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A victim of S-21



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Letter :

SCRATCHING AN UNHURT WOUND

Were Khieu Samphan to agree to go before any court with the aim of testifying on what happened during the rule of Democratic Kampuchea (DK), we would learn a lot about what occurred in that tragic period of Cambodia's history. Khieu Samphan, who had a part in getting millions of Cambodian people killed, continues to allude to the Khmer notion that: "[I] cannot help illuminating the truth if the unhurt wound is being scratched with a stick."

"Scratching an unhurt wound with a stick" is a Khmer proverb used to emphasize an act of agitation, exaggeration, provocation or contortion in an attempt to cause the breakup of a happy family or society. During the Democratic Kampuchea regime (1975-1979), millions of Cambodians died premature deaths. This tragedy cannot be romanticized or re-written. The truth remains the truth, and history cannot be revised to become something other than history. It is a matter of historical fact that the Khmer Rouge made Khieu Samphan a full-rights member of the Central Committee and Standing Committee of the Communist Party of Kampuchea. This party established policies that resulted in mass executions of the people of Cambodia, and the Khmer Rouge killed members of every Cambodian family.

Establishing a tribunal to prosecute Khmer Rouge leaders will produce a remedy rather than merely scratching a wound. A person with a wound must undergo appropriate medical treatment, which more or less

inflicts pain. However, during the treatment period, we should not have hesitated; nor should we have kept the wound until it became infected and then a chronic disease for over 20 years.

To date, Khieu Samphan has tried to identify himself as a Khmer with an out-of-date doctoral degree from France. However, he still appears to adhere to the genuine nature of a Khmer Rouge cadre, which, more often than not, has been provoking schisms among poor peasants.

Khieu Samphan has used a Khmer proverb with the aim of triggering splits, as he had done during the period of his power: three years, eight months and twenty days.

Although Khieu Samphan tries to dye his hair black, it is impossible for him to conceal his real nature. He is a Khmer Rouge who tried to create a so-called "utopia" by such means as executing and starving his own people, while making others his scapegoats.

Youk Chhang



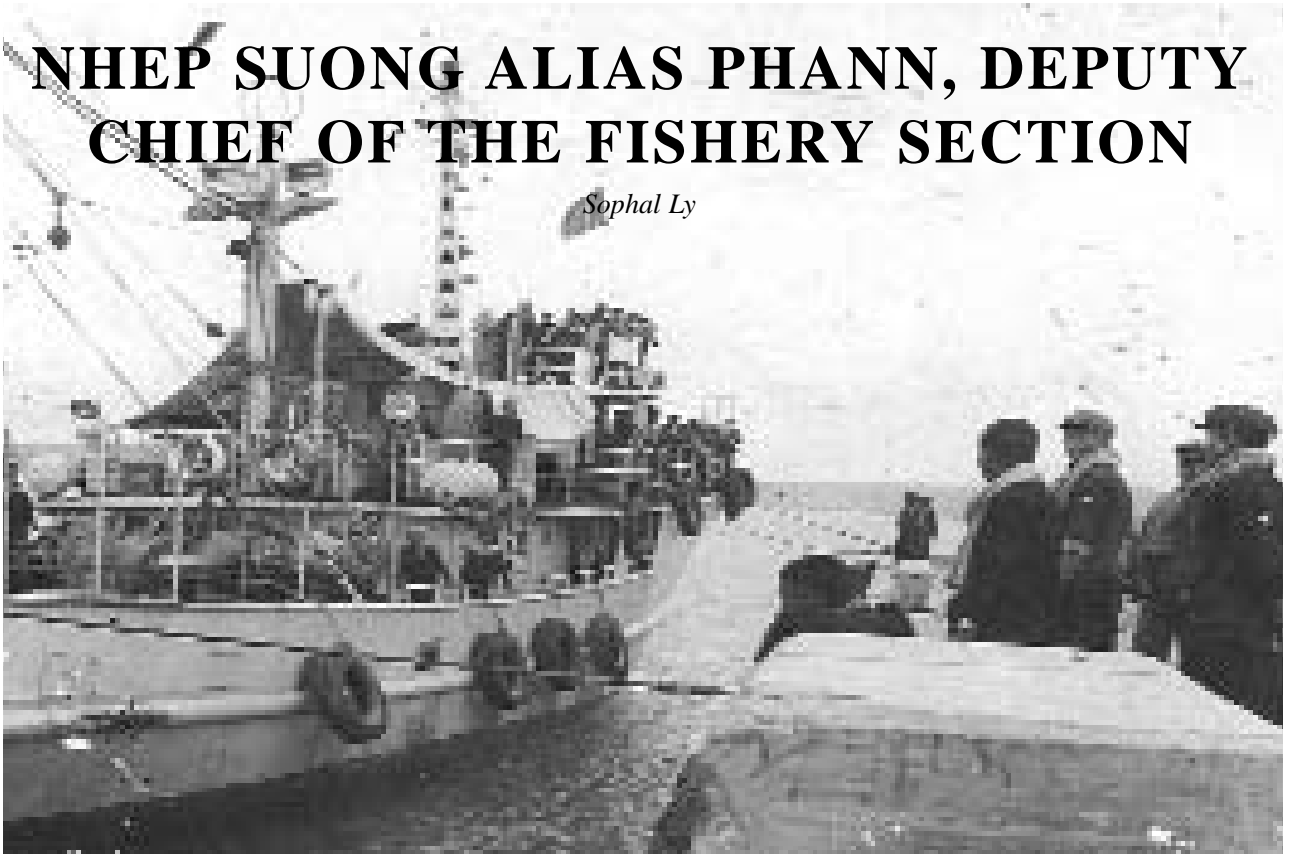
Khieu Samphan pre 1998



1998

NHEP SUONG ALIAS PHANN, DEPUTY CHIEF OF THE FISHERY SECTION

Sophal Ly



A former deputy chief of the State Fishery Section, Nhep Suong alias Phann became a Khmer Rouge prisoner and was sent to S-21 for allegedly eavesdropping on a village-based party for Ta Chong (the younger brother of Tak Mok, the Secretary of the Southwest Zone) and his network elements. Phann was interrogated several times. However, only four of his confession documents remain. In his responses, Phann described his connections with Ta Chong and several other network elements.

