Judgment and Decision on the Request for Retirement of the Former Government

The People's Representative Assembly notes that the Government of Democratic Kampuchea, previously known as the Royal Government of National Union of Cambodia [RGNUC] and established on May 5, 1970, has, in cooperation with the people of Kampuchea as a whole and the revolutionary army of Kampuchea, made great efforts to fulfill its task of waging people's war for the liberation of the nation and the people against American imperialism and its reactionary clique consisting of Lon Nol, Sirik Matak, Son Ngoc Thanh, Cheng Heng, In Tam, Long Boret, and Sosten until the day of victory on April 17, 1975.

Given that the entire country was liberated, and in accordance with the decision taken by the special national congress along with the decision made by the Third National Congress, the government jointly arranged for an establishment of the Constitution of Democratic Kampuchea, its promulgation, and for the election of the Representative Assembly of Kampuchea. Having made these major achievements, the government asked to resign on April 6, 1976.

The People's Representative Assembly unanimously agrees with the former government's resignation.

5. Election of the State Presidium of Democratic Kampuchea

Having painstakingly discussed all aspects, the People's Representative Assembly elects and appoints the State Presidium of Democratic Kampuchea, which is composed of:

1. Comrade Khieu Samphan, President
2. Comrade Sao Phim, First Vice-president
3. Comrade Ruos Nhim, Second Vice-president.

6. Election of the New Government of Democratic

Kampuchea

Having painstakingly discussed all aspects, the People's Representative Assembly chooses the new government of Democratic Kampuchea, which is composed of:

1. Comrade Pol Pot, Prime Minister
2. Comrade Ieng Sary, Deputy Prime Minister for Foreign Affairs
3. Comrade Vorn Vet, Deputy Prime Minister for Economics
4. Comrade Son Sen, Deputy Prime Minister for Defense
5. Comrade Hou Nim, Minister of Propaganda and Information
6. Comrade Chuon Choeun, Minister of Health
7. Female Comrade Ieng Thirith, Minister of Social Affairs
8. Comrade Tauch Toeun, Minister of Public Affairs
9. Female Comrade Yon Yat, Minister of Culture and Education.

The committees within the government framework that are put in charge of economics are:

1. Committee of Agriculture
2. Committee of Industry
3. Committee of Commerce
4. Committee of Communication
5. Committee of Power
6. Committee of Rubber Plantations.

The Chief of each committee is equivalent in rank to Minister of the government of Democratic Kampuchea.

7. Election of the Judicial Committee

After a thorough discussion, the People's Representative Assembly elects and appoints a judicial committee chaired by Kang Chap.

8. Assembly Guidelines on Domestic and Foreign Policies of the State Presidium and the New Government of Democratic Kampuchea

The following are unanimously adopted domestic and foreign policies to be implemented by the new government of Democratic Kampuchea:

- 1) All articles and chapters of the Constitution

of Democratic Kampuchea shall be correctly, completely, and cohesively implemented. The Constitution is the soul of Democratic Kampuchea and the basis for domestic and foreign policies on various fields ranging from political economy, social affairs, and culture, which stems from the fresh blood of millions of children of Kampucheans from several generations. Therefore, there shall be respect, observation and implementation at full strength.

2) Strengthen and extend the force of great national solidarity with higher revolutionary vigilance for the defense of the country, territory, independence, sovereignty, territorial integrity within the existing boundaries, and with high responsibility for the revolution, nation and our people of Kampuchea.

3) Strengthen and extend the force of great national solidarity for shock assaults in terms of production in all fields, especially agriculture, to the point that a maximum yield of rice shall be reached for upgrading the living standard of our people and building our country with the speed of a great leap

forward.

4) Continue to implement the political line of the independence, peace, neutrality, and non-alignment of Democratic Kampuchea by virtue of article 21 of the Constitution of Democratic Kampuchea.

There shall be a strengthening and extension of the solidarity and fraternity with all revolutionary movements in various countries of the world, near and far, and with youth on the five continents, who love peace and justice including the ones in the United States of America, in order to struggle against imperialism, old and new colonies, and reactionary forces for the sake of the revolution, independence, peace, democracy, fraternity and social development in the international arena.

The first session of the first legislature of the People's Representative Assembly concluded on the evening of April 13, 1976 with great success, revolutionary optimism, and strong belief in the glorious future of the nation and people of Kampuchea.

DEAR RESPECTED MO-81 [OFFICE 81]

Telegram 157, [1155 characters] File number D1962

On the morning of 4 March, an official from the Consulate of the French Embassy in Beijing came and met us [Khmer Rouge officials] at the embassy and gave us a declaration of the government of France dated 2 January 1978. We attach herewith the declaration in French.

In the meantime, the official asked about the situation of conflict between Cambodia and Vietnam, its evolution, and our stance towards settling the conflict. Both [Cambodia and France] raised the subject of friendly relations between the two countries.

He affirmed that the foreign minister of France permitted him to meet [us] in order to grant this declaration and also to ask for confirmation on the two subjects.

We informed him about the conflict, the causes that led to the conflict between the two countries [Cambodia and Vietnam], the evolution of the current situation on the

border, and the diplomatic maneuvers that Vietnam has been staging to distort international views in regard to the 5 February 1978 declaration of its government. We further stressed that the conflict was not attributed to the unclear border delineation as set forth by the Vietnamese. This is because the resolution with respect to the border issue was stated clearly in the joint declaration between the government of Cambodia and that of Vietnam in 1966. We informed him about our stance toward solving this conflict, emphasizing the same points as we did to other embassies.

In addition, the official asked us if we would agree to have a third country to help handle the problem in case the situation continued to drag on. He also told us that the government of France did not know of any attitude by Vietnam concerning its declaration of 5 February 1978. He further said that in the past, the French foreign minister

planned to pay a visit to Vietnam, but has now postponed it.

As far as the friendly relations between Cambodia and France are concerned, the official recalled that France has long had friendly relations with Cambodia. He explained that in spite of the French diplomatic ties with the Lon Nol government between 1970-75, it was not a sincere one because the government was a buffer of America, while France preferred the government of King Sihanouk. After Cambodia's liberation, however, France also wanted a continued diplomatic relationship. But, the problem has yet to be solved, whereas the Cambodian Embassy in Paris is now closed down. We stressed in our response to him that since the liberation of Cambodia, our government has stressed in its foreign policy that it wants to make good friends and seeks to have friendly relations with both neighboring and remote countries based on the principle provided for in our Constitution. We will always respect this principle.

The problem [of diplomatic ties] with France that remains unsolved is not, however, because of Cambodia; rather, it is because France still has some problems in which it has not yet showed that it wants a good relationship with Cambodia. We brought up an example for confirmation by mentioning about France protecting Khmer traitors and having them commit all kinds of prevaricating acts harmful to the politics and grace of Cambodia. This, of course, only results in the two countries having a bad relationship. As for the Khmer

traitors, the official confirmed to us that France does not allow them to conduct activities detrimental to the benefit of France. As you are already aware, the official said that in France there are many media and political institutions - some are Marxist-Leninist and others have a liberal ideology; some of them speak well [of us] and others do not. And yet, they are not assigned or controlled by the government.

Finally, the official stated that he would meet and talk further with us in the future in order to improve the relationship between the two countries. We reaffirmed to him that the government of France will then realize more of the Cambodian politics as mentioned above. The discussion concluded in an agreeable and friendly atmosphere.

Once again, the official emphasized that this was his first-ever meeting with us after the liberation of Cambodia, and that it was a meeting permitted by the government [of Cambodia].

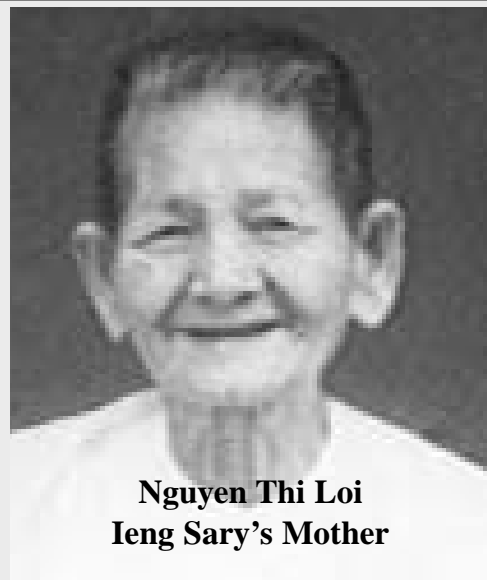
Through his facial expressions and conduct, we see that he seemed to want a good renewed relationship with Cambodia. Please be informed, and please, Angkar, comment on this.

Tho [reporter's name]

4 March 1978

Received on 5 March 1978 at 17:30.

Copied and sent to: Uncle, Uncle Nuon [Nuon Chea], Brother Vann [Ieng Sary], Brother Vorn, Office Documentation



Nguyen Thi Loi
Ieng Sary's Mother

According to a former Vietnamese communist and member of the External Relations Commission of the Communist Party of Vietnam, Nguyen Thi Loi is Ieng Sary's mother. In 1975, Ieng Sary had requested that an official visit his mother, who was living in Qua Lac village, Ha Xang commune, Chau Thanh district, Tra Vinh province, (South) Vietnam. The photo of Nguyen Thi Loi to the left of this text was taken by a Vietnamese official and was to be sent to Ieng Sary. However, when relations between the Khmer Rouge and Vietnam soured, communications between the two nations were cut off. The photo remained in Vietnam until it was recently discovered by a Documentation Center of Cambodia research team. For the Pheum Ben holidays, I would like to send this photo to Ieng Sary and his family in Pailin; they have probably been waiting for it for quite a long time.

Youk Chhang

CHRONOLOGY FROM THE VIETNAMESE COURIER

(Hanoi, 1978)

1960

September 30: The Khmer People's Revolutionary Party changed its name to the Communist Party of Kampuchea.

September: Third National Congress of the Vietnam Workers' Party. The political report by the Central Executive Committee to the Congress stressed: "With regard to neighboring countries, we wish to establish and to develop good relations on the basis of mutual respect for independence and sovereignty and of non-interference in each other's internal affairs. We welcome the present policy of peace and neutrality of the Kingdom of Cambodia, with which we will further consolidate friendly relations."

1962

August 22: Cambodian Head of State Norodom Sihanouk proposed the convening of a 14-country conference to guarantee the independence and neutrality of the Kingdom of Cambodia (this proposal was repeated on July 17, 1964). The Democratic Republic of Vietnam declared its readiness to take part in such a conference and pledged to respect the independence, peace and neutrality of the Kingdom of Cambodia. The Cambodian proposal was, however, turned down by the United States, Great Britain and a number of other reactionary governments.

1964

June 20 and August 18: The Cambodian Head of State twice proposed to Nguyen Huu Tho, President of the South Vietnam National Front for Liberation, that talks be held to settle the border question between the two countries.

October and December: In reply to the Cambodian Head of State's proposal, the NFL sent a delegation to Peking to meet the Cambodian side. In spite of our goodwill, the talks were not successful, since the Cambodian side put forward unreasonable demands, in particular, claiming that the southern Hai Tac (Pirate) and Tho Chu Islands, which have been always part of Vietnam's territory (they are located South of the Brévié line), were part of Cambodia.

1965

March: The first conference of Indochinese Peoples was held in Phnom Penh. The resolution of the conference

took note of the fact that the Vietnam Fatherland Front and NFL delegations once again pledged to respect the independence, neutrality and territorial integrity of Cambodia.

May: Cambodia broke off diplomatic relations with the United States.

1966

August: Acting on a proposal by the Cambodian Head of State, a NFL delegation led by Tran Buu Kiem, Presidium member of the NFL Central Committee, visited Phnom Penh to resume talks on the border issue between the two countries. The negotiations were suspended, as the Cambodian side once again put forward absurd demands.

1967

May 9: The government of the Kingdom of Cambodia called on other countries to recognize the independence, sovereignty and territorial integrity of Cambodia within its frontiers as defined by maps used in 1954.

May 31: The NFL declared its recognition of, and pledged to respect, the territorial integrity of Cambodia within its existing frontiers.

June 8: The DRV Government declared its recognition of, and pledged to respect, the independence, sovereignty and territorial integrity of Cambodia within its existing frontiers.

June 20: The DRV representation in Phnom Penh was raised to the rank of Embassy. Ambassador Nguyen Thuong took up the post of ambassador on August 9, 1967.

June 22: The NFL representation was established in Phnom Penh, headed by Nguyen Van Hieu, a Front CC member.

1969

January 13: The Hanoi-Phnom Penh air route was reestablished.

May 9: The representation of the Provisional Revolutionary Government of the Republic of South Vietnam in Phnom Penh was raised to the rank of Embassy.

June 30: At the invitation of the government of the Kingdom of Cambodia, Huynh Tan Phat, President of the Provisional Revolutionary Government of the Republic of South Vietnam, made a friendship visit to Cambodia. The

aim of the visit was to strengthen the militant solidarity and relations between the two countries.

1970

March 11: In the absence of Sihanouk from Cambodia, the Embassies of the DRV and the South Vietnam PRG in Phnom Penh were sacked at the instigation of the CIA and of the Lon Nol-Sirik Matak clique.

March 14: In Phnom Penh, Queen Kossamak, the Queen Mother, demanded the cessation of all hostile acts against Vietnamese residents in Cambodia, and invited Cheng Heng, acting Head of State, and Lon Nol, Prime Minister of the Kingdom, to assume their responsibilities.

March 16: From Peking, Head of State Norodom Sihanouk sent a telegram to Queen Kossamak requesting her to take measures in the name of the crown to overcome the emerging difficulties in relations between Cambodia and Vietnam.

March 18: In a coup d'état by General Lon Nol, Sihanouk was relieved of his post as Head of State. The US and world press denounced the role played by the CIA in the coup.

March 23: In a message and official declaration, Norodom Sihanouk condemned the coup d'état and proclaimed the dissolution of the Lon Nol government and of the two chambers of the National Assembly. He also announced the forthcoming formation of the Royal Government of the National Union of Cambodia (RGNUC) and of the National United Front of Kampuchea (NUFK). The armed struggle was rapidly taken up nationwide.

March 25: The DRV Government declared its condemnation of the March 18, 1970 coup d'état and stressed that "Proceeding from the principle that the liberation of Cambodia is the work of the Khmer people, the Government of the Democratic Republic of Vietnam declares its full support to the five-point proclamation of March 23, 1970 of Samdech Norodom Sihanouk...In the spirit of mutual respect, solidarity and mutual assistance, the Vietnamese people will wholeheartedly support the legitimate effort of the Khmer people."

March 26: Three deputies, Khieu Samphan, Hou Youn and Hu Nim, declared their support for Norodom Sihanouk's appeal.

Mid-April: The Americans gave orders to Nguyen Van Thieu to invade the Cambodian region of Svay Rieng.

April 23: The Procheachon organization (People's

Group, a legal cover for the Communist Party of Kampuchea) published a statement affirming its resolve to forge national unity and its support for Norodom Sihanouk's March 23, 1970 declaration.

April 24 and 25: Summit Conference of Indochinese People. The Joint Declaration of the Conference stressed that "the parties...recognize and pledge to respect the territorial integrity of Cambodia within its present frontiers..." Pham Van Dong, the DRV Prime Minister, declared in his speech: "The Vietnamese people and the Democratic Republic of Vietnam are firmly resolved to fulfill their obligations to strengthen the great militant solidarity between our three countries and we shall try to be always worthy of your feelings towards us. For generations to come, the relations between our three peoples will be relations of mutual affection and esteem, of militant solidarity in the struggle against a common enemy, of lasting cooperation and mutual assistance with a view to building each country in accordance with its own people's path and talents."

April 30: On the orders of US President Richard Nixon, many US and Saigon army units crossed the border between South Vietnam and Cambodia.

May 3: At the NUFK congress, Norodom Sihanouk was elected President of the NUFK. The Royal Government of the National Union of Cambodia was constituted with Penn Nouth as Prime Minister. It had two parts: one part set up abroad, in charge of external relations, and one part set up inside the country and headed by Khieu Samphan, Vice Premier, Minister for National Defense and Commander-in-Chief of the Khmer National Liberation People's Armed Forces.

May 25: Norodom Sihanouk, Head of State of Cambodia, President of the NUFK, and Penn Nouth, Prime Minister of RGNUC, arrived in Vietnam on an official visit. A Vietnam-Cambodia joint statement was made public in Hanoi. "The Khmer people," the statement said, "is deeply grateful to the Democratic Republic of Vietnam for the total support its has extended to the policy of independence, peace and neutrality of Cambodia, for its recognition and respect for Cambodia's territorial integrity within its present frontiers, and for its devoted support right from the start for the just and necessarily victorious struggle of the Khmer people against the US imperialists and their Lon Nol-Sirik Matak lackeys."

October: Lon Nol and his clique founded the so-

HUOT SAMBATH

Sophearith Chuong



Huot Sambath in S-21

(Continued from the August 2001 issue)

In 1973, under world pressure, Democratic Kampuchea entered negotiations with Lon Nol, who was supported by the United States. During that time, presidents of friendly nations such as Mauritania, Algeria [and] Romania persuaded Sihanouk to negotiate with Lon Nol. Sihanouk also wanted to meet U.S. Secretary of State [Henry] Kissinger. Sensing an unpleasant situation, he left his office in the Royal Government of the National Union of Cambodia, and called on the government to hand over power to those ruling the country.

After he left the liberated areas in 1973, Sihanouk made an appointment with Zhou Enlai and requested help in persuading Kissinger to allow the King's mother to leave Kampuchea and come to the

People's Republic of China in order to have her cancer treated.

Mr. Kissinger gave his consent; he instructed Lon Nol to release captives who were pro-Sihanouk, and allow the King's mother and her servants to leave the country for China.

In 1973, Sihanouk resigned from his position as head of state because the government banned him from meeting with Mr. Kissinger. In 1974, Sihanouk resigned from his position again, but Huot Sambath did not know the reason. In this situation, Zhou Enlai tried to persuade Sihanouk to hold his current position until April 17, 1975.

In 1975, King Sihanouk returned to Kampuchea after making formal visits to several countries in Europe, Asia, and Africa. There, he informed leaders of those nations about the current situation in Kampuchea, the political ideology Kampuchea had chosen, and the organization of the country. An important piece of news that Sihanouk conveyed to those leaders was that "Kampuchea does not use money." This new policy created doubt in those countries about how Kampuchea was going to deal with bartering among people and how the government would collect revenues.

Activities Shortly before His Arrest

Huot Sambath arrived in Phnom Penh on December 31, 1975. Soon after his arrival, he tried to find Chau Seng, Penn Nhach, Bun Srun Kim, Nou Pech, and Hor Nam Hong in order to receive briefings on the results of their missions. Yet, these five people told him, "Brother Ieng Sary has been responsible for all diplomatic and political missions." They also told him that after a study course was completed,

they had go the countryside to cultivate the rice fields and do other labor, and then join another study course. Some of the six comrades (including Huot Sambath) were given positions in the Ministry of Foreign Affairs, while some were allowed to pursue their diplomatic missions.

In the beginning of 1976, Thiounn Prasith, Keat Chhon, Chan Youran, Sarin Chhak, and In Sopheap, who were Ministry of Foreign Affairs cadres, participated in a study course. They stayed with Huot Sambath. After completing the course, the eight members of Huot Sambath's group (of which five were responsible for gathering information) were ordered by Angkar to do agricultural tasks in Tong Village, Tbong Khmum District, Eastern Zone. In August Angkar called Huot Sambath's group to come to Phnom Penh, and then ordered them to work at a plantation in Chraing Chamreh. Apart from the groups called from the Eastern Zone, Huot Sambath observed that there were many male and female youths from the Ministry of Foreign Affairs, including Norodom Phourishra (Brother Moeun) and his wife, Srei Saut (Sister Saut). At the site, they were ordered to build houses, prepare farmland for crops, pluck corn nuts for drying, boil corn, and raise fish (the fish farmed in this zone were sold to embassies in Phnom Penh three times per week).

"I am old and weak. It is not suitable for me to do these jobs," Huot Sambath complained. But Huot Sambath performed tasks at Chraing Chamreh until the day he was arrested and sent to S-21.

Documents Relating to the Confession of Huot Sambath

In addition to the confessions of Huot Sambath's group, there is a record in which Huot Sambath's interrogators reported on the Soviet Union's plans for Kampuchea. The information from this record, much which came from the confession of Isoup Ganthay and the confession of Huot Sambath, reads:

"I. Measures of the Soviet Union to be taken

before carrying out its plans: 1. Restricting air space in order to cut off aid from China to Kampuchea. 2. Shooting ships from China en route to Kampuchea.

"II. Military forces the Soviet Union used in the attack on Kampuchea: 1. Military forces used in the attack were the Free Khmer of Son Ngoc Thanh and soldiers who fled to Thailand and Vietnam after April 17. 2. As per directives, the Soviets took Vietnam and Laos as a vanguard force for fighting against Kampuchea. But the Soviets used Kampuchea Krom to fight against Kampuchea in order to resolve the Kampuchea-Vietnam conflict.

"III. Deadline for the attack: 1. The U.S. and Soviets planned to strike at Kampuchea at the beginning of 1977.

"IV. First phase of the attack: 1. The Soviets used forces along the borders of Vietnam, Laos, and Thailand to launch attacks on Kampuchea. 2. The forces moving in from Vietnam, Laos, and Thailand were to meet each other in Kratie and basically try to take control of the left side of the Mekong River. They were to occupy Kratie, Stung Treng, Rattanak Kiri, and Kampong Cham Provinces in the first period. 3. The Soviets utilized 50,000 troops to launch an offensive on Kampuchea using Angolan techniques. 4. The Soviets used tanks and 10,000 infantry to come through Pochentong and obliterate it in just one night. 5. The Soviets employed 20,000 troops [marines] to attack Kampuchea by sea. During the offensive, Vietnam opened its river route for the Soviets to transport its troops and equipment to Kampuchea.

"V. Coping with victory: 1. Immediately after the victory, organize a government in the captured regions. 2. Organize a government imitating the Angolan style. 3. Second period was to occupy the entire country.

"VI. Sources of Plans: 1. Plans were organized by the U.S., the Soviets, and Vietnam. The U.S. encouraged the Soviets to act publicly, while acting as a supporter. 2. These plans were designed

in October 1975.”

Huot Sambath's confession named 19 people involved in these traitorous activities. They were: Chau Seng, Penn Nhach, Bun Srun Kim, Nou Pech, Hor Namhong, Chuon En, Keat Chhon, Sarin Chhak, Ok Sakun, Chem Snguon, Pen Stham, Kie Laing Hak, Ker Meas, Duong Sam Ol, Thach Suong, Savart, Phurissara, Srei Saut, and Chan Youran.

Arrest and Death

Huot Sambath expressed his sincerity toward Angkar in his confession: "...the following is my report written from the bottom of my heart...I have never received money from or made any report to the imperialist U.S., particularly the CIA. I do not even have personal money, or a house in foreign countries; Angkar can find this out easily... When I worked for the U.N, I strongly opposed the U.S., and gave support to friendly nations, which were not members of the U.N, such as the Republic of China, Korea, and Vietnam. They harshly criticized the imperialist U.S..."

Huot Sambath stated that his purpose for returning to Kampuchea was to beg the party's pardon: "I do not have any faithless purpose for coming to our lovely home. I try as hard as I can to take part in rebuilding and defending our country with nationalists and revolutionists according to the just policy of our marvelous revolutionary Angkar... Please, Angkar, do not execute me. I will serve you with all my heart and soul. If you do not pardon me, I would like to beg Comrade Chairman to keep my children and my wife alive. For I did not betray my country and comrade also knows my wife and children well..."

Huot Sambath was arrested on September 9, 1976. He was "smashed" two months later on November 17 after being interrogated 12 times. During his detainment period, he suffered disease, became bony thin, and had serious diarrhea. His homecoming was not just a disappointment; it cost him his life.

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Minister of Information and Propaganda, Hu Nim, was elected to the National Assembly in 1962. He completed his doctorate in public administration at the University of Phnom Penh in 1965.

Hu Nim, like Khieu Samphan and Hou Youn, was a prominent spokesperson for administrative and educational reform. In addition to their public responsibilities, all three men found time to establish and teach in *lycees* for poor students. Many of their former students were active in distributing National United Front leaflets in Phnom Penh during the early stages of the war.

KHMER ROUGE SLOGAN

◆ We should not display aggression through military or economic force; rather, it is preferable to use human power and spiritual force. Humans can use their power to control military and material matters. (*Nhok Sarun Notebook*)

*Please send letters or articles to
Documentation Center of Cambodia (DC-Cam)
P.O. Box 1110, Phnom Penh, Cambodia
Tel: (855) 23-211-875
Fax: (855) 23-210-358
Email: dccam@bigpond.com.kh
Homepage: <http://welcome.to/dccam>*

MASTER GENOCIDE SITE DATA

MAPPING THE KILLING FIELDS OF CAMBODIA 1995-2000

No.	Site No.	Site Name	Data of Pits and Victims by SITE FORM		Data of Pits and Victims by FIELD REPORT		YEAR Report
			Estimated Pits	Estimated Victims	Estimated Pits	Estimated Victims	Report Set/Year
58.	140803	Wat Sla	N/A	N/A	N/A	N/A	1995/96
59.	140804	Wat Kanh Chorn	34	5,000	26 + ponds	more than 5,000	1995/96
60.	140903	Prey Andaung	more than 100	N/A	about 100	N/A	1995/96
61.	141001	Tuol Kraing Svay	41	5,000	41	N/A	1995/96
62.	141002	Tuol Kraing Svay	N/A	N/A	N/A	N/A	1995/96
63.	141003	Tuol Kriem Kor	270	3,000- 5,000	270	more than 5,000	1995/96
64.	141004	Wat Chass	1	3,000 skulls	N/A	3,000	1995/96
65.	150109	Boeng Batt Kandal	N/A	N/A	N/A	N/A	1995/96
66.	150110	Prey Pheak	300-400	15,000	N/A	N/A	1995/96
67.	150111	Daun Am	2	950	2	950	1995/96
68.	150202	Kbal Chheu Puk	1	800	1	more than 800	1995/96
69.	150203	Tuol Ta Pev	30	300	N/A	300-500	1995/96
70.	150407	Wat Kandal	N/A	N/A	N/A	N/A	1995/96
71.	150408	Wat Kandal	300	900	3	900 + thousands	1995/96
72.	150504	Wat Koh Chum	N/A	N/A	N/A	N/A	1995/96
73.	150505	Wat Koh Chum	100	1,300	N/A	N/A	1995/96
74.	171001	Wat Adthekaram	2	N/A	at least 8	8,000	1995/96
75.	171002	Vityealai Siem Reap	N/A	N/A	N/A	N/A	1995/96
76.	171003	Trapeang Seh	N/A	N/A	N/A	N/A	1995/96
77.	171004	Kuk Siem Reap	N/A	N/A	N/A	N/A	1995/96
78.	171005	Wat Thoamayutt	N/A	N/A	N/A	N/A	1995/96

79.	180101	O Trav	250	1,000	N/A	N/A	1995/96
80.	180201	Ta Ney	N/A	N/A	N/A	N/A	1995/96
81.	180202	Ta Ney	N/A	N/A	N/A	N/A	1995/96
82.	180203	Chamkar Mrech	more than 200	1,500	about 200	about 120	1995/96
83.	180204	Wat Tuol	N/A	N/A	N/A	N/A	1995/96
84.	180205	Veal Sbauv	more than 50	N/A	N/A	N/A	1995/96
85.	180206	Tuol Chamkar	30	N/A	N/A	N/A	1995/96
		Kaosou					
86.	180207	Koh Khyang	7	more than 100	2	N/A	1995/96
87.	180208	Ta Sek	3 (?)	N/A	some pits	N/A	1995/96
88.	180209	Ta Sek	N/A	N/A	N/A	N/A	1995/96
89.	200101	Tup Khsach	439	1,813	N/A	N/A	1995/96
90.	200201	Ta Na	5	214	5	thousands	1995/96
91.	200202	Ta Na	N/A	N/A	N/A	N/A	1995/96
92.	200203	Wat Russei Sanh	5	319	3	1,000 skulls	1995/96
93.	200204	Russei Sanh	N/A	N/A	N/A	N/A	1995/96
94.	200501	Thlork	N/A	N/A	N/A	N/A	1995/96
95.	200502	Thlork	41	thousands	41	10,000-15,000	1995/96
96.	200503	Wat Svay Pha-em	14	168	2	44	1995/96
97.	200504	Wat Chass	N/A	N/A	9	101	1995/96
98.	200505	(Sarakk Munty)	28	20,000-30,000	28	330	1995/96
		Boeng Rai					
99.	200701	Wat Kdei	N/A	N/A	several mass	N/A	1995/96
		Rumduol			graves		
100.	210601	Tuol Svay	N/A	N/A	N/A	N/A	1995/96
101.	211001	Phnom Sanlung	16	N/A	more than 1	N/A	1995/96
102.	211002	Wat Prey Pha-av	N/A	500 (?)	N/A	N/A	1995/96
103.	211003	Wat Cheung Chap	N/A	N/A	N/A	N/A	1995/96
104.	210602	Wat Po Meas	N/A	N/A	N/A	N/A	1995/96
		Andet					
105.	210901	Wat Kraing Ta	21	10,042	N/A	N/A	1995/96
		Chann					

(Continued in the October 2001 issue)

(Continued from the August 2001 issue)

After listing the date, S-21 workers and many low-ranking prisoners named the people who had vouched for them. The sponsors were usually village officials or military cadres.

The next questions provided space for “reasons for entering the revolution.” In the confessions this often revealing item was almost always missing. Instead, immediately or shortly after they “entered the revolution,” most prisoners admitted to having entered the service of the CIA or another foreign power.

Ironically, the austere ceremonies that some of the prisoners connect with joining the CIA resemble those set out in Party statutes for joining the CPK. Prisoners remember swearing allegiance and facing a flag in the presence of their sponsors. Forced to admit joining something that most of them had never heard of, they resurrected the only political step that any of them (or their interrogators) had ever taken.

Some older prisoners, to be sure, identified the CIA specifically with the United States. They claimed to have been recruited by American agents and confessed to being paid enormous salaries in dollars. Other claims were equally fantastic. Phe Di, arrested in the Northern Zone in June 1976, for example, sketched an identity card he claimed he had been given in the Lon Nol era, signed by “the Chief of the CIA” in Phnom Penh, John B. Devine (?). Another prisoner said he had been recruited by an American named “Kennedy” in the 1960s and confessed that one of his high school teachers, Khieu Thirith (who had been Ieng Sary’s wife since 1952), had been a CIA agent. This bizarre accusation led Duch, when he read it, to scribble nervously in the margin: “Whose wife is she? What

evidence do you have?”

Another prisoner, knowing only that the “CIA” was in some sense the opposite of DK, asserted that the acronym meant “having enough to eat”; others claimed to have been told by their recruiters that “with CIA there will be women and liquor and theaters and markets, stone houses and automobiles to ride” or that after joining the CIA they would be “be free to move around [because] there aren’t any rules (*viney*).” A more acceptable definition to the CPK came from

Penh Sopheap, the daughter of Sok Thuok (alias Von Vet), a high-ranking CPK cadre. She was arrested with her father in 1978. She recalled her mother telling her that “CIA is a person who burrows inside the Party.”

Steve Heder had suggested that in S-21 confessions, “words like CIA and KGB...became generic descriptions of enemies. If you said somebody was CIA, you didn’t mean that he was organizationally a member of the CIA, you just meant that he was an enemy.” Similarly, in the Cultural Revolution in China, it was not important what an enemy

was called, so long as he or she was dramatically read out of society and effectively condemned. “To discredit a person,” a document at the time asserted, “the following can be used: rightist, ultra-leftist, counter-revolutionary, bad element, agent of the USSR, USA, KMT, etc.” In a similar vein, Lynn White had argued that “measures for labeling people” constituted an aspect of Chinese policy in the Cultural Revolution that was conducive to widespread violence. His insight can be applied to DK, where anyone labeled repeatedly as an “enemy,” regardless of corroboration, was brought to S-21 or executed on the spot.



VOICES FROM S-21
CHAPTER FOUR: FRAMING THE QUESTION
David Chandler

In affiliating offenders with foreign intelligence agencies, the interrogators at S-21 were following precedents from the Soviet Union in the 1930s, where prisoners were accused of working for foreign intelligence agencies trying to overthrow Stalin's regime. Since no loyal Soviet citizen could conceivably oppose the regime, people who did so were by definition "non-Soviet." In Cambodia, people accused of betraying the revolution were similarly thought to be non-Khmer. A speech by Pol Pot in December 1977 noted that we have [expelled] the international spy networks. The three big ones are the American CIA, the Soviet KGB, and the network belonging to the Vietnamese consumers of territory. These espionage networks have been buried inside our party, inside our army, and inside our people for more than twenty years.

In 1997, Pol Pot told Nate Thayer that "Vietnamese agents" had been responsible for most of the deaths that occurred under DK. How could it be otherwise, given the purity of the Party's intentions, the intrinsic innocence of ethnic Khmer, and the scientific basis of the Party's vision?