Alleged Activities of Phann during His Time with Ta Chong

Throughout 1972, Phann stated that he lived with Ta Chong, a member of the Southwest Zone Committee, and once led forces to have a meeting at Ta Chong's office, which was chaired by Nuon Chea. Udan, Yuth, Thai, and another unknown person participated. During the meeting, Phann also took part in exchanging ideas. The meeting raised four points: 1) to decide whether you want to stay in

Koh Kong, 2) to propose to the Zone Committee that both cadres and masses, who were working on the staff and were born in Koh Kong (including Thai and the unknown person), return to work in their hometowns, 3) resolve complex issues in the Staff Office, and 4) miscellaneous issues. After unanimous agreement was reached on these four points, Ta Chong submitted a letter to Ta 15 (Ta Mok). Phann's assignment at that time was to eavesdrop for Ta Chong.

Later, Phann made an additional report to Ta Chong on a training course conducted in Hanoi in which comrade Sy stated that "The aim of Vietnamese arrivals in Kampuchea is to swallow and have a firm, from-top-to-bottom grasp of Kampuchea. They want to grasp hold of the central [committee], and in case of failure, they will take control over the following areas: zones, regions, districts, villages, people, or a piece of land. This is the evil nature of Yuon [Vietnamese]."

This meeting was followed by another at

which Ta Chong was also present. Ta Chong said Ta 15 had already agreed with the request for Nuon's associates to go to Region 11 for a meeting. From the discussion, Thai was appointed as a member of the district with responsibility for the Chi Phat subdistrict of Koh Kong district. Yuth was transferred to the Regional Logistical Department and placed in charge of infiltrating subdistricts, offices, and both military and political schools, while Udan was put in charge of commerce. San, the former district chief of Trapeang Rong, was designated as technical supervisor, monitoring the disposition of such equipment as cloth, paper, medicine, etc. After the 1970 coup d'état, San was made to work in the zone along with Ta Chong. Soon after his nomination, San was put in charge of cultural affairs along with a person named Krin and then transferred to work with Nuon, deputy-secretary in charge of regional staff. When the meeting came to an end, Chong, Nuon and Udan continued their discussions in Thai, Khmer and Vietnamese. Phan said, "I was there and suggested that I be free to choose whether or not to listen. During the discussion [on more crucial points], Thai was used in lieu of Vietnamese for fear of Hanoi awareness."

When the last meeting ended, Phann was told to issue a circular, entitled: "Addressed to Van." The circular centered around new appointments, with Van being secretary; Nuon deputy-secretary and in charge of staff; and Udan as a member of Trapeang Rong district. The three were to be standing members, with "Men as the member responsible for Thmar Sar district (Koh Kong) and Thiv as member of Thmar Baing district." Attached to the circular was a long note by Ta Chong himself, and bearing his signature. Through the appointment, Men and Thiv had separate responsibilities over the two districts sharing a border with Kampong Seila, where the majority of inhabitants were Khmers. As for Phann, he became an assistant to Ta Chong at the Zone Office, keeping an eye on unusual situations in the area. Toward the end of 1972, there was a

Congressional Decision allowing the establishment of Party Committees at the zone offices concerned. Phann was then secretary, Krin deputy-secretary and Yen a member. In addition, there were two more members: Uncle Veng and Ly. Phann began to take an absolute and volatile stand against the hierarchy, while becoming more disloyal to the party. As he put it, "At that time I had a volatile standpoint because I was satisfied by the work assigned by Angkar in the fashion of hierarchy. I really liked it. However, the more satisfied with the assignment, the more disloyal to the party."

In January 1973, Phann and Ta Yin managed to recruit two forces named Chheang and Sean. Cheang was formerly a merchant, while the latter was an inventory monitor of the Southwest Zone's Office of Commerce. Then Phann was transferred and put in charge of the Office of Commerce of Kampong Seila region before he was moved to Koh Kong. There, he met Ta Chong along with several network elements, especially Pra Chha, who was responsible for monitoring the Andong Toek area (Koh Kong). In Kampong Seila, many people spread rumors that "in Kampong Seila, there are widespread arrests and executions. Even more unbelievable, victims' livers were eaten as an appetizer along with distilled alcohol." But upon reaching Kampong Seila, Phann found that this wasn't true, saying "[The scenery was] really fresh and people were working unconsciously." Phann returned to ask for two people (Horn and Sean) from Angkar to begin making contacts with villagers so that they could get sugar and salt from the zone, and buy finished products from the villagers themselves. Taking such opportunities, Phan grasped hold of and examined the situations of the people from the lower to the upper layers, identifying their weaknesses and their ways of concealing things. "My group had a total grasp of such hidings. Much pepper was successfully hidden for [our] journey to Koh Kong. People who had been loyal to the revolution just acted the same way, while I was making every effort to grasp hold of certain merchants whom we had

ordered to buy goods in Vietnam.”

Phann went to meet Ta Chong every two months. Nuon then told Phann, “It has been said that our network elements are no longer seen working. All of them have already been killed. The remainder have returned. At the moment, lots of people are mobilizing in Thmar Baing...” Phann pretended to intimidate certain elements to flee to Koh Kong, convincing them that, “[We] have arrested and interrogated and beaten spies, who then implicated certain people. The people targeted to be arrested realized this and disappeared.”