The next sections in the autobiographical questionnaires asked for lists of "strong points" and "shortcomings." In the confessions, a person's "strong points" disappeared, and "shortcomings" were absorbed into the "history of [my] treasonous activities." The "histories of treasonous activities," in turn, not only listed actions by the prisoners but often also reported conversations in which acquaintances complained about life in DK. Many of these complaints foreshadow the criticisms of DK by people who escaped or survived the regime. They depict a nation whose people were plagued by poor, inadequate food, who wore ragged clothing and worked too hard, who were subjected to constant surveillance and bullying, and who suffered from endemic distrust, excessive Puritanism, and restrictions on freedom of movement.

What the prisoners missed most, it seems, was happiness, an elusive but almost palpable condition that they connected with family life, abundant food,

and the freedom to go where they pleased. This nostalgia also affected prison workers. When the prisoner Yos Thoeurn complained that in DK "we live like animals in a cage" and Huy Savorn compared the revolution to "being in jail," the workers recording the accusations must have silently concurred. Similar statements surfaced later in some of their own confessions.

Most of the prisoners were young combatants with a limited knowledge of the world. None of the confessions that I have seen, for example, took issue with such DK policies as the closing of schools and newspapers, the disempowerment of the rich and educated, the abolition of law courts and elections, or the forced evacuation of the towns. Three that I have located complained about the suppression of religion, but they lamented the loss of festivals rather than of Buddhist teaching or monasticism. Those that mourned the loss of ranks (*sakdi*), prestige (*muk mo't*), and honors (*ket'yuos*) did not regret the disappearance or humiliation of high-ranking people or the destruction of Cambodia's bourgeoisie. Instead, the prisoners who regretted the loss of privilege confessed that they wanted it for themselves.

Prisoners also complained frequently about the harsh discipline imposed by revolutionary life. Under DK, they said, they were unable to "go where they wanted" (*teu tam chet*), to "stroll" (*dao lenh*), or simply to "play" (*lenh*) with their families and friends. Under DK, they were always working and always pushed around. Nop Nuon, a former interrogator, complained that "the Organization orders us around like cows or buffaloes," and Kim Chhoeung noted sourly that "we live under the leadership of others. You need permission to do this, you need permission to do that...In the [1970-1975] war we soldiers had difficulties, too. We never thought of them in the life-and-death battlefields, though, because what we wanted [in the end] was to be free or happy, but when the war stopped, suddenly everything was just as difficult [as ever]."

Many prisoners missed having the freedom to decide what they might do next. While they were

willing of condemn “freedomism” (*sereipheap*) in political meetings and obediently connected this form of evil with the United States, many of them fondly remembered the personal freedoms they had enjoyed before the civil war. Prum Yon described his “counterrevolutionary” stance as follows: “If I want to eat something, I eat it; if I want to do something, I do it; if I want to go somewhere, I go.” Another prisoner recalled that “in the old society, there were no secrets, and if you had some money you could be happy”; a third confessed to the “crime” of “encouraging people to love the happiness that they had enjoyed in the past.”

Prisoners also missed the pleasures of living among relatives and friends. Some of them expressed nostalgia for gambling, dancing, theaters, movies, alcohol, and extramarital sex—“sinful” pleasures that were frowned on and curtailed in DK. These regrets crop up so often in the confessions of young prisoners as to suggest that they were saying what they imagined their interrogators wanted to hear. While it is unlikely that many of the young prisoners had ever had the time, money, or leisure to become gamblers, alcoholics, or libertines, “crimes” of this kind were perhaps the only they could readily imagine. Asked to write about “counterrevolutionary” actions, prisoners dredged up or invented sexual encounters, playful conversations, card games, or drinking bouts. Several female prisoners were coaxed into confessing serial liaisons; male owned up to a series of one-night stands.

Many prisoners expressed a generalized nostalgia for prerevolutionary life. Complaints of this kind often recur word for word in documents written several months apart. It seems likely that copy deemed suitable for confessions was spooned into the texts by the interrogators or document workers regardless of what a given prisoner had done or said. It is also possible that the confessions of many low-ranking prisoners were cobbled together by document workers without much interrogation, once the general outline of appropriate “crimes” and what constituted acceptable complaints was clear. Indeed, the former interrogator

Chhim Chhun admitted in his confession that he “only wrote the [prisoners’] stories that were easy to write. If a story had too many relationships [in it] and was hard to write I threw it out.”

Even with these constraints, the confessions that describe the shortcomings of the revolution are often extraordinarily frank. For example, in July 1977, Chhin Cheap, formerly a soldier in Division 310, recalled a conversation with one of his friends.

“Chhun of Division 310 made me see that the revolution was pitch dark (*ngongut*). He said, “Doing a revolution these days is difficult and confusing, from the standpoint of clothing and nourishment; there’s never enough of either.” He said, “When the war was on, that was difficult enough, but when it stopped things became even more difficult. There was no time to rest. To make a comparison, it’s like they order us around like cattle but don’t even let us eat grass. What’s more you can’t live where you like, there’s no freedom, you can’t even walk a short distance without permission. The way we live now is unhappy. There’s no fun.... If we look at the old society, on the other hand, sure, our parents used to work, but not too hard, and they never lacked food, they were happy, they were independent, easy. If we wanted to do something we could do it, provided we had money.”

A month earlier, Dith Kung, also a soldier, had remembered:

“In February 1976, Sung told me, ‘If you do a socialist revolution, food isn’t tasty, and you work without stopping to the point where young people collapse at their work places. You work all day and all night, there’s no time to rest, you have no freedom at all. Doing a revolution means eating rice gruel morning and afternoon, and there’s not even enough of that. To go some place or come from some place you need a letter.

There’s a rule for going out and a rule for coming in. When you do a socialist revolution there are no wages, either, no ranks, no women, no alcohol, no gambling, no cars to travel in. You just walk everywhere.”

(Continued in the October 2001 issue)

CLEAN-CUT CHILDREN, A FAILURE OF THE REVOLUTION

Keo Kanitha Kim

“Only children can purely serve the revolution and eliminate reactionism, since they are young, obedient, loyal and active,” said Ieng Thirith, Minister of Culture and Social Affairs, in a Council of Ministers meeting on May 31, 1976. Her statement echoed the sentiments of Comrade Secretary Pol Pot. Indeed, the children’s quality of being a “clean cut” (having no formal education or relations to enemies of the regime) was an advantage to the Khmer Rouge in terms of being easy targets for indoctrination.

The shortcomings of children were also noted at the meeting. The main one appeared to be that they were “too blank,” that is, they lacked education of any sort. However, these and other problems were thought to be temporary ones. But the Party took no measures to solve the problem of “blankness,” other than providing the most rudimentary education, and the problems became more or less permanent. Together with the official

policies and actions of the government, which kept children separated from their parents and prevented them from learning basic skills and values, this “blankness” became a cause of failure of the revolution. Those who were children during the revolution have been suffering the consequences ever since. The case of Chey Sarin, who was 16 years old when the Khmer Rouge fell from power, provides an example.

Chey Sarin, who resides in Takeo Province, is almost illiterate. She had only one hour a day of schooling for one year. After that, she studied nursing while working as a medical cadre at January 6 Hospital (today, this hospital is called Muntipet Thom in Phnom Penh). Sarin was trained for three months on recognizing medicines and giving injections. She identified different types of medicines by their shapes, which allowed her to know which medicines could be injected into the hips and which could be inject into veins. Later, Sarin practiced giving injections using cushions and banana trees.

Sarin was not qualified as a “pure comrade” able to build a new society and new revolution, as stated by the Khmer Rouge’s principles. Female comrade Ieng Thirith agreed that hospital cadres misused drugs because they were illiterate. Riel San, chief of Tram Kak district’s hospital during the Democratic Kampuchea regime, also noted the mishandling of medicine by her hospital staff, which killed the patients.

Before the Pol Pot regime collapsed in 1979, Sarin and some patients fled by train toward Battambang Province. There, she was chosen to be a nurse in the military. She managed to escape, but was captured in Pursat Province and sent to dig the so-called “Victory Channel.” Sarin again escaped from being forced to work at the channel. “I can never forget the day I escaped from the channel work site. Sometimes, I dream of soldiers chasing and shooting me from behind,” she recalled.

Sarin’s childhood was not different from those of other Cambodian children who were selected to



Chey Sarin

serve the Khmer Rouge revolution. All children were regarded as sons and daughters of Angkar, and the party felt that they should be grateful only to Angkar. Children were no longer the children of their parents.

In order to show equality and comradeship to everyone, the leaders of children’s units taught children to address each other - and even their parents - by the word “comrade.” However, it was difficult to break the bonds between parents and children. Sarin had always returned home to see her parents, but later, when she feared severe punishment, she decided to cease visiting them. During the regime, Sarin dared not communicate with her older siblings, fearing that if her siblings did something wrong, she herself would also be punished. Now she realizes the importance of family, but stated: “It is too late; my older siblings have never returned home.” Currently, Sarin, age 37, lives in Trapang Thom Village, Northern Trapang Thom Commune, Tran Kak District, Takeo Province.

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DK Minister of the Interior, Cooperatives, and Communal Reform Hou Youn received his doctorate in economics from the University of Paris in 1955. He was elected to represent Kampong Cham Province in the Cambodian National Assembly in 1958, and was subsequently re-elected until his flight from Phnom Penh and resignation from parliamentary politics. Hou Youn is considered more outspoken and aggressive than Khieu Samphan and a more orthodox Marxist as well.

KHMER ROUGE SLOGANS

Building Socialism

- ◆ Storm attack to win the battles of agriculture, industry, and handicrafts 100 percent and more.
- ◆ Storm attack to win the battles of harbors, warehouses, land and sea transport, and commercial activities 100 percent and more.
- ◆ Storm attack to win the battles of social affairs, health, education, and information 100 percent and more.
- ◆ Storm attack to win the battles of salt production and fishing 100 percent and more.
- ◆ Storm attack to win the battles of rubber plantations, cotton, hemp, sugar cane, and other strategic crops 100 percent and more.

(Notebook 076)

Raising people’s living standards

- ◆ Strive to carry out the food allowance policy determined by the Party from the beginning to the end of the year
- ◆ Good cadres and committees are those who are swift in helping people from all sectors and raising their standard of living constantly with attitudes of high responsibility and creativity.
- ◆ Strive to maintain and increase people’s living standards through the indoctrination of political ideology. *(Notebook 076)*
- ◆ Comparison of wrath is not comparison of military and economic force; it is comparison of human and spiritual force. In other words, human beings are required to lead economic and military forces. *(Nhok Sarun Notebook)*

THE KHMER ROUGE VIEW ON CAUSES AND EFFECTS OF SIHANOUK'S RESIGNATION

Bunsou Sour

On March 11, 1976 the Democratic Kampuchea government called a meeting of the Front Standing Committee and its members Comrade Secretary, Comrade Deputy Secretary, Comrade Von, Comrade Khieu, Comrade Hem, Comrade Doeun, Comrade Tum and Comrade Touch. The single agenda was Sihanouk's resignation.

The minutes of the meeting noted that Comrade Hem (Khieu Samphan) reported to the Committee about the King's resignation. The King had already sent two copies of his letter in French. One proposed resignation and stated his main reasons for taking such an action, one of which was his health. The other was a report to "the people of Democratic Kampuchea confirming that he would resign prior to March 20, 1976."

The minutes recall the King's complaint: "When he met with the ambassadors from Mauritania and Senegal, Sihanouk showed them his commitment to resign. Indeed, when he met the Chinese economic and commercial delegation, he complained about his health conditions..." The King himself also told his patrons in Belgrade before his return to Cambodia that, "The government of my country asked me to go on a mission to the United Nations and other ten countries. Today it comes to an end. I will never fulfill any mission for the sake of the new regime. I'm willing to resign. However, I regard myself as a soldier who wishes to be dismissed from military service. Thus, I must return to my fortress where I would change my uniform to that of an ordinary person's."

Based on Angkar's comment, there are two reasons for the King's willingness to withdraw from his position, and they are both long- and short-term reasons. Angkar argued that the long-term cause was a class contradiction between the revolution and the King and his royal family. "He can never stay with us. But to date, he has been unwilling to give up his title because he has been seduced by thinking he has real power. Although he

has said since 1971 that he has been willing to resign, Sihanouk will not resign."

Angkar's passage adds that the short-term cause was a strategic contradiction, "We have given our permission for diplomats to go abroad without his knowledge. Even though it is a small thing, it means that we don't need him anymore. But he still appears to pursue his position."

The Khmer Rouge seemed to profit from the King's presence in terms of foreign relations. However, they did not really need the king for domestic purposes. As a Khmer Rouge notebook in the archives of the Documentation Center of Cambodia states, "...for the national and democratic struggle for socialism, the King remains in the same position. Yet, the party practices its power to curb subjective factors from the outside. And absolutely, he must not be allowed to grasp power."

This passage demonstrates that in the eyes of the Khmer Rouge, the King was not an essential element of the Khmer Rouge's leading apparatus. "Following the coup d'état, our revolutionary movement develops with a great leap forward by our own sufficient subjective factors. With Sihanouk's and the world's additional factors, there must be sustainability and evolution with this speed." The King admitted to having presided over only two meetings of the Council of Ministers under his position as Head of State. The first meeting was held in September 1975, when Khieu Samphan, Son Sen, Hou Nim, Koy Thuon, and Tauch Phoeun reported to him about the progress and accomplishments they had made in their respective ranks during the period between April 17, 1975 and the King's return to Cambodia in September of that year.

The minutes describe the King's life, surrounding environment and his feelings about his position. "The King has no job to do; he is bored and disrupted by the surrounding environment, especially by his wife's crying all the time. He cannot stand any longer, in case he

wishes to do so. At the most, he would [leave] in one or two years' time. [I would] Rather he leave [now] than later." The King also expressed the same feeling, "I have no work to do for my country or 'my former people.' Incarcerated in a state of having nothing to do, to kill the time, I tried to read articles describing delicious French dishes.... I resorted to imagine [everything in] France so that I could forget my ill-starred Cambodia."

The meeting asserted that his resignation would come as a great relief to the people of Cambodia, cadres, and armies, and that "resolution to the organization in our state will go smoothly. As far as foreign affairs are concerned, the Khmer Rouge perceive the King as a main ingredient. However, in the Khmer Rouge concept, Angkar has to be optimistic that no problem would arise after his resignation. Our foreign affairs will be better than before as we cope with them by ourselves based on our stance. Because without Sihanouk, everything will become more transparent." As for the negative effects of the King's relinquishing his throne, Angkar stated: "On the one hand, the Vietnamese will attack us wondering why we left Sihanouk, who has helped us, behind. On the other hand, they will, with other revolutionaries, say something good about themselves and bad about us." Nevertheless, "This is just a temporary state," the passage suggests, "Once we appear to be close to them, there will be no problem."

At this stage, although the Khmer Rouge did not need King Sihanouk, they recognized the King's achievements, talents, and the favor he enjoyed with the people. "Our stance and the government's could not help appreciating him for his accomplishments for the nation, especially in the international arena. His attainment has already been authorized by the [National] Conference. We wholeheartedly respect the cooperative. A promise is a promise. But [we] want to have him with our people who, as always, support his attainments. We are very pleased, and are undertaking all-out efforts to put this decision of the national conference into real practice."

In the second plan, which was to be applied in the case of the King's refusal, Angkar pointed out, "We will hold a meeting of the Council of Ministers for a final decision." As stated by Comrade Hem's report, King Sihanouk would never be willing to abdicate, as the meeting had been predicting. In "Angkar's Comment" on

the night of the 13th, Comrade Hem clarified, "He [the King] will absolutely resign." Comrade Hem added that the King had insisted repeatedly, "Please, Angkar, pity me. I would do whatever I can, including crippling or paying homage so that I could have a chance to resign."

Comrade Secretary considered the King's withdrawal to be a hugely important issue: "Let the Central Angkar decide." Meanwhile, Comrade Secretary formed a plan that the entire Standing Committee approved. The main ideas included banning the King from going abroad and holding a meeting of the Council of Ministers which would use the radio to call for the return of his children to celebrate the new year days and independence day. "We want to be clean-cut on this issue. We will do whatever needs to be done for the revolutionary interests."

"Although he contradicts us, he still joins us. Therefore, the party has decided that he should continue in his position as head of state." Angkar's comment says, "But he doesn't agree. Therefore it's up to him whether to stay or to leave."

"Angkar's Opinion" from the meeting on the night of March 13 used strong words, "It is necessary to put an end to feudalism. We have reached this stage. The whole feudal regime has been destroyed and definitively dismantled by the Revolution. The Monarchy, which has existed for over 2000 years, has finally been dismantled. We do not have any other alternatives. Reactions will certainly take place, but we must follow the path of the Revolution in order to win. Henceforth, Sihanouk shall not be allowed to meet foreign diplomats. We shall give them valid reasons to explain the situation."