In July, Phann went to Koh Kong, where he reported to Ta Chong on activities carried out. Ta Chong instructed Phann: “Try harder with vigilance to avoid hazards.” After giving this advice, Ta Chong assigned Phann to contact Nhoek, Chief of Region 37. Some time later, Phann was moved to work with Eng, Chief of Sre Ambil district. Eng ordered Phann’s group to hide cloth, rather than deliver it to the people so that they would start thinking about attacking Angkar. He also asked the rich to purchase goods from Vietnam for the sake of showing off to the poor to provoke jealousy among them. Phann then took an active part with comrade Neou in destroying any spies that appeared to be outstanding. As Phann asserted, “Parts of my groups were helping in the field of hiding, enticement, taking actions, and making an active sweep of the remaining elements.” By the end of 1973, the Party made a clean sweep of enemies in Region 37. Phann also took part in this movement: “I had to join in the movement for the sake of taking sanctuary.” Later on Phann had to join a session on the situation in Region 37, where he had to choose a clear stand, as Angkar said that any network elements as traitorous as the ones in 1974 had to be smashed. Fearfully, Phann admitted, “Since then I became afraid in the movement and chose absolutely to follow the line of the party. We all gave up such activities by August 1973.”

The Plan to Rebel in June 1976

Based on his fourth confession document,

Phann had continual contact with Nhoek in Kampong Seila, Koh Kong province (under the instructions of Ta Chong). Then under the nomination of Eng, he came under the influence of a person named Chea about whom Duch (head of S-21) noted, “Chea alias Sa is Tiv Ol’s younger brother. He is a tangled person. The documents grasped so far don’t show [he] is a network element of the contemptible En-Ureya.” As for Eng, Duch wrote, “Contemptible Eng alias Ureya, according to documents, was a former network element of the contemptible Kim-Set (in the Political Period), of Chhun Sokh Nhuon (in the Rebellion Period), and made contact and worked under the command of Chong [former Deputy Chief of the Southwest Zone] (in the War Period). No document says [he] is in the link of Ta Nhoek.” Comrade Chea was designated by Nhoek to supervise Fishery Affairs and serve as a messenger in Region 11. Overtly, Nhoek fulfilled the task of smashing enemies, building the region, and abolishing any peace alliance. Covertly, Nhoek kept peace alliances and worked with such spies as Kok, Say and Dean until the end of 1974, the time of his arrest. Phann, Chham, Vuth, Chea, and physicians Na and Sokh, who were stationed in Kampong Som, joined a meeting to resolve plans to attack the Communist Party of Kampuchea. The meeting was intended to: “Prepare for network interconnection with Kampong Som, especially with the Western Zone and the transportation of food supplies to ensure the continual process.”

Chan and Phann’s Contacts with the Vietnamese

The confession suggests that by the end of 1975, Chhan’s sea patrol unit, which was stationed in Ream, managed to catch two boats with 16 Yuen people who were illegally fishing on Cambodian seas. Most of them were CIA agents with a “blue dragon” coat-of-arms. One of them was a Vietnamese who had come to invade Cambodia in 1970-1973. He was a commander who carried out activities in Region 37 and made contact with Chhan at that time. This man was separated from the other

15 Vietnamese for interrogation as a political prisoner. He admitted his goal, which was more than just coming to fish in Cambodia due to lack of fish in Vietnam. It was to “gather information on the disposition of the Kampuchean seas and the scope of actions to be implemented at the Cambodian seas at a time cities were emptied.”

Early in February 1976, the Party Committee put into practice a well-organized plan to rebel against the party in Kampong Som. Nhem told comrade Chhan to search for forces in Region 37, who used to trade before April 17. Chhan recounted his experience in catching these Yuon people. Then it was decided to choose one of the captured Vietnamese men to make contact along with Chhan. Nhem appeared to mistrust the Vietnamese, arguing, “Be vigilant. He may make us fall into the sea while we are meeting them [their partisans] there. The problem we may face will be the suspicion of combatants and the public, which may occur when he is released. Must report to Angkar. With the involvement of the combatants, the contact must be made in a way that the secret will not be leaked.” Chhan raised three possible solutions: 1) make an appointment, by preparing two boats and a motor-driven boat to be used at dawn so as to grasp the situation and make sure the signal-lights from the two sides are coordinated. 2) Keep this guy in a separate place for additional secret interrogation before making him leave at night. As for the other 15 people, they must be smashed one after another and a report, confirming the smashing, must be made available to Angkar. 3) Designate combatants to stand by at Chhan’s and Yan’s place. A small group will have to pretend to examine the situation. The first meeting was held in February 1976 and the second on 15 February 1976. The Khmer side consisted of Phann and Chhan, and the Vietnamese side of Tu Cam, Tu Cha and Le May. During the meetings, the Vietnamese side spelled out their position: for a long time, they wished to establish a relationship, but failed to convince any Kampuchean. The Vietnamese clarified that they would

reconstitute their staunch, friendly relationship [with Kampuchea] and follow all steps to be set out by Kampuchea: “What Kampuchea has, Vietnam must enter discussions at all steps.” Chhan replied that Kampuchea wanted help in terms of weapons, fuel, and food supplies for the purpose of renewing its leadership (as planned by Nhem). At the same time, Chhan stated the objective of the negotiation, “To build up a constant friendly relationship between the two countries to avoid our underestimation by the world. In exchange, the Vietnamese side needed Kampuchea to provide such products as timber and rubber.” Tu Cam agreed with the proposal, but other crucial factors were not in place. Thus, the discussion was postponed until the 15 March 1976, when Yan became a Kampuchean participant, while the Vietnamese side added a Viet Minh Khmer and other three old-timers, former ranking officers in the Southwest Zone. The latter included Yin, a famous military commander in Kampong Som and Koh Kong in the French colonial era; Sann, former military commander in the French colonial era; and Lay, a Vietnamese-Siamese from Koh Kong who had held a rank in the Vietnamese Army during French colonial rule. He was the party cadre under Chong in charge of Yuon immigrants and cadres in Koh Kong, who later escaped to Vietnam. Pursuant to the Vietnamese party and government position, Tu Cam wrote the Kampuchean request for two ships. However, the Kampuchean side suggested that Yin work with Yin, Sann, and Lay in order to learn about the recent developments in Kampuchea.

In addition, Yin recounted his experiences with the two partisans when they were in Vietnam. There, each had responsibility over units that were to carry out such activities as creating bandits to penetrate into Kampuchea via trails in Kampong Speu, Takeo, Kampot, an area west of Kampong Seila, and in Koh Kong. However, he asserted, their group failed to grasp the situation there clearly. Previously his team had assigned four forces to examine situations along a road from Veal Rinh to Kampot and along the coast. But, he continued, they

had not yet returned. Therefore, his group hoped to return to Kampuchea after Kampuchea began to contact Vietnam. Unfortunately, the request was postponed and rebellion broke out. Later, the Vietnamese side wished to meet with Kampucheans on 15 April 1976 for detailed discussions and assurances from Kampuchea. Chhan said, “Tu Cam was so good at reasoning that there was no way to deny his delusion. Furthermore, Viet Minh Khmers wanted to come soon, either in overt or covert fashion.”

The plan to rebel, scheduled to take place in June 1976, was postponed due to the changes throughout the country. In response to Chhan’s comment, Yin focused on a plan to be led by Sann, in which his group was to be ready to carry out activities in an area south of National Road 4 together with division reinforcements. Yin and Lay were to start with the Kampong Seila and Koh Kong regions, while the Vietnamese side was to reinforce the marine corps. After that, Tu Cam wished to meet with Kampuchean representatives again, confirming, “The Vietnamese government really wants to help Kampuchea, to establish a friendly relationship between the two countries, two parties and the two people, not only in the Southwest Zone. [We] will help with all aspects of what the party needs.” Chhan responded, “It is not because Kampuchea does not need assistance, but because it has been so busy, and it will be open to establishing friendly links with foreign [countries], except American imperialism and its lackeys. One day when Kampuchea is ready, it will extend its relationship with the Soviet Union, not just with the Vietnamese party or neutral and socialist countries.”

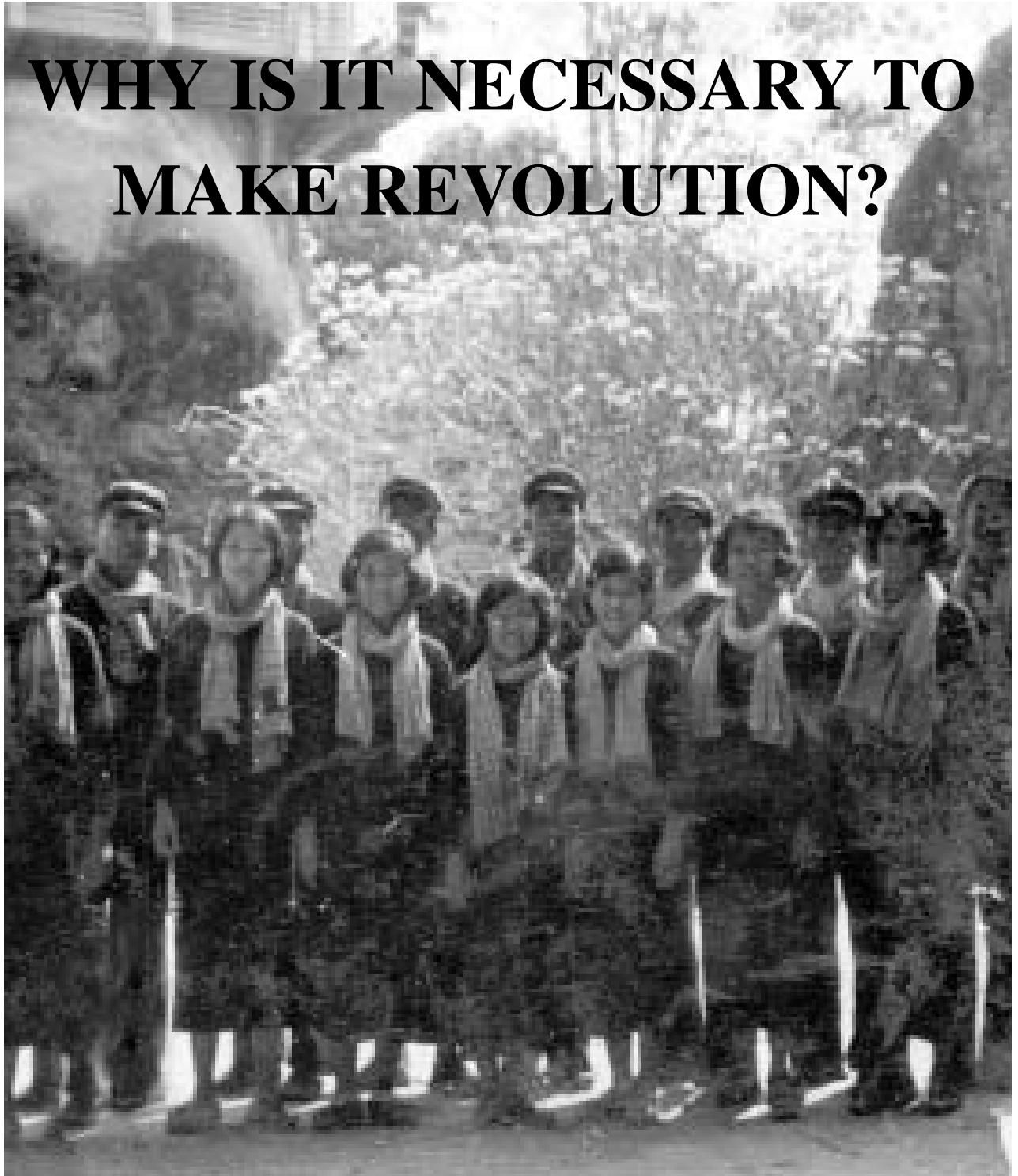
By his 16th interrogation, Phann’s confession had added more detail on Vietnamese goals: “Vietnam’s aim is to make contact with this treacherous party in an attempt to grasp Kampuchea. It has been waiting for a chance to suppress Kampuchea as it becomes weaker by dispatching Viet Minh Khmers to Kampuchea, specifically the Yin, and taking charge during the rebellion without

waiting for permission to prepare forces to contact the alleged traitorous party. [It will] hold the general situation for the purpose of planing to grasp the whole situation throughout the country.”