Ieng Sary

Vorn Veth

EVIDENCE IN THE PROSPECTIVE TRIALS OF FORMER KHMER ROUGE OFFICIALS

John Ciociari

(Continued from the August 2001 issue)

C. Some Practical Evidentiary Issues

In the preceding section, I discussed the potential evidentiary applications of the materials held by DC-Cam. However, in order to utilize the DC-Cam materials effectively in a court of law or a special criminal tribunal, the prosecution will have to address a number of practical evidentiary issues. While the specific rules of evidence to be applied in prospective Khmer Rouge trials remain unclear, there are certain steps the prosecution will undoubtedly face, regardless of the particular rules adopted by the responsible court or tribunal. This section briefly discusses some such considerations.

1. Criminal Investigation

To be applied as evidence against former CPK officials, the DC-Cam materials must first be reviewed as part of a thorough criminal investigation. As DC-Cam holds over 350,000 pages of documentation, the investigation process will necessarily be limited to some fraction of the total materials. The DC-Cam Director and Staff intends to manage its affairs in the manner that will best assist the criminal investigators, ensuring that the investigators review and collect all potentially relevant and probative evidence.

2. Authentication

Before submitting the DC-Cam materials as evidence, authentication procedures will also be necessary. The original CPK documents are over twenty years old, and the tribunal will undoubtedly require the prosecution to demonstrate that the documentary evidence is authentic and has not been corrupted. Those showings will require both forensic testing and the establishment of a chain of custody for each submitted document. DC-Cam will assist the

prosecution in the authentication process in any way possible and to establish that the documentary evidence is not tainted by corruption.

3. Custody

Documents of potential evidentiary value must be held in custody and preserved for the use of the court. DC-Cam is experienced in the physical storage and handling of deteriorating documents. However, DC-Cam is not a legal institution and is thus unfamiliar with the procedures employed by criminal courts and tribunals for maintaining and preserving documents in custody. DC-Cam intends to facilitate that aspect of the trials as much as possible and has sought the guidance of the ICTY on how to be of the greatest assistance.

4. Information Management

Given the large number of documents of potential evidentiary value, the responsible court or tribunal may implement a relatively sophisticated system for information management. Such a system would be apt to include a numerical means of tracking documents. DC-Cam has consulted the ICTY and will make every effort to facilitate the clear and efficient tracking of its documents and other materials. DC-Cam will also provide the prosecution with a detailed explanation of its own tracking system and any necessary training.

5. Access Regulation

Throughout the course of the upcoming trials, DC-Cam will have to carefully preserve the state of its holdings. To do so, DC-Cam must implement a sound policy limiting public and institutional access to its documents. DC-Cam has been working with the ICTY and others to prepare a policy that will meet the needs of the responsible court or tribunal while preserving

the integrity of the documents and other evidentiary materials.

D. Witness Corroboration

Documentary evidence may form the backbone of the prosecutions of former CPK officials, but in a criminal court or tribunal, there is no substitute for the rhetorical power or corroborative value of eyewitness testimony. The DK regime left behind it many hundreds of thousands, if not several million, potential witnesses of the alleged criminal activities of the CPK. The DC-Cam materials provide countless leads for such potential witnesses and can be a good starting point for the prosecution in conducting witness interviews. Such testimony will be important, both in its own regard and as a way to corroborate some of the vast documentary evidence against the former Khmer Rouge officials on trial.

A highly detailed discussion of potential witness testimony is beyond the scope of this Legal Report. Nevertheless, live testimony can provide vital support for the DC-Cam materials and merits some discussion in this Legal Report. The following subsections provide some suggestions for the type of information witnesses can provide that will be most helpful in corroborating the documentation and contributing useful evidence to the prosecution. When the prosecutors begin to interview potential witnesses, they will need to determine which witnesses are able and willing to provide the most useful testimony.

1. The Desired Testimony

The overall goal of witness testimony is to provide evidence (and to support the documentary evidence) that the accused CPK officials bear command responsibility for specific criminal acts. Therefore, witness testimony will be most useful if it includes the following types of information: (a) the identity, CPK position (if any) and precise whereabouts of the witness during the DK period; (b) specific, punishable criminal acts carried out by members of the CPK; (c) the identities of the perpetrators and their positions in the CPK; (d) information about the village, district

and regional chain of command; and (e) a description of the widespread or systematic nature of crimes committed by members of the CPK.

To illustrate my point, the following examples show the contrast between very helpful testimony and testimony of much lesser evidentiary value:

Strong Evidence: “...in village A of district B, sub-district C, region D, I saw a number of criminal acts committed by CPK cadres. For example, in early March 1976, two men named X and Y, who were soldiers in the district military forces, Battalion 100, came to my village and shot my friends F and G for speaking out politically against Angkar...X and Y were part of a unit commanded by P, whom I saw give them orders on many occasions. P was a district military commander...”

Weaker Evidence: “During the DK period, I lived in a village in Battambang province. I saw many people taken away. I don’t know what happened to them. Many others were killed. My brother and my father were sent away to the camps.”

The second statement above contains the type of narrative the prosecution would get from many potential witnesses. While it can be used as circumstantial evidence that widespread atrocities occurred, it tells us nothing about the command structure, the particular offenses committed, who committed them and other important information.

2. Interviewing Potential Witnesses

Most potential witnesses are apt to give relatively non-specific responses in an interview, because they are unaware of the precise types of information that is useful in a legal proceeding. For example, it would rarely occur to most potential witnesses that giving court or tribunal specific information about village and sub-district leadership chains will do as much (or more) for the prosecution as telling about disappearances of people they knew. For that reason, it will normally be best to conduct a structured interview, guiding the witness toward the most useful information. Of course, allowing an interviewee to tell his or her story is not

inherently harmful to the evidence, but sometimes the necessary legal details can become buried or forgotten in the course of narrative.

The key to a good witness interview will be balancing openness with some measure of control. A potential witness is likely to be most forthcoming if the interviewer's questions and demeanor convey sincere interest and build trust. Sometimes, potential witnesses will need to digress in order to recall events that happened long ago. However, the interview will be advised to provide subtle direction to the witness, keeping him or her relatively focused on the most helpful evidentiary information. Below, I have provided a brief discussion of the types of information that will comprise the most useful testimony.

a. Whereabouts

The first component of useful testimony will relate to the potential witness's identity. Useful information includes: (i) where he or she lived between April 17, 1975 and January 7, 1979; (ii) the CPK zone, region, district and sub-district in which his or her village was located; (iii) whether he or she lived anywhere else during the DK period; (iv) whether he or she had always lived there; (v) if not, why he or she went there. If the potential witness was forced to go to the village or cooperative in which he or she lived during the DK period, it will be useful to know (i) who forced him or her to go there; and (ii) what if anything was said to him or her during the forced relocation.

b. Position

A second useful area of information will surround the position the potential witness's position during the DK period. Useful testimony will include the following: (i) whether he or she worked during the DK period; and (ii) if so, the nature of his or her occupation. If the potential witness worked for the CPK at any time during the period, it will be useful to know (i) his or her exact position(s); (ii) his or her superiors for each such job; (iii) their superiors, if known; and (iv) how orders were given and received

in his or her branch of the CPK.

c. Criminal Acts

Obviously, the most useful oral testimony will also include information about criminal offenses committed or observed by the potential witness. If the potential witness ever tortured or killed someone, forced someone to labor, imprisoned someone without a trial, took a child forcibly from his or her family, or persecuted anyone in another fashion during the DK period, ideal testimony would include (i) a complete description of the act or acts; and (ii) why he or she committed the act or acts. If he or she was ordered, the prosecution will need to know (i) who ordered him or her to commit that act; and (ii) whether anyone higher up in the command chain was the origin of the order. If no order was given, it will be useful to know (i) whether his or her superior (and their superiors) knew about the act or acts and, (ii) if so, whether his or her superiors punished him or her in any way.

Naturally, a potential witness may also have useful information about crimes committed by other persons. If the potential witness ever saw a member of the CPK torture or kill someone, force someone to labor, imprison someone without a trial, take a child forcibly from his or her family, or persecute anyone in another way, the prosecution should determine (i) the exact nature of the act or acts; (ii) exactly when and where the act or acts occurred; (iii) the identities of the CPK members involved; and (iv) the positions of the CPK members involved. If the perpetrators gave any explanations for their act or acts, the testimony should include (i) what they said; (ii) whether they had been ordered to commit the act or acts; and (iii) how the witness acquired such information. It will also be useful to determine whether the potential witness knows the identities of the perpetrators' superior(s) and whether the perpetrator(s) were punished or reprimanded in any way. Again, the witness's source of information should be disclosed.

(Continued in the October 2001 issue)

A PERMANENT INTERNATIONAL CRIMINAL COURT

Seng Theary

The second half of the 20th century has witnessed an unprecedented advancement of human rights. From Haiti to the former Yugoslavia to Rwanda, human values are piercing the veil of the monolithic state and challenging the foundation of its values. Hitler was among the first to give a reason for actions that penetrated state sovereignty. The atrocities of World War II aroused the ire of the Western world, which viewed the mass extermination of the Jews as an affront to the collective dignity of mankind. This moral outrage expressed itself in the Nuremberg Trials, which in turn formed the impetus for the founding of the international human rights movement. For the first time in history, a state (and individuals) were held internationally responsible for crimes committed inside its territory and on a mass systematic scale. Spain's unilateral arrest of Chile's General Pinochet highlights but one current example of how content-rich yet ever contentious the human rights culture has become since its inception.

Despite the immense progress in the internationalization of human rights, all is not well. The transition from a bi-polarity to a multi-polarity world came with the end of the Cold War, but resulted in the proliferation of many "hot spots" around the world. The modern world has known many Hitlers and many killing fields, people and places brought out from their obscurity by national, ethnic, racial, and religious "cleansings" that resulted in the eradication of huge sections of a country's population. However, because states continue to be the constitutive actor of the international system, the perpetrators of these

atrocious crimes are more likely than not to roam freely under the protective guise of state values.

The Zeitgeist at the dawning of the 21st century poises the international community to further and effectuate the principles promulgated half a century ago in the Nuremberg Trials and various UN Conventions. This paper argues for such effectuation of principles in the establishment of a permanent international court to try criminals who committed genocide, war crimes, and crimes against humanity. The first part of the paper sets out the rationale for such a court. It argues that the establishment of the court is our moral imperative, gives expression to the values promulgated in the Nuremberg Principles and other UN Conventions, and promotes the culture of human rights.

The second part of the paper critiques the responses of the present international system in dealing with perpetrators of these egregious acts. The first three responses find justifications in the concept of state sovereignty (one response has been inaction). Alternatively, the second response defers completely to the national government to conduct its internal affairs. A variation of this alternative vests control in the national government to conduct a "mixed tribunal" within its jurisdiction, with international legal actors playing an ancillary role. South Africa exemplifies the third response of creating truth commissions. The last two responses favor human values over state values, one through unilateral action and the other through international intervention. Spain's attempt to try General Pinochet illustrates the fourth option. The ad hoc establishment of criminal tribunals for the former

Yugoslavia and Rwanda illustrates the fifth option.

The third part of the paper surveys the proposal for the establishment of the international criminal court in the Rome Statute, which is currently under discussion. The paper then concludes that the present system of international law provides non-existing, inadequate and/or arbitrary remedies against these atrocious crimes. Hence, only a permanent international criminal court similar to the one envisioned in the Rome Statute, but with revisions, would allow for a more consistent, less arbitrary, and less discriminatory administration of justice.

I. Why Do We Need an International Criminal Court?

This paper proposes the establishment of an international criminal court as the preferred solution. First, why should there be a criminal court? And second, why should the court be international in character? Presently, the international community lacks an adequate standing mechanism to respond to crimes under international law. The jurisdiction of the international criminal court would be circumscribed by crimes whose commission would offend the moral intuition of the international community, specifically that of genocide, war crimes, and crimes against humanity. The gross violations of these crimes should impel, as a moral imperative, the global community towards criminal sanctions against such actions. To remain silent and inactive in the presence of such evils would strike at who we are as moral beings; these gross transgressions are a violent assault on human dignity. Thus, the apprehension and trial of these perpetrators lend expression to the moral outrage and revulsion felt by humanity. Only by properly voicing our “disgust” and thus publicly repudiating such conduct do we begin to restore the moral order within the system and within ourselves.

Essential to the moral philosophy of punishment is the concept of justice. Justice demands retribution. In apportioning just deserts to the perpetrators, certain desirable values inevitably flow to the

respective actors involved. First, punishment administers accountability and responsibility on the perpetrators. Even if the perpetrators escape arrest, the warrant for their arrest stigmatizes them and brands them as pariahs. The value of stigmatization and shame, although intangible, should not be underestimated. Second, the community is restored when justice is meted out. Third, the issuance of justice redresses the survivors’ rights as legal citizens. Personal autonomy presumes that every individual is a “legal person,” this is, a carrier of formal rights and obligations. Notably, the criminal process lends legal recognition that justice is not a privilege but a right that is redressable for all citizens. Finally, respect is bestowed upon the victims when a concerned community takes concrete steps on their behalf and in their memory. Therefore, a legitimate trial allows for individual and collective closure, the sense of finality that all that what could have been done has been done. This closure in turn provides a necessary precondition for meaningful growth and development.

Another aspect of justice reasons that punishment contributes to the general deterrence of future crimes. The preamble to the Rome Statute succinctly states this position. The international criminal court “determine[s] to put an end to impunity for the perpetrators of these crimes and thus to contribute to the prevention of such crimes...” Implicit in the argument is that potential violators are put on notice. Absent notice and punishment, a moral hazard exists, thus in effect creating a *de facto* license to kill at will and with impunity.

In sum, the violent assault on human dignity triggers our moral obligation and sense of justice, and impels us to action.

The moral imperative to action is twinned to the legal obligation, *opinio juris*, which is rooted in history. Hence, the second rationale for the establishment of an international criminal court finds justification in law and history. Any legal system, albeit domestic or international, rests on the

concept of the rule of law, meaning results when concepts are translated into function. Currently we have a rich compendium of concepts; however, we are still wanting in actualizing them into a functioning reality.

The Nuremberg trials set a precedent in translating these principle into a realization. The trials succeeded not only in promulgating principles but also in establishing a basic framework for the prosecution of war crimes and crimes against humanity. After the trials, several UN Conventions quickly ensued to codify these principles of non-derogable jus cogens character. The most notable UN Convention that directly speaks to the topic of genocide states: “Persons charged with genocide... shall be tried by a competent tribunal of the State in the territory of which the act was committed, or by such international penal tribunal as many have jurisdiction with respect to those Contracting Parties which shall have accepted its jurisdictions.”

Since then, we have witnessed punctuated attempts by the world community to give effects to these principles and to apprehend criminals under international law, but the efforts have been sporadic and inadequate due to the lack of a permanent body authorized with such functions. That is to say, international law responds unsatisfactorily to serious violations of these preemptory norms absent the creation of long-term legislative and administrative institutions. Action breathes life and texture to abstract principles.

The development and promotion of the human rights culture and democratic governance lend the third justification for the establishment of a permanent international criminal tribunal. On a pragmatic level, the judgments of the cases would produce a rich, contextual corpus of human rights scholarship, generate discussions, and stimulate public awareness of justice issues. On a philosophical level, the creation of this court would build on the achievement of the human rights culture in its fortification of the rule of law-essentially democratic governance. A democratic government guarantees the law to be the equalizer in

content and application among its citizens. However, when the law punishes petty and common crimes but allows mass murders to circulate freely and comfortably among its citizens, democratic peace and stability are undermined and the law is relegated to meaninglessness. Unfortunately, as is often the case, “For my friends, whatever they want; for my enemies, the law.” Garnering support for reform under such a mentality will be next to impossible. A failure to punish is then a clear abdication of democratic authority.

In sum, the international community has a moral imperative, legal obligation, and an opportunity to build on the culture of human rights and fortify the global rule of law in establishing a permanent international criminal court.

II. What is Wrong with the Present System?

Until now, the responses by the international community toward crimes of genocide, war crimes, and crimes against humanity have been non-existent, inadequate, discriminatory, and/or arbitrary.

One response has been to do nothing. The proponents of inaction first argue sovereignty. To what degree this rationale stems from genuine concern for the integrity of state values and from socially and politically incorrect biases is a lingering question. Second, they contend that peace and development require one to “bury the past.” For example, the Cambodian government argued vociferously at one point that the “trial of all Khmer Rouge leaders could cause renewed strife.” But peace and trials are not irreconcilable, nor is peace a substitute for justice.