The above summary consists of excerpts from four confession documents of Nhep Suong. The 16th confession, which is similar to the 10th, bears a note reading, “Top secret.” Nhep Suong is identified as having been interrogated by Interrogation Group 1 under the observation of a person named Pon. Each of the confession sheets holds the signature of Phann and a note: “Having re-read it, this responds to what I have written earlier.” On the front page of the 3rd confession is a note: “Already read and two copies have been sent to Angkar, 11 November 1976.” The 4th confession contains a 5 November 1976 note from Duch: “Through [my] observation of the rebel plan reported above, his statement doesn’t match with Nhem’s; that is, it responds to the ones by Chhan, My, Saom, Thung. The persons of whom no one, except him, talks about are Chham (assembly), Khoem, (T-32), Tei (T-11) and Physician Sokh (164). With respect, Duch 11 November 1976.”

An additional note from Duch appears next to Sokh’s name on 8 November 1976: “To date, no piece of a document talks about physician Sokh. [I] would like to share my personal account about him: His original, official name was So Samban. Hometown: Samproch subdistrict, Stung district, Kampong Thom province. Uncle’s name: Him, chief of Peam Bang subdistrict, Stung district, Kampong Thom province. Physician Sokh used to be my classmate in the university. He appeared to have a volatile standpoint when he was young. After becoming a physician, he married Ke Kim Huot’s niece. Perhaps in 1966-67, I met him occasionally in Phnom Penh, where he was one of Kim Huot’s Progressive Masses. Chhan has already been arrested, while Na is deceased.” In the 10th confession document, a note appears: “Already read 7 December 1976,” while in the 16th confession a note states, “Top secret, 4 December 1976.”

WHY IS IT NECESSARY TO MAKE REVOLUTION?



*(An excerpt from Revolutionary Youth, Number 7-8,
July-August, 1977)*

This question is raised with the aim of identifying our desires and ideals as revolutionaries. In the past, our society was under pressure from the

forces of colonialism-feudalism. After 1954, this situation remained the same. After the coup d'état of 18 March 1970, it fell into the same design. In short, throughout its history, Kampuchea was in the hands of new and old imperialist-colonialist and fascist

oppressions by power-holding classes, feudalists and capitalists. Therefore, like it or not, people of Kampuchea — specifically the majority of workers and poor peasants—always suffered hardship and had no credit under the oppression and wanton negligence of the old and new imperialist-colonialist and power-holding classes.

Kampuchea as a whole became a stooge, one without any honor and whose voice was almost unheard. Through the three historical periods, the Kampuchean nation and people were plunged into a dark world where there was no light of prosperity or dignity, no bright future. At that moment, its evolutionary direction was no more than physical destruction: no name, no voice, and no territory, meaning death.

Facing such shattering catastrophes and miseries, what would we, male and female children of Kampuchea, do? Would we stand cross-armed and wait for death or stand up against the yoke of the new and old imperialists for the sake of the liberation of the nation and the people?

Unsurprisingly, all of us revolutionary male and female comrades would unanimously say: *“Absolutely liberate the people and ourselves no matter how much we would sacrifice, even our lives...”*

This is the reason why the Communist Party of Kampuchea was created: to lead the poor in their struggle for freedom and our complete mastery over our country, territory, forests, mountains, farmlands, and future. This motivated us to revolution in order to topple the oppression by old and new foreign imperialists who were invading our beloved Kampuchea and drive them along with fascist authoritarians from our territory. Our sacrifice is nothing other than the liberation of the nation, people and the poor. Our revolutionary youths must have a firm, constant grasp of such objectives and requests.

Many questions appear, including *“Now that the country and the people have been completely liberated on 17 April 1975, what’s the point of going*

on with the socialist revolution?”

It is notable that although American imperialists as well as all kinds of other enemies were defeated on 17 April 1975, and while the feudal and capitalist classes as well as other oppressive classes were basically knocked over politically and economically, they haven’t totally vanished yet. They all are enraged by the historical victory gained by the nation and the people under the correct, bright leadership of the Communist Party of Kampuchea. Meanwhile, their goals and strategies to encroach on Kampuchean territory and oppress and swindle the people will in no way be forgotten or put to an end. Realizing this phenomenon, after the liberation, our revolutionary youths found it necessary to continue the revolution even more extremely so that a staunch, constant defense of the nation and the Communist Party of Kampuchea, and the protection of our revolutionary interests can be assured. If we fail to do so, we will die. Simply put, it will not be the death of a few individuals, a party or a political group, but the whole nation, the whole people in terms of politics and bloodshed.

Another other reason which may contribute to the continuation of the socialist revolution is to save the country from being a underdeveloped one, which has resulted from a destructive war, to one that is prosperous in every way, with a dynamic capacity for self-defense on the basis of independence and mastery. By so doing, our people who had experienced hardship and pain for more than 2000 years, will surely lead prosperous and happy lives. It will not make sense to say “complete liberation” at a time when the country is liberated just in political terms, while its economic and spiritual spheres still suffer difficulties.

All these reasons pushed us to adhere to the continuation of the socialist revolution. As a result, we are moving gradually toward communist revolution so as to defend the country and build up democracy. Finally, we will ensure progress, happiness, and prosperity throughout the country and in the international arena.

GENOCIDE SITES IN BATTAMBANG PROVINCE

Rasy Pheng Pong

(Continued from the January 2001 issue)

Battambang District

Located 27 kilometers from the provincial town of Battambang along national road number 5, Battambang district is bordered on the east by Tonle Sap lake (Phnom Ek), on the west by Svay Po district, on the north by Mongkul Borei district, and on the south by Banan district. The district covers an area of 68,101 hectares and consists of 10 subdistricts constituting 70 villages. The majority of the population is farmers.

The execution policy of Democratic Kampuchea against the people of Cambodia, carried out more than 22 years ago, is still embedded in the minds of the inhabitants of Battambang district. Although no complete physical evidence of genocide remains here, by the end of August 1998, our mapping team managed to identify three main execution sites with indications from certain eyewitnesses as to the killing under Democratic Kampuchea.

Tuol Batt Kang

Tuol Batt Kang is located in Ta Sei village, Ta Meun subdistrict, Battambang district and province. It is situated three kilometers to the north of the Battambang district capital at a longitude of 103°04'27.54" east and a latitude of 13°04'13:89" north.

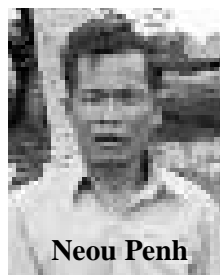
With their hands tied, people were lined up and strafed ruthlessly at this site. Most of the victims were former military officers of the Khmer Republic, holding the rank of first lieutenant and higher. They had been enticed by an announcement soliciting soldiers to greet the king [Sihanouk]. After

they were selected, the soldiers were loaded onto trucks and taken to Tuol Batt Kang.



Kang Seng

Kang Seng, 50, a Ta Sei villager, recounted that some of the victims were not really soldiers, but because they were eager to see the king, they lied to the Khmer Rouge, saying they were a first lieutenant, captain, or major. Kang Seng continued that when they started to get onto the trucks hoping to meet the king, they were tied up under the pretext that they might jump down at their first sight of the king. These innocent people were then shot dead immediately at Tuol Batt Kang. The victims were tied with nylon ropes to form lines and placed end to end in the 1,000 meter by 300 meter field.



Neou Penh

Neou Penh, living in Ta Sei village, witnessed such acts. He stated that all of the corpses were lying scattered in the field along with their clothing. No pit was prepared for the bodies. He indicated that the Khmer Rouge failed to bury the corpses because they were too busy taking other victims to be killed. He estimated that the number of people killed at this site ranged from 300 to 500.

Tuol Samrong or Me Chbar

This site, which is currently the Samrong farm site of the Rice Seed Laboratory, is a former Khmer Rouge detention and execution center. It is located 41 kilometers from the provincial office of Battambang and 16 kilometers from Battambang

Skulls of victims removed from the pits





district office, at a latitude of 13°22'47:45" north and a longitude of 103°01'31:01" east. Like the Tuol Batt Kang execution site, many of the victims were soldiers deluded into greeting the king. The victims were not taken for execution immediately. Instead, they were detained in a ruined building, which stands adjacent to the Samrong farm site. The mapping team visited the ruined building and took pictures of it. The building's walls are riddled with bullet holes, while the floor bears many pits, which presumably resulted from grenade explosions.

Roem Chet, who resides in Snuol Kaong village, Boeng Pring subdistrict, Battambang district, asserted that the building is a former Khmer Rouge detention center, where truckloads of high-ranking military officers were taken. He said that each of the victims was tied up and allowed to live only three or four days. He claimed that after a short period of transit, the Khmer Rouge soldiers took them to be killed by AK rifles and grenades. Before killing them, the Khmer Rouge told the victims to queue up. Their hands were tied together and the lines of men were secured to the walls and staircases of the building's four corners. If any were still alive

after being shot, grenades were thrown into the middle of the building. Their dead bodies were then thrown into a field behind the farm site. Roem Chet and Chou Chhuon estimated that the number of people killed here was around 300.

Tuol Chrey or Tuol Rong Chrey

This execution site is far from any village. It lies closest to Ken Keh village, Kok Khmum subdistrict, Battambang district. It is currently being used as farmland.

At 10 a.m., our mapping team reached the site, where we met an individual who had witnessed the events there. Vuth Punlork, chief of police of Battambang district, claimed that "I witnessed people killing other persons at Tuol Rong Chrey in Pol Pot time, while I was tending cows next to that mound." The victims targeted for execution were those who had been listed and identified as soldiers of the old regime. Vuth Punlork went on to say that Chao Samoeun, former captain of police commissioners of Mong district, Battambang province, was also executed there.

The dead bodies were not buried until 7 January 1979. Their skulls and bones were scattered

around the site. According to Nhong Soeun's estimate, thousands are buried here. He strongly believes that seldom would anyone taken here survive the Khmer Rouge soldiers' strafing, and that the commission of such acts occurred more than once. Vuth Punlork described the ways the Khmer Rouge brought in victims by truck, saying that many people were brought there and killed. This execution site is located at a latitude of 13°14' 14:51" north and a longitude of 103° 05' 39:65" east.



Former Prison Chief Mechbar, Battambang

THE CASE OF ISMAEL AHMAD

Osman Ysa



Ismael Ahmad

Ismael Ahmad was born in Thmei village, Popel subdistrict, Ponhea Krek (formerly Tbaung Khmum) district, Kampong Cham province. His father was Ly Ismael and his mother Sarifah. Ahmad began religious studies in 1953, and on 20 August 1967, passed his examinations to study Islam in Egypt, where he stayed for six years. In 1970 Ahmad changed his field of study from religion to mechanics. In April 1973 he arrived in Peking, but nothing is known of what he did there. On 27 October 1975, Ahmad and ten other students were called back to Phnom Penh by the Khmer Rouge Front Organization in Peking, after which he returned to Cambodia. Then Angkar sent Ahmad to Preah Andaung village in Region 42.