Another factor to dissuade action is the lack or loss of evidence. Two reasons account for this evidentiary problem. One, incriminating evidence is lacking due to the secret nature of the transgressions or the head organization. Two, evidence is lost as a result of the passing of time. The Cambodian situation is cited to highlight this problem. But it is hardly the case in many situations of atrocity that there exists a complete vacuum of evidence.

(Continued in the October 2001 issue)

THE LEGAL IMPLICATIONS OF KHIEU SAMPHAN'S LETTER APPEALING TO ALL OF HIS COMPATRIOTS

Dara P. Vanthan

On August 16, 2001, Khieu Samphan sent a letter from his residence in Pailin to all Cambodians. The former Khmer Rouge leader's letter, which is basically a wide appeal for sympathy and perhaps even exoneration, ironically provides much in the way of direct legal evidence that can be used against him in a court of law. Three of his letter's perhaps-unintended admissions are reviewed here.

1. Khieu Samphan has admitted that he was "the president of the state presidium of Democratic Kampuchea." The planned Extra-Ordinary Chambers that would prosecute former Khmer Rouge leaders could consider this emission as direct evidence, for Khieu Samphan himself made this admission of his own free will. This admission would also serve to add legal credence to some of the documents produced by Democratic Kampuchea. For example, in a document entitled "Decisions of the Central Committee on a Variety of Questions," dated March 30, 1976, Khieu Samphan, alias Hem, was appointed as "the president of the state presidium." Similar legal arguments could then be made that link Khieu Samphan to many existing documents related to the state presidium. Khieu Samphan also noted in his letter that he was not the chief of Office 870; instead, he claims that he was only a simple member of that office. However, his claimed membership can be used to prove that Office 870 did in fact exist during the period of Democratic Kampuchea. The Documentation Center of Cambodia possesses many documents that were sent to or from this office, which are relevant to almost all matters in the Khmer Rouge regime.

2. Khieu Samphan has formally acknowledged that he was a candidate (temporary member) of the Central Committee in 1971 and became a full-rights member in mid-1976. This admission provides still

more direct evidence that the Communist Party of Kampuchea did indeed have a Central Committee and a Standing Committee. These two committees passed laws and policies, and carried them out, which led to mass killings during 1975-1979.

3. Khieu Samphan said that he was not aware of the massacre of the Cambodian people during the regime. However, he did admit that he knew about the arrests and brutalities committed in Preah Vihear Province around mid-1978. In addition, a document in our possession entitled "Minutes of the Meeting on Base Tasks," dated April 8, 1976, shows that Khieu Samphan, alias Hem, participated in the meeting, where he talked about "the situation in the North [Zone] 106 and 103" (103 stands for Region 103 in Preah Vihear Province). In his appeal letter, Khieu Samphan openly declared that "the brutal murder would cause one's head to tingle when hearing." To make matters worse, Khieu Samphan went on to claim that Democratic Kampuchea was "a legitimate state." But one of the legacies of this "state" is the 18,975 mass graves scattered throughout Cambodia, which have been mapped and documented by the Documentation Center of Cambodia in the past five years.

Khieu Samphan acknowledged in his letter that mass murder did occur in Democratic Kampuchea. He has also acknowledged his leadership role in the regime. All of these neatly dovetail into Article 1 of the Draft Law on the Establishment of Extra-Ordinary Chambers in the Courts of Cambodia for Prosecuting Crimes Committed during the Period of Democratic Kampuchea, which was formally signed into law by King Norodom Sihanouk on Friday August 10, 2001. There is no single piece of legislation that would permit Khmer Rouge leaders to go unpunished for the serious crimes they committed.

BRIEF BIOGRAPHY OF KHIEU SAMPHAN

Vannak Huy

Khieu Samphan's revolutionary name was comrade Hem; he was also known as Ta Chhun and Ta Hong. He was born to Khmer-Chinese parents in 1929 (the year of the snake) in Koh Sotin District, Kampong Cham Province, Region 22, Eastern Zone. Khieu Samphan completed his coursework for a doctorate degree in political economy in Paris and obtained his degree in 1959 after he had returned to Cambodia.

In Cambodia, Khieu Samphan served as a minister in King Norodom Sihanouk's government from 1950 to 1960. During this period, he also took a job as a French language teacher, and in 1954, established a newspaper called *Observateur*. In mid-1960, he made a declaration provoking a struggle for the restitution of the land known as Kampuchea Kroam from Vietnam, and in August of that year, was arrested for being a "Khmer Rouge." In the 1966 national elections, he became a people's representative from Kandal Province.

After the Sihanouk government issued a warrant for his arrest on April 24, 1967, Khieu Samphan escaped to the jungle together with Hou Yuon and Hu Nim. All three were wanted for their association with left-leaning groups.

Khieu Samphan chaired a two-week meeting held

in July 1971 at Pol Pot's head office in the Northern Zone. The main item on the meeting's agenda was to discuss whether "King Norodom Sihanouk should be permitted to join the struggle movement." At a party meeting in 1974, Khieu Samphan expressed his support for the idea of evacuating the residents of Phnom Penh. On October 9, 1975, he attended the "Meeting of the Standing Committee," which discussed "task assignments." At the meeting he was appointed to be responsible for the fronts and for the commercial sector areas of inventory and the fixed pricing of produce. Khieu Samphan participated in another meeting, the "Local Tasks Meeting," on March 8, 1976, where the March 20, 1976 election and the situations in "106 and 103, Northern [Zone]" were discussed.

On March 30, 1976, the Central Committee made a decision to appoint Khieu Samphan as the president of the state presidium. He was then appointed as a member of the Standing Committee of the Communist Party of Kampuchea in mid-1976.

According to a speech given by Ieng Sary in 1977, Khieu Samphan was appointed to replace comrade Doeun as the chief of Office 870. This office was under the direction of the CPK's Central Committee.

THE KHMER ROUGE AND THE VIETNAMESE COMMUNISTS: HISTORY OF THEIR RELATIONS AS TOLD IN THE SOVIET ARCHIVES

Dmitry Mosyakov

It appears from the archival documents that in the first half of 1976, Hanoi seriously expected positive changes in its relations with the Khmer Rouge. In February 1976, apparently on the eve of the summit, Xuan Thuy—one of the most prominent party leaders of Vietnam—told the Soviet ambassador that "the relations of Vietnam and Cambodia are slowly improving" (RSAMH, Fund 5, inventory 69, file 2314. Conversations of the Soviet ambassador with Xuan Thuy, February 16, 1976, p. 16). A little later, in July 1976, in a conversation with the Soviet ambassador, the Deputy Minister of

Foreign Affairs of the DRV, Hoanh Van Loi, declared that the Vietnamese leadership "deems it necessity to have patience and work towards gradually strengthening its influence in Cambodia" (RSAMH, Fund 5, inventory 69, file 2312, conversation of the Soviet ambassador with the Deputy Minister of Foreign Affairs of the DRV, Hoanh Van Loi, July 1976, p. 90).

Apparently the Vietnamese leaders considered the well-known Pol Pot interview, which he had given in 1976 to the deputy director-general of the Vietnamese Information Agency, Tran Thanh Xuan, as a proof of

growing Vietnamese influence in Phnom Penh. Tran Thanh Xuan visited Cambodia at the head of a large delegation of Vietnamese journalists. In the interview Pol Pot said all the words which the Vietnamese had waited in vain to hear in June 1975. He said in particular, “we consider friendship and solidarity between the Kampuchean and Vietnamese revolutions, between Kampuchea and Vietnam, a strategic question and a sacred feeling. Only when such friendship and solidarity are strong, can the revolution in our countries develop adequately. There is no other alternative. That is why, honoring these principles, we consider that both parties and we personally should aspire to maintain this combat solidarity and brotherhood in arms, and make sure that they grow and strengthen day by day” (Nhan Dan. 29 VII, 1976).

It is quite obvious that only extremely serious circumstances could have made Pol Pot demonstrate anew this adherence to Vietnam. “Brother No 1” indeed experienced tough pressure inside the CPK from a group of party leaders, rather numerous and influential, especially on the regional level, who were opposed to breaking off relations with Vietnam. In September, 1976, due to their pressure, Pol Pot would even be temporarily removed from his post. To believe this pressure and to gain time, he was simply compelled to make statements expected by his enemies. Surprisingly enough he managed to fool them again, to create the illusion of his surrender and readiness to go hand-in-hand with Vietnam. Even in March 1977, when the anti-Vietnamese campaign in Cambodia was rapidly escalating, Truong Chinh, member of the VWP Politburo Khmer leadership and Chairman of the Standing Committee of the National Assembly of the SRV, in a conversation with the Soviet ambassador, made the point that “Democratic Kampuchea is also generally building socialism, but the leaders of Kampuchea are not clear enough as to forms of socialist construction. There is no unity in the Kampuchean leadership and much depends

on which line will win” (RSAMH, Fund 5, inventory 73, file 1409. Record of the conversation of the Soviet ambassador with Truong Chinh, March 15, 1977, p. 34).

There is no doubt that in 1976 in spite of some improvement in relations with Phnom Penh, Hanoi actually lost not only control (that had happened long before), but even sources of authentic information on the situation in the Khmer leadership, a fact that was recognized by Vietnamese leaders. In July 1976, according to the Soviet ambassador’s information, the Chairman of the Council of Ministers of the SRV, Pham Van Dong, “informed confidentially that the present situation in Cambodia is not clear enough to Hanoi, which has difficulties in following developments there.” Pham Van Dong also said that it was necessary to show patience and that reality itself should teach the Khmers some lessons” (RSAMH, Fund 5, inventory 69, file 2314. Conversation of the Soviet ambassador with Prime Minister Pham Van Dong, July 13, 1976, p. 72). The



Vietnamese leadership's poor understanding of the current political struggle in Cambodia could also be seen from the fact that back on November 16, 1976, Le Duan had told the Soviet ambassador that Pol Pot and Ieng Sary had been removed from power, that they were "bad people." Le Duan added that "everything will be all right with Kampuchea which will be together with Vietnam sooner or later; there is no other way for the Khmers. We know how to work with them, when to be resolute or soft" (RSAMH, Fund 5, inventory 69, file 2314. Record of the conversation of the Soviet ambassador with the First Secretary of the Central Committee of the VWP, Le Duan, November 16, 1976, p. 113).

In fact, the report that Pol Pot and Ieng Sary had been removed from power, which was now in the hands of the "reliable" Nuon Chea, totally misinterpreted the situation in Phnom Penh by the middle of November 1976. Pol Pot's opponents (well-known Khmer communists long connected with Vietnam, Keo Muni, Keo Meas and Nei Sarann) were already imprisoned and exposed to severe tortures. Agriculture Minister Non Suon and more than two hundred of his associates from various ministries, the army and the party apparatus had already been arrested by November 1 (Ben Kiernan, *The Pol Pot regime: Race, power and genocide in Cambodia under the Khmer Rouge, 1975-1979*, New Haven, Yale University Press, 1996, p. 335). While Le Duan was informing the Soviet ambassador that Pol Pot and Ieng Sary had been ousted, in reality, they were firmly in power, wielding full authority in Phnom Penh.

Generally speaking, the circumstances of the coup attempt have until now been insufficiently investigated. It is known that in September 1976, under pressure from the anti-Pol Pot opposition (Non Suon was one of the leaders and an old Vietnamese protégé), Pol Pot was compelled to declare his temporary resignation from the post of prime minister of Democratic Kampuchea due to 'health reasons.' The second-ranking person in the party hierarchy, Nuon Chea, was appointed acting prime minister (Kiernan, *The Pol Pot Regime*, p. 331).

At the same time *Tung Krohom* (Red Flag) magazine, an official organ of the Communist Youth League of Kampuchea, ran an article affirming "that the CPK was founded in 1951" when it was assisted by the VWP (*On the History of the Vietnamese-Kampuchean*

Conflict, Hanoi, 1979, p. 8). Such a statement contradicted Pol Pot's directives claiming that the CPK emerged in 1960 and had not received any help from the VWP. In September 1976 a regular air route between Hanoi and Vientiane was also established. A natural rubber consignment was sold to Singapore and attempts were made to accept humanitarian and medical aid from the U.N. and some American firms. All these events testified to a weakening of the radical group's positions, to an obvious change of the political line and to a certain modification of the Cambodian authorities' attitude towards Vietnam and the VWP.

A turnaround in Phnom Penh like this encouraged the Vietnamese leadership, which advise its Soviet friends that "the situation in Cambodia is not clear, but it is easier to work with Nuon Chea than with Pol Pot and Ieng Sary" (RSAMH, Fund 5, inventory 69, file 2314, p. 88. October 15, 1976. (Conversation of the Soviet ambassador with Nguyen Duy Trinh). Soviet friends in turn had sent the new Khmer leadership an important sign: at the October 1976 Plenary meeting of the Central Committee of the CPSU, L.I. Brezhnev suddenly declared that "the path of independent development was opened among other countries before Democratic Kampuchea (*Pravda*, October 26, 1976). However, the hopes for stability or positive changes in Cambodia soon dimmed, as Hanoi did not make any appreciable attempts to support Pol Pot's opponents. It is difficult to determine the reason for such passivity. Was it because the Vietnamese considered the changes irreversible. Were they afraid to compromise "their people" in Phnom Penh. Did they not quite clearly realize how to help them, or did they not have actual possibilities to provide such help? In any case the attempt at Pol Pot's removal from power ended extremely pitifully for Hanoi: thousands of "brother number one's" opponents were imprisoned and executed, and the winner having regained his power, could now openly conduct his anti-Vietnamese policy.

The "cat and mouse" game between Pol Pot and Hanoi ended after the Vietnamese Deputy minister of Foreign Affairs Hoang Van Loi's confidential visit to Phnom Penh in February 1977. Pol Pot declined his proposal of a summit of Vietnamese and Cambodian leaders (Chanda, *Brother Enemy*, New York, 1986, p. 186). After the obvious failure of this visit, Hanoi,

apparently, was finally convinced that it was impossible to come to terms with the Cambodian leadership. Gone were the hopes that Nuon Chea could change the situation for the benefit of Vietnam. At least during the Soviet ambassador's meeting with the deputy minister of Foreign affairs of the SRV, Hoang Bich Son, on December 31, 1977, the Vietnamese representative said that "during the war with the United States, Nuon Chea's attitude towards Vietnam was positive and now in his personal contacts with Vietnamese leaders he is to a certain extent sympathetic to Vietnam, but the current situation in Kampuchea makes such people unable to do anything" (RSAMH, Fund 5, inventory 75, file 1061. Record of the conversation of the Soviet ambassador with the deputy minister of Foreign Affairs of the SRV, Hoang Bich Son. December 31, 1977. p. 10).

Vietnam's decision to take a tougher stand on relations with Democratic Kampuchea was also motivated by the endless border war, started by the Khmer Rouge in the spring of 1977, and the appearance of Chinese military personnel backing the Khmer Rouge training and arming their troops, building roads and military bases. Among such bases was an Air Force base at Kampong Chhnang, which made it possible for military planes to reach the South Vietnamese capital of Ho Chi Minh City (Saigon) in half an hour's time. The situation developed in such a manner that Hanoi had to think of the real threat to its national security rather than about an Indochinese federation. New circumstances required new approaches. In this connection the following information received by Soviet ambassador from his Hungarian colleague in Vietnam deserves attention. "As a Hungarian journalist was informed, on September 30, 1977, the Politburo of the CPV met in Saigon for an extraordinary session, under Le Duan's chairmanship, to discuss when to publish information on the Kampuchean reactionary forces' aggression" (RSAMH, Fund 5, inventory 73, file 1407. Hungarian ambassador's information on Vietnamese-Cambodian relations. November 1, 1977. p. 99.) The very term "Kampuchean reactionary forces" meant a radical turnaround of the Vietnamese policy. Hanoi had a new plan of operations to deal with situation in Cambodia.

The first element of this plan was the change in Vietnam's border war strategy. While the year 1977 had

seen the Vietnamese troops mainly defending, now they dealt a powerful direct blow against Cambodian territory which came as a surprise to the Khmer Rouge. In December-January 1977-1978, Vietnamese troops destroyed Cambodian units and pursued Khmer Rouge combatants. For different reasons the Vietnamese did not occupy the country, but quickly withdrew their forces. Bulgarian news agency correspondent I. Gaitanjev was told that "the Vietnamese troops were deployed some 35 kilometers away from Phnom Penh but occupation of all Kampuchea was politically impossible" (RSAMH, Fund 5, inventories 75, file 1062. Record of the conversation of the Soviet embassy minister in Beijing with the BNA correspondent I. Gaitanjev, Beijing, April 4, 1978 p. 23). This successful invasion made it possible for Hanoi to make a detailed appraisal of the situation in Cambodia and the mood of the majority of its population. When the Vietnamese forces entered Khmer territory, the local population, as a high-ranking Vietnamese diplomat informed the Soviet ambassador, "met the Vietnamese well" (RSAMH, Fund 5, inventory 75, file 1061, Record of the conversation of the Soviet ambassador with the chief of the consular department of the Vietnamese Ministry of Foreign Affairs, Vu Hoang, February, 1978, p. 15-16). Moreover, when the Vietnamese troops withdrew from Cambodian territory, thousands fled following them to Vietnam (Chanda, *Brother Enemy*, New York, 1986, p. 213).