On 22 December 1976, Ahmad and 25 other Cambodians who had studied or worked in Peking

were rounded up and transported from the base areas to Region 42 of the Central Zone; from there, they were to be sent to Phnom Penh. The designated gathering place was Akmok village (also known as Speu village) in Cheyyau subdistrict, Chamkar Leu district, Kampong Cham province. On 23 December 1976 they traveled to Phnom Penh, where they were sent to live at the Khmer-Soviet Technical School. On 2 January 1977, Ahmad was arrested and sent to S-21.

After his arrival at S-21, Ahmad was interrogated by Soeun from 31 January through 16 February 1977. During those 17 days, Ahmad provided 88 pages of testimony, 68 of which were dated and signed “Ismael Ahmad.”

According to the List of Prisoners Categorized as Students and Officials from Overseas, prepared by former S-21 prisoner Ung Pech, 184 students and officials from 22 countries were detained at S-21 Prison. Ismael Ahmad was number 92 on the list dated 2 January 1977, where he was described as a “student from Peking.”

None of the witnesses interviewed for this study knew why Ahmad and the other students were sent from Peking to Cambodia. Ahmad’s confessions stated that many students in Peking who lived under the control of the Front Organization conspired secretly to create treasonous connections through Sith, the leader of the Front’s student group, and Chem Snguon, who worked in the embassy in Tanzania in 1973, where he led “traitorous forces.” According to Ahmad’s confession, the students were sent back to Cambodia to meet Hou Youn, the CIA chief in Cambodia. But in fact, Hou Youn was a member of Parliament for Kampong Cham in 1958 and in 1972 was the Minister of Interior for the

Reform of Base Areas and Cooperatives of Sihanouk's government in exile, and a member of the Politburo of the Kampuchean National Unification Front. According to Math Ly, a former permanent member of the Khmer Rouge National Assembly and permanent member of the Khmer Rouge Tbaung Khmum District Committee, the Khmer Rouge killed Hou Youn because he opposed Pol Pot's creation of cooperatives and the evacuation of the populace.

In his confession, Ahmad related what happened to him when he first returned to Cambodia: "On 27 October 1975 the Front Organization permitted our return to the country. On that same day we all reached Phnom Penh. After arrival in Phnom Penh, Angkar had us stay at the General Staff for three days. Later Angkar took us to a place near the Independence Monument. After we had been in Phnom Penh half a month, Angkar sent us to the countryside. We all first went to Region 42, and then split up among the various districts."

Ahmad's confession stated: "Angkar had me go to live in Sting Trang district, Preah Anduang

subdistrict, Preah Andaung village" in Kampong Cham province. However, eight people who lived in Preah Andaung village during the Pol Pot era were interviewed for this study, and none of them knew of a man named Ahmad. They stated that two students from overseas were sent to live in their village, and two others were sent to the nearby villages of Khpop Ta Nguon and Tuol Rokar.

Chhin Phen lived in a house with two of the students in Preah Andaung village. She stated that "Sometime during late 1975 four [students] named Sok, Run and two others, Hak at Khpop Ta Nguon and Vuth at Tuol Rokar ... Sok and Run, when they first came, came to live at my house."

However, a Cham named El Lei had been evacuated to Preah Andaung village and knew Ahmad from birth. He recalled that the Khmer Rouge changed Ahmad's ethnic Cham name to the Khmer-style name of Sok. Apparently, Ahmad had tried to hide his ethnicity to prevent suspicion among the villagers that he was anything other than ethnic Khmer. But after being interrogated multiple times at S-21, Ahmad confessed his true identity. (Ahmad's siblings and other family members who still reside in Thmei village were interviewed for this study, but said that they did not know a "Sok" at all.)

Ahmad lived in Preah Andaung village from November 1975 until July 1976, when Angkar required him to move to Peam village in the same district, where he stayed until December 1976. Chheng Trim, who lived with and was close to Ahmad in Preah Andaung village, stated that, "He [Sok] left here for Peam. Before he left he said he would not forget me, and he would send me letters." I haven't seen him at all since he left ... he has never returned. When he met them [people from Preah Andaung village] he sent word through them that he did not dare come to visit. He was afraid of them [the Khmer Rouge]. He dared not travel."



Ismael Khatei Chah,
a younger sister of Ismael Ahmad

Sorn Keo, who lived in Prek Sdei village, Preah Andaung subdistrict, Sting Trang district, Kampong Cham province during the Pol Pot era, met and knew Ahmad as “Sok.” He stated “Sometime in late 1976 ... until the appointed time Angkar gathered up the students and took them to upper echelon to carry out duties for Angkar in Phnom Penh ... He [Ahmad] came to say farewell to me and told me that Angkar was taking him back to Phnom Penh.”

Ahmad described his departure with the other students for Phnom Penh as if he knew nothing at all of the reasons for his removal. “On the 21 December 1976, Elder Brother But [the chief of Preah Andaung subdistrict] told me that Angkar had called me back to Phnom Penh.” Ahmad continued: “On 21 December 1976, I departed Peam village, Sangkat Preah Andaung [Sting Trang district, Kampong Cham province] toward Speu [Cheyyau subdistrict, Chamkar Leu district, Kampong Cham province]. Upon reaching Speu I met one after another with other students from Peking like myself and with persons who had worked in the Front in Peking. On the morning of 22 December 1976 everyone from all the base areas met together. On the afternoon of 22 December we all departed Speu for Kampong Cham. On the morning of 23 December we left Kampong Cham for Phnom Penh. Upon arrival in Phnom Penh Angkar had us stay in Soviet instructor housing at the Khmer-Soviet Technical School.” Finally in his confession, Ahmad stated: “On 2 January 1977 Angkar arrested me.” It is interesting to note that Ahmad understood the Khmer Rouge deceit: he was initially told that he was being “called back” to Phnom Penh, but bluntly stated in his confession that “Angkar arrested me.”