At that time, Hanoi considered only two ways of solving the Cambodian problem. According to the chief of the consular department of the Vietnamese Ministry of Foreign Affairs, Vu Hoang, "one option is a victory for "healthy" forces inside Democratic Kampuchea; another is compelling Pol Pot to negotiate in a worsening situation" (RSAMH, Fund 5, inventory 75, file 1061. Record of the conversation of the Soviet ambassador with the chief of the consular department of the Vietnamese Ministry of Foreign Affairs, Vu Hoang. February, 1978, p. 15-16).

As we see, Hanoi put its stakes either on a coup d'état and a victory of "healthy forces," or on the capitulation of Pol Pot and his acceptance of all Vietnamese conditions. But its leaders miscalculated. Attempts to organize Pol Pot's overthrow by a mutiny of the Eastern Zone military forces ended in a complete

disaster for the anti-Pol Pot rebels in June 1978. Thereby the first option could be discarded. The second one appeared equally unrealistic, as the Chinese aid to the Khmer Rouge sharply increased in 1978 and eased the difficulties experienced by the regime.

It appeared that the Vietnamese leadership did not limit itself to the two scenarios for Cambodia introduced by Vu Hoang to the Soviet ambassador. They had a third choice: deposition of the Pol Pot regime by a massive military invasion and the introduction of a new administration in Phnom Penh controlled by Hanoi. So in the middle of February 1978, Vietnamese party leaders Le Duan and Le Duc Tho met with, firstly, a small group of Khmer communists remaining in Vietnam, who had regrouped there in 1954 (most of the other regroupees had returned to Cambodia in the beginning of the 1970s, and were soon killed in repressions), and, secondly, with former Khmer Rouge who had sought refuge in Vietnam from Pol Pot's repressions. The purpose of these meetings was to form an anti-Pol Pot movement and political leadership. It would include Vietnamese army major Pen Sovan, a Khmer who had lived in Vietnam for 24 years, and the former Khmer Rouge Hun Sen, who had escaped to Vietnam only in June 1977. At that time "a chain of secret camps" for guerrilla army induction and training appeared in South Vietnam" (Chanda, *Brother Enemy*, New York, 1986, pp. 217-218). Former American military bases in Xuan Loc and Long Chau were the main camps. In April 1978 the first brigade of the anti-Pol Pot army was secretly administered an oath; later some other brigade manned at battalion level or below, were formed on the territory of Vietnam.

Providing a proper diplomatic background for the operation to overthrow Pol Pot was considered of utmost importance. In June 1978, the Politburo of the VWP Central Committee took a decision on the expediency of a trip by Le Duan to Moscow. A Soviet diplomat reported in June 1978 that "according to the Vietnamese the trip should have a confidential status. Le Trong Tan, deputy chief of the Joint Staff, will accompany Le Duan" (RSAMH,

Fund 5, inventory 75, file 1062. Record of a Soviet diplomat's conversation with the member of the Politburo of the VWP Central Committee, minister of Foreign affairs of the SRV, Ngyuen Duy Trinh, June 15, 1978, p. 35).

By securing initially informal, and after the conclusion of the friendship and cooperation treaty between the USSR and the SRV, official support from Moscow, the Vietnamese began to talk quite clearly that "the forthcoming dry season can be effectively used for powerful attacks on the Phnom Penh regime" (RSAMH, Fund 5, inventory 75, file 1062. Record of the conversation of a Soviet diplomat with Nguyen Ngoc Tinh-deputy chief of South East Asian communist parties sector of the CPV Central Committee's foreign relations department. October 20, 1978. p. 1). An interesting thing was that the Vietnamese firmly assured Soviet representatives, who were concerned about the Chinese response to the prospective invasion, that "China will not have time to dispatch large military units to Phnom Penh to rescue the Kampuchean regime." (RSAMH, Fund 5, inventory 75, file 1062. Record of the conversation of the Soviet diplomat with Nguyen Ngoc Tinh, deputy chief of the communist parties sector of the CPV Central Committee's foreign relations department. October 20, 1978, p. 109).

Generally speaking, on the eve of the invasion, the Vietnamese rather explicitly and frankly told their Soviet allies what they knew about the situation in Khmer headship. In October 1978, according to a high-ranking

Khmer Rouge Soldiers



Vietnamese party official “responsible for Cambodia,” Hanoi still believed that “the were two prominent party figures in Phnom Penh, who sympathized with Vietnam Nuon Chea and the former first secretary of the Eastern Zone, So Phim.” Friends were aware, a Soviet diplomat reported, that “Nuon Chea opposes Pol Pot’s regime; he deeply sympathizes with the CPV, but fearing reprisals, he can not speak his mind.” Trying to save Nuon Chea from reprisals, the Vietnamese had severed all their contacts with him. They knew nothing about So Phim’s fate but believed that he had escaped and hidden in the jungles. According to the CPV Central Committee’s opinion, CPK Politburo members Nuon Chea and So Phim were widely known political figures in Kampuchea who “under favorable circumstances could become leaders of bona fide revolutionary forces in this country” (RSAMH, Fund 5, inventory 75, file 1062, p. 108, October 20, 1978. Record of conversation of a Soviet diplomat with Ngyuen Ngoc Tinh-deputy chief of the Southeast Asia Communist parties sector of the CPV Central Committee’s Foreign relations department).

True enough, if So Phim and Nuon Chea had joined forces to head the resistance, the expulsion of Pol Pot from Phnom Penh and a transition of power to more moderate and pro-Vietnamese forces would not have been accompanied by such fierce fighting and destruction as that of 1979. Both leaders controlled a significant part of the military and party apparatus and could have promptly taken main regions of the country under their control. Nevertheless, Vietnamese hopes that these figures would head an uprising against Pol Pot turned out to be groundless: So Phim perished during the revolt in June 1978, while Nuon Chea, as it is known, turned out to be one of the most devoted followers of Pol Pot and did not defect to the Vietnamese side. Moreover, the situation around Nuon Chea remains extremely vague. It is difficult to understand why until the end of 1978 it was believed in Hanoi that Nuon Chea was “their man” in spite of the fact that all previous experience should have proved quite the contrary. Was Hanoi unaware of his permanent siding with Pol Pot, his demands that “the Vietnamese minority should not be allowed to reside in Kampuchea”, his extreme cruelty, as well as of the fact that, “in comparison with Nuon Chea, people considered Pol Pot a paragon of kindness”? (Ben Kiernan, *The Pol*

Pot Regime, p. 58). Either he skillfully deceived the Vietnamese, explaining his cruelty and anti-Vietnamese activity by the constraints under which he acted, or the Vietnamese were fooling themselves, failing to believe that a veteran communist who had once worked side by side with them in a united Indochina Communist Party and who was totally obliged to Hanoi, could become a traitor. Not only Nuon Chea deceived the Vietnamese. Other veterans of the ICP, such as Ta Mok and So Phim, were also bitterly anti-Vietnamese.

In this connection Hanoi, preparing the invasion and establishing a new Cambodian power, was compelled to rely on little-known figures from the mid-level Khmer Rouge echelon such as Heng Samrin, Chea Sim, and Hun Sen, complemented by characters absolutely trustworthy after living for many years in Vietnam, like Pen Sovan and Keo Chenda. These two groups formed the core of the United Front for the National Salvation of Kampuchea (UFNSK), founded in December 1978, and the People’s Revolutionary Party (PRPK), reconstructed a little later, at the beginning of January 1979. In this case former Khmer Rouge assumed control over the UFNSK, whose Central Committee was headed by Heng Samrin, while longtime Khmer residents of Vietnam took the key posts in the PRPK, where Pen Sovan was put at the head of the party construction commission, later transformed into the PRPK Central Committee.

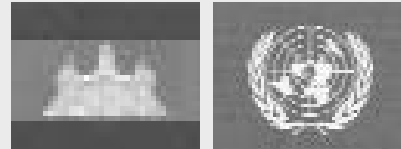
As we see, Hanoi learned proper lessons from the mistakes it committed in respect of Pol Pot and the Khmer Rouge, and decided not to put “all its eggs in one basket” anymore. Phnom Penh’s seizure by the Vietnamese forces on January 7, 1979 and the declaration of the People’s Republic of Kampuchea meant that it was all over for the Khmer Rouge as ruling political organization in the country. Remnants of the Khmer Rouge entrenched themselves in the border areas adjacent to Thailand, conducting protracted guerrilla war. But they never managed to restore their former might and influence. Political power in Cambodia was transferred to the PRPK, reconstructed by the Vietnamese. As to the history of relations between that organization with the VCP, and the attitudes of Vietnamese leaders to Hun Sen, who became prime minister in 1985 and was nicknamed “the man with plenty of guts,” is a subject for another study.



Thomas Hammarberg

HOW THE KHMER ROUGE TRIBUNAL WAS AGREED: DISCUSSIONS BETWEEN THE CAMBODIAN GOVERNMENT AND THE UN

Thomas Hammarberg



(Continued from the August 2001 issue)

A special and difficult problem was the formulation on the personal jurisdiction of this particular tribunal—who could be charged? The Group of Experts had used the notion that only “the most responsible for the most serious crimes” be tried, an approach which also had been echoed in the General Assembly and Human Rights Commission resolutions. There was therefore a need to find a legal formulation that would limit the number of prosecutions without giving an implicit amnesty to those outside that limited group. The Group of Experts had concluded that this issue had to be resolved as a matter of “prosecutorial policy”.

Already at this stage it was clear that two issues might be particularly difficult: the method of appointing judges and prosecutors, and the numbers of foreigners and Cambodians among them. The Prime Minister had asked whether the Secretary-General could appoint the internationals and I knew that he had, informally, discussed the possibility of a fifty-fifty division.

With this approach to appointment, however, there was a clear risk that the selection of the Cambodian judges and prosecutors might get politicised. Also, it was important to avoid any perception of two “classes” or categories of judges and prosecutors. There were strong arguments for the same appointment mechanism for all of them. In other words, the Cambodian nominations should also be endorsed by the Secretary-General or by the impartial mechanism he would establish for this purpose. A procedure through which the international community could reject a Cambodian nomination would greatly increase the credibility of the tribunal in Cambodia.

At the same time, it was important that the body in Cambodia involved in this would be a judicial structure, not the government. The obvious choice was the Supreme Council of Magistracy which, according to the Constitution, was responsible, *inter alia*, for the appointment of judges and prosecutors.

It was also clear that the discussion on the numbers of international and Cambodian judges and prosecutors might be affected by the decision-making rules. I wrote in an internal memo: “It would of course be safer to have a foreign majority among both prosecutors or judges. This will probably be difficult for the Cambodian side to accept (this is why the point about decision-making rules might be important). The essential point is that it should not be possible for the Cambodians—even if appointed from outside—to outvote the foreigners. There is of course a dynamic aspect here—the awareness that the Cambodian judges themselves cannot alone decide will reduce the risk of pressure.”

The internal discussions were also helped by a thoughtful contribution from the Lawyers Committee for Human Rights which stressed the importance of spelling out in the enabling law the right to defence and appeal and that witnesses be guaranteed security and protection, points which had not been well covered or covered at

all in an early Secretariat draft.

While the Office for Legal Affairs was working on these problems, there was a need to decide on the experts to go to Phnom Penh. I had some suggestions, but it turned out that the Office of Legal Affairs was interested in taking on this task directly. I welcomed this engagement, but the resulting delay had to be explained in Phnom Penh. It was important that the UN now acted with speed and determination. My hope had been that the legal experts would go at the end of June; as things developed and due to other commitments, they did not arrive until late August.

In the meanwhile members of the Security Council were briefed. The outline of the Secretary-General's proposal became widely circulated and was criticised by the Cambodian government, in particular its suggestion that a majority of the judges should be international.

The Zacklin Mission and Further Discussions

A mission led by the Assistant Secretary-General for Legal Affairs Ralph Zacklin visited Phnom Penh on 25-31 August. A working group chaired by Senior Minister Sok An had been appointed by the government to meet with the UN legal experts. It handed over a draft for the enabling law. The UN delegation responded later during the visit by handing over another draft; there were major differences between the two.

They differed on the very nature of the competent jurisdiction and whether it would be part of the existing court system (Cambodian draft) or a special tribunal established especially for the prosecution of those most responsible for the most serious human rights violations during the Khmer Rouge regime (UN draft). The Cambodian draft suggested that the Supreme Council of Magistracy appoint all judges and prosecutors; a minority of them would be foreigners and nominated by the Secretary-General. The UN draft proposed that all judges and the prosecutor be appointed by the Secretary-General.

The Cambodian draft reflected the existing system with a Municipal Court (Phnom Penh), the Court of Appeals and the Supreme Court. Under the UN draft the tribunal was composed of two chambers, a Trial and an Appeals Chamber plus a Prosecutor and a Registry.

The UN delegation summarised its main message in these words:

“If the trial of the Khmer Rouge leaders is to meet international standards of justice, fairness and due process of law, and gain the support and legitimacy of the international community, it is vital that the international component of the tribunal be substantial and that it be seen to be effective on the international as well as the national plane. This cannot be achieved by merely adding a number of foreign judges to the composition of the existing court system. Only a special, sui-generis tribunal, separate from the existing court system, in which Cambodians and non-Cambodians would serve as judges, prosecutors and registry staff could accomplish this.”

The discussions ended with a pledge from the Cambodian side to review its draft in light of the UN comments. The UN team understood that the revised draft would be delivered before or during the Prime Minister's visit in New York in September.

At his meeting with the Secretary-General on 16 September, Hun Sen presented an aide-memoire which listed three options for UN participation. One was that the UN provide legal experts to collaborate with Cambodian lawyers and lawyers from other countries to help draft the necessary legislation and also provide judges and prosecutors to take part in the trial process at the existing Cambodian court. The second option was to provide legal experts who would not take direct part in the trial process and the third was to terminate the involvement at this stage.

These three options were also discussed in a subsequent meeting in New York between Hans Corell and Ralph Zacklin of the Office for Legal Affairs and Senior Minister Sok An. The UN officials, naturally, did not

pick one of the options in the midst of the ongoing discussion on the draft law proposal. The assumption now was that “option 1” should be tried; if that did not work out, the UN would have to end its involvement (“option 3”). The UN Secretariat was waiting for a response from the government on the draft which the Zacklin delegation had left behind in Phnom Penh. Sok An said the draft would be sent to the UN within one or two weeks.

While in New York the Cambodian delegation also met leading representatives of the US State Department after which there seemed to be more understanding between the two governments on this particular issue.

October 1999

When I arrived in Cambodia in October, the King had just made public in his monthly bulletin a remark on the argument - put forward by Hun Sen—that the UN proposal presented by the Zacklin mission was a threat against “national sovereignty”. The King had written: “Other sovereign countries have accepted, and continue accepting, an international tribunal charged with judging their respective nationals responsible for crimes against humanity. This does not violate the sovereignty of the interested countries”. Yes, it is our sovereign right to invite the UN, he said during our meeting. To ask for assistance is not to give up sovereignty. He said that UN assistance was necessary and that he supported our consistent efforts for bringing to justice the Khmer Rouge leaders.

Another meeting with Hun Sen was on the programme. The tone of that discussion was not particularly constructive; he said at the start that he did not feel well and obviously had a bad cold. He stated that he now wanted to conclude the discussion and move to implementation. “We cannot wait any longer. We have been disturbed too much by this issue.”

His general theme was “sovereignty”. He stressed that he had not asked that this issue be put on the agenda of the Security Council or, for that matter, of the General Assembly. Doing so would create problems with the Permanent 5—read China—and the government did not want to do that. He reacted against the fact that the Secretariat had given information to the Security Council on the issue. He felt it was a violation that he had not even been informed about this beforehand.

As several times before the discussions appeared to have two chapters, one rhetorical and one more concrete. Here some statements from the first part (according to our notes):

“It is not for Cambodia to respond to the Secretary-General but for him to respond to the three options put forward in my aide-memoire.”

“Cambodia wants to be given the opportunity to be masters of its own situation. You can participate, but do not try to be masters of the issue”.

“Let us hold trials and then see if it accords with national and international standards. It will be done in accordance with international standards. Leave it to us to do it”.

“We do not want to ask for much money as for the tribunals on Rwanda and Yugoslavia - if such money is available, it should rather be used for roads, schools, prisons”.

“In my General Assembly speech I mentioned the need to review attitudes of some UN officials in dealing with members states, for example the demand that Cambodian judges be reviewed by the Secretary-General—where is the sovereignty in this? What is the Supreme Council of Magistracy for? Is it only a rubber stamp? I just want to express my feelings about some UN officials assisting the SG”.

“My work is complete now that the aide-memoire has been handed over—I am waiting for a reply. During Sok An’s meeting with Mr. Corell, the latter had asked which option Cambodia would prefer. We understand that if Cambodia says that it wants the third option then it can be said that Cambodia does not want the UN. But if

Cambodia says it wants the first option, then it can be said that Cambodia wants full UN participation. Sok An replied that it was up to Secretary-General to reply. If I were the UN I would now let Cambodia get on with it on its own”.

“If they (the UN legal experts) go on about nominations and majority of judges and so on, they are not participants. I do not wish a foreign woman to come to Cambodia and dress up in a Khmer dress. I want a Khmer woman to dress in a Khmer dress and for foreigners to come and help put on the make-up”.

“If the UN demands to have majority of judges or to nominate judges, the UN will be masters of the process. For Cambodia, there is a risk of being forever under tutelage of UN. If we can dissolve Khmer Rouge, we can organise the trial. If no trial is held, this means that there are no values any more. Thirty of my years have been dedicated to fighting Khmer Rouge. I would like to be nominated for the Nobel Prize for that”.

During the more concrete part of the meeting he said that the US now played a co-ordinating role in relation to the first of the three options the government had presented to the Secretary-General. The “super majority” model is the most Cambodia could accept.

The best way for the UN to participate, he said, would be to provide advice on the draft law. They had had meetings with the US ambassador-at-large David Scheffer. A Russian and a French expert were now expected to come and help the government in the drafting job. He also mentioned that they had invited former US Attorney General Ramsey Clark.

The new draft would be finalised very soon by the working group led by Senior Minister Sok An and then sent to the UN legal experts. They wanted to have prompt comments from the UN. They then intended to submit the final text to the Council of Ministers. Final decisions would then be taken by the National Assembly and the Senate. Hun Sen wanted the preparatory process completed and the trial started in the first quarter of 2000.

As on earlier occasions, I said that there would be no UN involvement in any process to bring the Khmer Rouge to justice unless the Secretary-General was convinced that the proposal ensured that recognised international standards for justice, fairness and due process would be met. There would have to be guarantees that there could be no political interference and that the whole process would be independent.

During the mission I also consulted representatives of the Cambodian non-governmental groups. A summary of their views was formulated in a statement signed by the Bar Association, Cambodian Defenders Project and Legal Aid of Cambodia on 22 October. They suggested that all judges and a foreign chief prosecutor should be appointed by the UN and that non-Cambodians also should take part as investigators in the process. In order that the independence of the tribunal be fully protected they proposed that a foreign Chief Administrator should be appointed by the UN and that there be an autonomous budget to be managed by the Chief Administrator. They further stressed that there should be adequate security for all court officials and that witnesses must be protected, also after the trial.

US Assistance and government Clarifications

The new US Ambassador to Phnom Penh, Kent Wiedemann, had intervened in early October in the process offering his “good offices”. He tried to break the impasse between the UN positions and those of the government and focused on the differences regarding what “side” would have the majority of the judges. The Zacklin mission had insisted that the international community must have the majority in order to ensure international standards. The Prime Minister had demanded a Cambodian majority using an argument about sovereignty.

Ambassador Wiedemann’s suggestion was that the Cambodians would be in majority but that there would be a need for a broad majority for the decisions. The implication would be that the international judges could not be ignored, at least one of them had to be behind a decision for that to be valid. This was called a “super

majority”.

The US representatives had also discussed whether the trial would be special or integrated into the existing legal-judicial system in Cambodia. Their proposal was that a special chamber (or “session”) would be created at the existing court—a formula they later described to me as “cosmetic”. This approach, in turn, spurred a discussion on using new terms (with a risk of further unclarity).

Another suggestion of the US Ambassador appeared to have been that the personal jurisdiction would be limited to a fairly small number, but that Ieng Sary would be included in that group.

Finally, he was reported to have proposed that the UN monitor the process to ensure that international standards were being met. If they were not, the international community would withdraw (including the funding). This suggestion seemed somewhat odd in a discussion about a much closer UN involvement, but the implied message was probably that the other international actors, including the US, would follow the UN lead on continued involvement or not.

Though the US intervention in some respect was helpful, it would have been more useful if there had been better co-ordination with the UN efforts or with other governments. I was not consulted on Ambassador Wiedemann’s initiative, nor was anyone else on the UN side. This gap was partly remedied in mid-October when I and Ambassador David Scheffer were in Phnom Penh at the same time.

Scheffer met Sok An, the chairman of the government working group on the Khmer Rouge issue (who had met the Zacklin delegation in August). He made clear that the US government did not want to replace the UN in this dialogue, but rather help move the process forward. Its position was that the US could not support or take part in any trial which was not approved by the Secretary-General. The US Government was not willing to step in as an “alternative” to the UN. A French diplomat told me the same about the position of his government and the Russian Ambassador appeared to take a similar position.

Scheffer’s impression was that language now indeed was important to the government: it did not like the term “mixed” tribunal and wanted to distance itself from the terminology of the international tribunals. For the court itself, their preferred term in French is “audience extraordinaire”, in English “extraordinary session”.

Meetings I had with key personalities like Chea Sim, Ranariddh, Sar Kheng and Sok An appeared to confirm the impression that that key decision-makers felt that a new terminology was part of a face-saving solution to the “sovereignty” problem.

Also, it was clear that government representatives had come further in their own thinking about the concrete aspects. On the legal standards to be used, they wanted to use the term “politicide” or “autogenocide”. It was clear that they wanted the specificity of the Cambodian experience to be recognised and made the comparison with the association of the term “apartheid” with South Africa.

They were prepared to accept the super majority concept, but insisted on a majority of the judges being Cambodians. They suggested 5 judges at the first level, 7 at the appeals level, and 9 in the Supreme Court. The Cambodians among them should be appointed by the Supreme Council of Magistracy, the constitutional body in Cambodia with the Authority to appoint judges (as its membership was dominated by the CPP, its political impartiality was questioned by many, including the King himself). There appeared to be no opening for the possibility of recruiting the Cambodian judges from outside the existing pool of sitting judges. However, Sok An agreed on the need for mutual confidence in the process of appointments.

On prosecutors, the Government was considering the model of having one Cambodian and one international prosecutor—and perhaps also two investigating judges in line with the existing Cambodian system. A serious problem emerged: the government had in mind that the two prosecutors would have to sign the indictments together. **(Continued in the October 2001 issue)**

THE UN IS WEAK-WILLED IN FIGHTING GENOCIDE

Peter H. Maguire

THE EXTRADITION and trial of Slobodan Milosevic has prompted hopeful speculation in the West. Some have gone so far as to argue that the world is at the dawning of a new era of international legal accountability. How can this be true given the events of the past decade? During the 1990s, United Nations and world leaders proved unwilling to stop crimes against humanity and genocide in civil wars throughout the globe. The UN's responses ranged from weak-willed and ineffectual (Cambodia and the former Yugoslavia) to absolutely shameful, (Rwanda, East Timor and Sierra Leone.) Rather than face the fact that the "never-again" promise had been broken, the UN and many human-rights advocates shifted their efforts from war-crimes prevention to war-crimes punishment, or post-tragedy justice. But can international law ever provide equal justice for all? What are the limits of post-tragedy justice? Most important, can trials ever make up for disgraceful inaction?



Cambodia serves as a useful paradigm for the relationship between powerless nations and international law during the 20th century. Between 1975 and 1979, at least 1 million died as a result of the Khmer Rouge experiment in stone-age communism. After the Vietnamese toppled the regime, did the UN or the United States support efforts to try Khmer Rouge leaders? No, quite the opposite: In 1979, the Jimmy Carter administration voted for the genocidal regime to retain Cambodia's seat in the UN General Assembly. Although the UN sent more than 20,000

troops and 5,000 civilian advisers to Cambodia, there was no mention of war crimes in the 1991 Paris Treaty. In the end, the Khmer Rouge was not destroyed by fear of "global justice," but a 1996 amnesty to Ieng Sary and other.

After more than two years of contentious negotiations with UN, Cambodian strongman Hun Sen announced recently that his nation would hold its own war crimes trials with or without United Nations support. The East Timorese were also promised a UN



war crimes tribunal in the wake of their 1999 election. Although the decision to end 24 years of Indonesian occupation triumphed at the polls, when pro-Indonesian militias waged war on civilians, the UN fled. The Australian-led military

response came after a thousand civilians had been killed, 70 percent of the nation's buildings had been destroyed and 200,000 civilians had been moved to concentration camps in West Timor.

Despite initial threats by the UN of a war-crimes tribunal, the Indonesian government agreed to try its own-crimes suspects. After one militia leader was sentenced to house arrest, one UN official remarked, "The sentences make a mockery of the international community's insistence that justice be done in this horrific case." The double standards of contemporary international law became most glaring in Sierra Leone.

The Lome Accords, negotiated by Jesse Jackson on behalf of Bill Clinton's administration, were forced onto Sierra Leone's elected leader, Ahmad Tejan

Kabbah, in July, 1999. Not only was Foday Sankoh, leader of a rebel group called the Revolutionary United Front (RUF), released from captivity, he was also granted a vague amnesty and named Sierra Leone's vice president and commissioner of diamond resources. RUF victim Victoria Kajue was baffled by the West's decision to reward her children's killers. "I saw them execute all of my children and a 2-year-old grandson. And I have nowhere to lay a complaint. I have no justice." Within months of signing the pact, the RUF resumed killing and mutilating civilians, and even kidnapped hundreds of UN soldiers.

In the end, the 11,000 UN troops needed the reinforcement of British commandos and Southern African mercenaries to chase the RUF back into the jungle. Adding insult to injury, the Indian head of the UN military force resigned along with the Indian component of the peacekeeping force. He charged his colleague, a Nigerian, with aiding and abetting the RUF.

When Sankoh was captured by civilians last year, the UN promised Sierra Leone a war crimes tribunal. Today, discussions have stalled. Would perfect international trials in Sierra Leone somehow make up for previous failures? What are the limits of

post-tragedy justice?

The UN has spent hundreds of millions of dollars to try nine men in Tanzania, and close to 100,000 remain in prison in Rwanda. Has their punishment resurrected the 800,000 hacked to death in 1994 or ended a civil war that now engulfs the Congo? Trials can never make up for shameful inaction in the face of preventable genocide. During the 1990s, war crimes, human rights and post-tragedy justice became industries, complete with self-appointed stars, power brokers and patrons. Most aggressively advance the idea that a Nuremberg-derived system of international criminal law will soon take root. But, by the end of the bloodiest century in human history, the so-called "international community" has grown increasingly indifferent to and accepting of the horrors suffered by its most powerless and politically insignificant members. Has anything changed other than the lies that we tell ourselves? If Slobodan Milosevic's extradition and trial marks the dawning of a new era of international law, explain it to Sierra Leone's Victoria Kajue. "The world seeks justice in Kosovo," Kajue says. "Are we on a different planet? Are my children worth less than the children in Kosovo?"

SEVEN MEN SERVED AS SECRETARY-GENERAL

Their names, nationalities, and years of service are:

- (1) Trygve Lie of Norway, 1946 to 1953
- (2) Dag Hammarskjöld of Sweden, 1953 to 1961
- (3) U Thant of Burma, 1961 to 1971
- (4) Kurt Waldheim of Austria, 1972 to 1981
- (5) Javier Pérez de Cuéllar of Peru, 1982 to 1991
- (6) Boutros Boutros-Ghali of Egypt, 1992 to December 1996
- (7) Kofi Annan of Ghana, 1997 to present.

I SHED TEARS IN PRISON

Vannak Huy

Chhim Sam Ol, a 45 year-old farmer living in Ta Cho Village, Sarikakeo Commune, Sva Em District, Kandal Province, was a Khmer Rouge prisoner in the Eastern Zone in 1974 and 1975. Describing the anguish he experienced during his detainment, Chhim Sam Ol said: “I wept when they shackled me. I felt so miserable for this life-changing suffering - sleeping on the ground like animals, fleas all over the body, skin diseases, etc. During the Phchum Ancestor Festival, I could see numerous people carrying offerings to the pagodas through the window. As for me, I cried in custody.” Chhim Sam Ol relates the story of his detention below.

“After the 1970 coup ousting King Sihanouk from his post, I was selected to join a militia unit [Kang Svay Tran] in order to increase village security. One night in the early 1974, the liberation army of the Khmer Rouge assaulted my village, and captured thirty villagers and me for serving the old regime [the Khmer Republic, led by Field Marshal Lon Nol]. At about 10 p.m., a few guerrillas called me, ‘contemptible Ol, come down here!’ Sensing serious trouble, I decided not to come. So I stayed still in my house. When I did so, they used their bayonets to stab me from beneath my house. Then they shot at me three times. Because they roared fiercely and I was afraid I might get hit by some of the bullets, I surrendered, raising my hands and walking slowly down the stairs. As I reached the ground, they immediately

took my watch, tied me up and walked me away.

“As they were leading me and the other villagers to the edge of the village, Lon Nol soldiers shelled from the Chroy Changva area with their six-cannoned artillery. The Khmer Rouge then ran away, leaving us behind. Panic stricken, we cut the ropes binding us and ran to hide in pits that had been made by previous bombings. After the bombardment was over, the Khmer Rouge soldiers returned, pointed their guns at us and called us to stand up. They tied us up once again and led us to a river, where they began to strip-search us for money. They said, ‘Any money or belongings must be confiscated. They will be returned to you when you are re-educated.’ After searching, they continued their march along the river. As we were walking, planes from Phnom Penh attacked again. But they strafed at the Khmer Rouge only. A few minutes later, the planes disappeared. The Khmer Rouge then brought us to a reeducation

camp in Prek Rey, Lvea Em District. I was detained there for two weeks. When they escorted us, I was not afraid. But when they shackled us, I began to fear, shedding tears.”

At this point in the interview, Sam Ol took a huge breath, looked at his wrists, and continued, “Life in the prison was harsh. The utensils we ate with were the open containers used to feed pigs, and we used crab shells as spoons. During this time, the prison’s security guards called me to write my autobiography three times. A



guard banged the table and said, ‘You are all members of the militia unit!’ Because they intimidated me, I told them the truth. Every one of us was questioned. Of the three times I was called to be questioned, I told them a lie that ‘I don’t have any relatives.’ Previous captives told me that if I told them the truth about this, the Khmer Rouge would search for my relatives.

“In addition to questioning us, the Khmer Rouge guards ordered all the prisoners to work at farms, collect firewood, move earth, and carry water to the tanks with our hands and shoulders. The prisoners were forced to work continuously all day long, and were provided insufficient food.”

During his one year of detainment, Sam Ol was moved to three different reeducation camps. He revealed: “After being detained at Prek Rey prison for two weeks, the Khmer Rouge moved 15 prisoners including me to Snay Pol reeducation camp in Pea Reang District, Prey Veng Province for one day before continuing to Prek Kralanh reeducation camp. Prisoners who were relocated from Prek Rey prison to Snay Pol prison were not shackled. Instead, the Khmer Rouge tied them using only sewing thread. ‘Anybody who causes the threads to detach will be shot immediately!’ Luckily, the guards did not mean what they said, because as we were walking, if someone walked too fast, the person behind him had to remind the person in front: ‘Don’t walk too fast, the thread will be detached.’ Whenever the threads broke, the prisoners spoke in fright, ‘Help! Help connect the threads together.’ The Khmer Rouge soldiers roared with laughter when they heard that.

“When we reached a village consisting of approximately ten families, the villagers came out. They were carrying sticks, knives, axes, and hoes. They gathered around the prisoners saying, ‘Comrades! Exchange chickens with us! These men are imperialists! Take our chickens!’ All of the prisoners were scared stiff of being slaughtered by the villagers. Fortunately, Santebal prohibited them. They led us for three more days until we reached Snay Pul prison. In fact, the distance from Prek Rey

to Snay Pul was only a day’s walk. At night, the guards led the prisoners from Snay Pul to Prek Kralanh prison, which was my final prison.”

Sam Ol was detained in Prek Kralanh for almost a year. On 17 April 1975 when the Khmer Rouge occupied Phnom Penh, he was allowed to farm for the new regime, which he called a “prison without walls.”

Sam Ol talked further about his life during his year of captivity in Prek Kralanh: “When I was detained in Prek Rey prison for a week, the chief of the prison told us in a meeting that ‘We’ll move on in order to live with our people.’ I was very glad to hear about living with ordinary people, but in reality they brought us to another prison, Prek Kralanh. At Prek Kralanh the prison chief said that ‘We come here to get conditioned. So, try hard to rebuild yourself from today on.’ I was always wondering, ‘How do I temper and build myself?’ The Khmer Rouge conditioned the prisoners on every aspect of their lives from sleeping to walking to eating: ‘Train and train until the prisoners became skinny and bony.’ The Khmer Rouge turned schools into prisons. There were about 30 prisoners at my prison. Five inmates were kept in a single room. We were provided two meals a day—at 11 a.m. and at 5 p.m. A ladle of porridge was given to each prisoner and a bowl of crab sour-soup for five prisoners in a meal. The soup had half a crab and five slices of giant cactus tree as a vegetable. Each person was allowed only one spoon of soup. We did not have real bowls for our rice or porridge; they were made instead from palm leaves. We had to gulp our thin boiled-rice immediately after the cooks poured it into our leaf bowls; otherwise it would be gone in seconds through leaks. We gulped down the boiled-rice first and drank the soup later.

“At dawn, the deputy chief of security assigned us to do various jobs. Some were appointed to transplant rice. Others were told to pull rice seedlings or fill water tanks. The chief prohibited all inmates from communicating with villagers. When meeting villagers, a prisoner was not to tell them about his or her miserable life in prison, for this was ‘a secret of

Angkar.’ What a prisoner should tell them was that ‘food is plentiful and life in prison is fine.’

“One day in Phchum Ben season, I fetched water from a well at a pagoda. Just when my bucket reached the water, a monk arrived and asked me, ‘Do you have enough food to eat in prison?’ Then I replied frankly that ‘I don’t have anything to eat, except a bowl of boiled-rice.’ With pity, the monk handed me three *ansam chruks* [a kind of traditional cake with a combination of pork and sticky rice made especially during Phchum Ben season]. ‘Eat carefully, do not let them know,’ he said. To me the cakes were like gold. I thought that ‘this time I would have a chance to eat delicious food.’ I kept one in my pleat, another one folded into my trouser waist, and held the third one in my hand. Just as I was about to eat the one I was holding, a Khmer Rouge guard appeared from nowhere and shouted at me, ‘You’ve stolen them from other people!’ Then the guard hit me four times with his gun butt. I fell flat to the ground close to the well, and then the guard took my cakes away. The villagers preferred to feed the prisoners, but the Khmer Rouge not only took the food away, they blamed the villagers if they wanted to give food to them.

“What I’ve never forgotten was the time when I met my older brother as the guards were leading me and other inmates to transplant rice. When I saw my brother, I asked him, ‘Brother! Where have you come from?’ After my brother had walked past, a Khmer Rouge soldier asked me, ‘Who did you talk to?’ ‘I called my brother,’ I told him. Suddenly, he hit violently three times using the butt of his gun and warned me, ‘Do not do this again! If you want to ask him, ask me first.’ The Khmer Rouge guards working at the prison were mostly teenagers between the ages of 16 to 17, yet the prisoners did not have enough physical strength to revolt. As an example, a strong gust of wind could easily knock me down if

I did not walk carefully outside the prison.

“All prisoners had the same fate. The difference was just a matter of time. Some died of swelling caused by lack of food. Other died attempting to escape.”

Sam Ol emphasized the causes of death: “Most prisoners were too weak to work under the sun, because they were provided very little food to eat... They were pale and easily infected by disease, causing the body to swell and fluids to flow out. One night five prisoners attempted to escape through the door. Unfortunately, the chief of the unit knew and informed the security chief. In the morning, the security chief called all prisoners to attend the meeting and asked, ‘Listen! Who made an attempt to escape last night?’ All prisoners replied that they did not know anything. ‘You all conspire to lie to me! You wanted to escape last night!’ said the chief. However, the chief had known everything, since the

Vannak Huy in Mondulkiri



chief of the unit who had informed him was a former prisoner assigned to keep a lookout on the activities of other prisoners and report on them to the security chief. We did not know where this lookout worked in the daytime, but he returned to sleep inside the cell with other prisoners at night. When the meeting ended, the security chief ordered the guards to tie five prisoners' hands behind their backs until their elbows almost touched. They were all blindfolded. Then they were led to the north behind the prison, while the remaining prisoners were allowed to go back to their cells. The security chief closed the door and warned, 'If anyone causes chaos upon hearing gunshots, they will be killed.' A moment later I heard him counting: 'One! Two! Three!' followed by the sound of several gunshots." Nevertheless, Sam Ol added that he did not hear the cry of the prisoners, but "when I looked

to the front, I could recognize some clothes belonging to the prisoners hung on the fence."

What he saw was three prisoners being executed using the sharp edge of a palm tree branch. It was "carried out before our very eyes three months after I first arrived. A group of Khmer Rouge soldiers brought these prisoners from Prek Rey to Prek Kralanh prison to be slaughtered for attempted escape." Sam Ol said, "Punishing prisoners for breaking rules was a way to warn others against repeating the same crime."

He stated: "I'll never forget the punishment imposed on me by the Khmer Rouge. I wonder how these people, who spoke the same language as us, could kill their own race? During each Phchum season, I've always thought about what happened 25 years ago in which 'I shed tears in prison.'"

DISCOVERY RAISES QUESTIONS FOR RESEARCHER

Keo Kanitha Kim



Keo Kanitha Kim

When I was young, my mother told me how her uncle Chen Seng was taken by the Khmer Rouge to be killed because he was a lieutenant colonel in the Army of the Khmer Republic. Chen Srei Touch, Chen Seng's daughter, recalled that Chen Seng

was a brave soldier. She had lived with him until he was tricked into going to an "educational session."

Despite his age, Chen Seng became a commander in charge of military training in Takeo province. When the Khmer Rouge attacked Phnom Penh in 1975, Chen Seng was ordered to defend the city. He decided to leave his son Chen Sydin alone in Takeo province, since Sydin was busy with his studies and was needed to take care of the household.

Unfortunately, on April 16, 1975, my great

uncle and his family were ordered to leave Phnom Penh. They then traveled by foot to Krek in Kampong Cham province. There, Chen Seng had to change his name and tell the local villagers that he was a charcoal seller.

Chen Seng did not leave the place Angkar had assigned him until mid-1976, when a village chief asked him and two other villagers to go for "education." About a week later, a young cow herder told Chen Seng's wife that he had found three male bodies deep in the forest. Since it was widely believed that one of the bodies was probably that of Chen Seng, no one dared to go and look at the corpses. My great uncle was never seen again.

His son, Chen Sydin, was evacuated to Tram Kak district, Takeo province in April 1975. His Aunt Henag, who still lives in Takeo province, said Angkar arrested him in 1978 for unknown reasons. Like his father, Chen Sydin was never seen again.

When conducting research at the Documentation



Chen Seng in the 1960s

Center of Cambodia, I was greatly shocked when I discovered the confession document of Chen Sydin while reading Khmer Rouge documents from Kraing Ta Chan prison, Takeo province.

My great uncle's military position is mentioned in this confession of July 7, 1978. Because he died before the confession was completed, it does not appear that Chen Sydin's confession had an impact on Chen Seng's fate. Had the latter still been alive, however, the confession would have cost him his life under the Khmer Rouge policy of "smashing" internal enemies. ("To dig up grass, one must dig up the roots.") Chen Sydin, who was tortured before confessing, was executed, too.

In his confession, Chen Sydin asserted that with the help of six other people, he led treacheries against Angkar ranging from destroying hoes, earth-moving baskets, knives and axes, to placing a curse on the Khmer Rouge, asking for its collapse. He admitted that he had been a first lieutenant in the Khmer Republic regime army. Located in Trapeang Lien village, Tram Kak district, Takeo province, the grounds of Kraing Ta Chan prison are riddled with 21 mass graves containing the remains of some 10,042 people.

The Khmer Rouge cadres employed torture or trickery with their victims, known as "hot measures," so that they could obtain "confessions" that

corresponded with the preconceived "truth" they were required to uncover.

I ask myself while reading Chen Sydin's confession about my great uncle: What happened to him? To what degree was the content of his "confession" the result of torture? How much pain did he suffer?

How many Cambodians revealed the real status of family members after being tricked and tortured? How cruel were the methods of interrogation? These confessions surely led to the deaths of many people.

During this occasion of Pchum Ben, my family and I believe that the souls of the dead will come to surrounding pagodas, hoping to receive offerings from their relatives or descendants through the prayers recited by the Buddhist monks.

For more than 20 years the souls of Khmer Rouge victims have waited not only for offerings but also for justice.

These souls, including those of my great uncle and uncle, will rest in peace as long as real justice is done for their suffering. May they rest in peace!

KRAING TACHAN DOCUMENT D168



Letters from Readers:

LOOKING FOR A NEPHEW

To Youk Chhang, Director of *Searching for the Truth Center*

Dear Sir,

Please search for my nephew named Sa Son, called Samnang (and Kong within our family).

Sa Son was born in Ta Lea Village, Svay Rieng Commune, Svay Rieng District (Ta Toeu Subdistrict, Kampong Ro District), Svay Rieng Province. He was born in the year of the rooster. Today, he would be about 57 years old. His father's name was Sa Son; he was a former Khmer Rouge soldier during the Sangkum Reastr Niyum (Popular Socialist Community) who lived in Ach Romeas District (Rhino Dunk), Kampong Chhnang Province before the Pol Pot regime. When Pol Pot took power, the entire family disappeared. Sa Son's mother was Am Sok, head of the household. During the 1960s, Sa Son studied in France for four years (I do not know where).

In the early 1970s, Sa Son came back to Kampuchea. In 1973(?), he returned to France to study again. However, the French government sent him back after three or four months; I do not know why. After that, he taught at a school in Phnom Penh (again, I do not know which school). After only a few months, he was arrested by the Lon Nol government for having links to the murder of Mr. Keo Sankim and Mr. Tach Chea. Next (still during the Lon Nol regime), he was imprisoned in Prey Sar District. After liberation day in 1975, the Khmer Rouge organization appointed him to work in Prek Po, on the eastern side of Chroy Changva Bridge. Around 1978, the organization asked him and his family to come to Phnom Penh, where they have not been heard of since.

As I asked above, please try to search for him and let us know of your findings.

Please accept my highest respect. (Tel: 016 859 358)

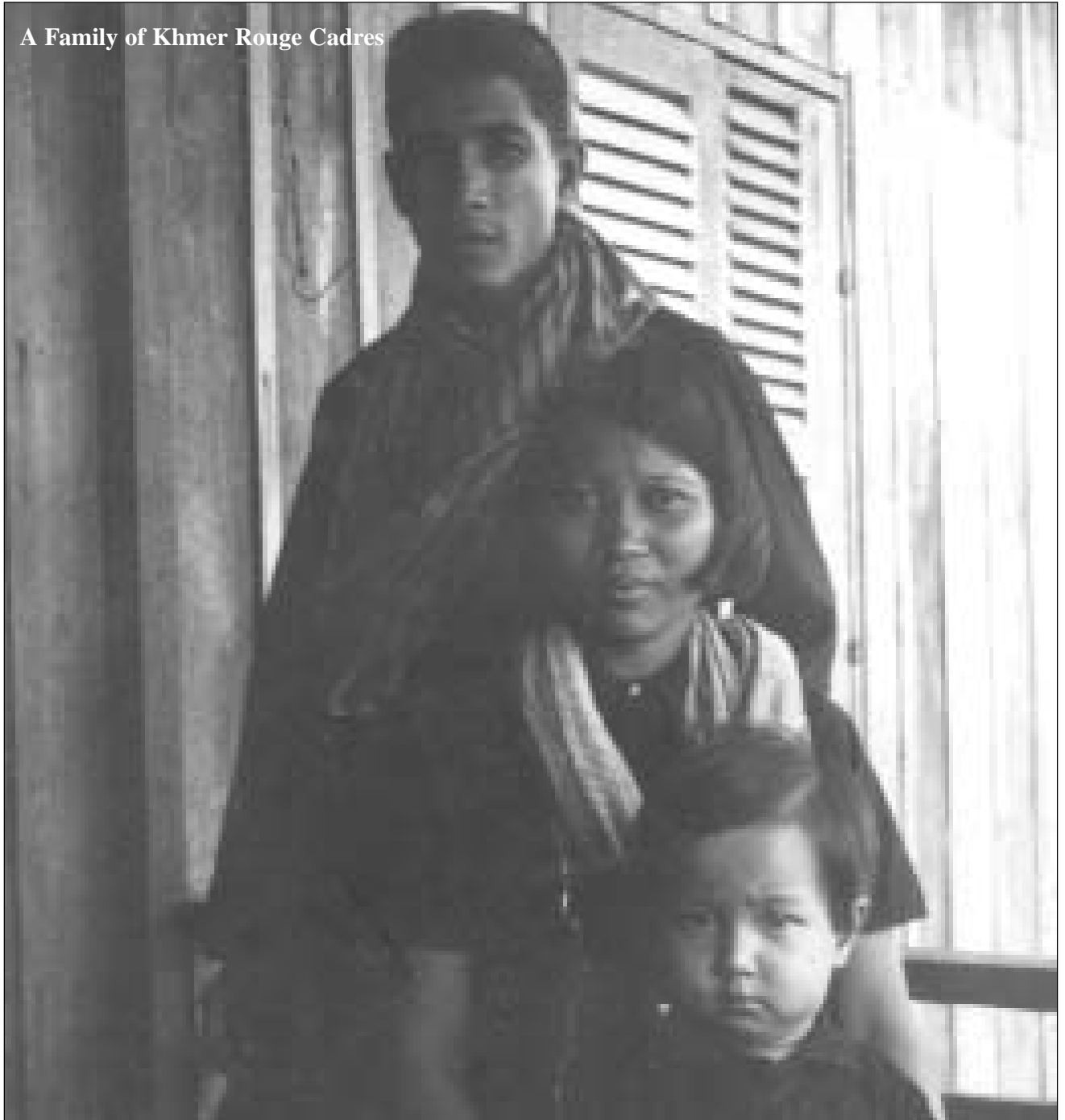
Am Lon, Ta Lea Village, Svay Toeu Subdistrict, Kampong Ro District, Svay Rieng Province

THE IDENTIFICATION OF A FATHER

My name is Khun Kol Phievatei, and I reside in Svay Rieng Province. I would like to express my gratitude to Mr. Youk Chhang, director of the Documentation Center of Cambodia's *Searching for the truth*, and his colleagues for finding my father's identification. He was captured and killed by Angkar at Tuol Sleng Prison (S-21).

With this thanks, I would also like to make another request: In the next volume of your magazine, please publish my father's picture and the confession he recorded at S-21 so that I can see his face and read the dreadful words. I strongly hope that you will fulfill my request as well as those of Cambodian citizens who wish to learn the truth. I wish you and your subordinates happiness and safety. Thanks.

A Family of Khmer Rouge Cadres



ដើម្បីទប់ស្កាត់ការបោះពុម្ពនិងចែកចាយដោយឥតគិតថ្លៃដល់មន្ទីរស្រុក និងឃុំ នៅទូទាំងព្រះរាជាណាចក្រកម្ពុជា
ទស្សនាវដ្តីចំនួន១០០០ ច្បាប់ជារៀងរាល់លេខនឹងដាក់លក់តែនៅក្នុងរាជធានីភ្នំពេញប៉ុណ្ណោះ មួយច្បាប់ក្នុងតម្លៃ ៧០០០ រៀល

មជ្ឈមណ្ឌលឯកសារកម្ពុជាអំពីរង្វាស់រដ្ឋាភិបាល មូលនិធិនា និងសាធារណជនក្របួប សូមជួយទប់ស្កាត់ការបោះពុម្ពដ្ឋានទស្សនាវដ្តីនេះទៅតាមលទ្ធភាពដែលអាចធ្វើបាន។ ព័ត៌មាន
បន្ថែមចំពោះការបោះពុម្ពដ្ឋានទស្សនាវដ្តីស្វែងរកការពិត សូមមេត្តាទាក់ទងមកកាន់នាយកមជ្ឈមណ្ឌលឯកសារកម្ពុជាតាមទូរស័ព្ទលេខ (៨៥៥) ២៣ ២១១ ៨៧៥ ។ សូមអរគុណ!

The Documentation Center of Cambodia would like to appeal to governments, foundations and individuals for support of the publication of
Searching for the Truth!. For contribution, please contact (855) 23 211 875 or By Email: dccam@bigpond.com.kh. Thank you.

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