Ahmad’s “Rebel Forces and Rebel Connections” chart, which is found in his confessions, contains the names of 56 persons who he said were his co-conspirators. The names appear

in two categories: 24 were people Ahmad claimed to have recruited when he lived in Peam village and Preah Andaung village. The other 32 were rebel connections in Peking. According to this chart, 26 of the 32 people had returned to Cambodia after 1975, 7 of the 26 had been arrested and 19 were still residing at the Khmer-Soviet Technical School. Six other Cambodians were still living in Peking. (There is no information available on whether or not they returned to Cambodia during 1975-79).

According to Ung Pech’s List of Prisoners Categorized as Students and Officials from Overseas, only six students and officials from Peking were arrested, taken to S-21, and killed. Among those six were Ahmad and two others shown on Ahmad’s list as “already arrested.” However, two others on Pech’s list “are residing at the Khmer-Soviet Technical School in Phnom Penh.” Thus, it appears that the 19 students at the Technical School were later arrested and taken to S-21 as well. The final name on Ung Pech’s list was a student from Peking, but this name did not appear in Ahmad’s confession.

According to an interview with Chhin Phen, there were three students aside from Sok (Ahmad): Run at Preah Anduang village, Hak at Khpop Ta Nguon village, and Vuth at Khpop Rokar village in Sting Trang district. These three names appear on Ahmad’s “Rebel Forces and Connections” list, showing that “Hak was arrested and Run and Vuth were at the Khmer-Soviet Technical School.” According to the author’s research, all of Ahmad’s rebel connections had lived overseas, including those who had returned to Cambodia and those who had not, and only 2 of the 32 escaped the DK regime: Chem Snguon and Kae Sreng.

Interviews with villagers in Preah Anduang and Peam revealed that 14 of the 24 people in Ahmad’s “domestic network” escaped being killed by the Khmer Rouge. Of the five “network”



Nuon Chea

members interviewed for this study, only one claimed to have known Ahmad (Sok). The four others said they never knew “Sok” at all. When asked if they had ever carried out rebel activity or if they were ever induced by anyone to do so during the Pol Pot era, none could think of any mistakes he had committed against Angkar or any so-called treason. Uy Meng stated, “I never did such a thing at all, never wanted to run off to join any party ... I never knew Sok. If I had known him I would tell you.” As for Lay Kuy, “I never knew Sok, didn’t know him, can’t even recall him... I never had any intention to run off anywhere, or had any network...I never even complained about Angkar, did not dare criticize.” Lach and Yan also denied any rebel connection, asking what could they say when they did not even know who Sok was. Only Sorn Keo

knew Sok. He stated that they had only ordinary exchanges, such as complaining of being tired and rundown, or that the duties assigned by Angkar were too heavy. But Sorn Keo answered the same as the others, “I never rebelled or made those mistakes.”

According to Ahmad’s confession: “I knew and understood their hearts for a time. I carried out the directions of the CIA outside after I returned to the country. I incited the people.” Given this admission and the totally contradictory statements of witnesses concerning their “rebel activities,” Chheng Trim was asked whether Ahmad committed rebellion. She stated, “When it was time to go to work, Sok went with me. They always called Sok and me mother and child. I saw that he did not eat pork, that he was Cham.” (Sok never told Chheng Trim that he was Cham.) Trim continued, “He seemed never to do anything wrong, he was gentle and well-informed, he was good and knew what was what... I believe that he would not dare [rebel].”

The statements of Chheng Trim and those who Ahmad claimed were “network” members imply that Ahmad had not actually carried out any rebel acts against Angkar.

One may thus deduce that the section of Ahmad’s confession, “Rebel Activities and Forces,” was not truly stated.

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(Continued from the January 2001 issue)

On 21-23 August, CPK cadres assembled in Phnom Penh to be briefed by Pol Pot on the Party's "Four-Year Plan to Build Socialism in All Fields," a 110-page document compiled earlier in the month.

The plan proposed to expand Cambodia's agricultural production so dramatically that exports, especially rice, could earn enough foreign currency to pay for imported agricultural machinery and later, when agricultural outputs increased, to finance industry. To overcome the obstacles in its path, the Party Center counted on the revolutionary fervor supposedly generated by the leveling of Cambodian society, the collectivization of the means of production, and the collective empowerment deriving from the Khmer Rouge's victory in April 1975. These dogmatic assumptions were untested. The plan made no allowances for variations in the world market, paid little heed to the types of soil or the availability of water within Cambodia, and overlooked crippling shortages of workers, tools, and livestock. Most importantly, the plan failed to acknowledge that most Cambodians were prostrate after five years of war and that hardly any of them had enough to eat. Instead, the Party Center assumed that nearly everyone in the country was ready, able, and willing to grow enormous quantities of rice.

In political terms, the plan offered Pol Pot and his colleagues an opportunity to grasp the wheel of history (*kong pravatt'sas*) and thereby to display the purity and strength of Cambodia's revolution to allies and enemies overseas. Study notebooks prepared by

S-21 cadres suggest that the Party Center seriously believed the Cambodian revolution was the most successful in world history. The Four-Year Plan, in turn, was the CPK's most detailed policy document. The Party's leaders probably hoped to unveil it at anniversary celebrations scheduled for 30 September, when it seemed likely that they also hoped to proclaim the CPK's existence.

In Pol Pot's address to the August gathering dealing with the plan, the language of his "preliminary explanation" echoed the breezy self-assurance of the plan itself. In passing, he singled out the "contemptible people to the east and to the west" (Vietnam and Thailand) as causes for vigilance and alarm. He said nothing about internal enemies.

Mao Zedong's unexpected death on 8 September triggered some uncertainty in the Party Center. A former DK cadre told Steve Heder in 1980 that "after Mao's death there was apprehension in Kampuchea... People were afraid that chaos and confusion in China might

affect our solidarity with China." On 18 September, at a memorial service for Mao in Phnom Penh, Pol Pot admitted publicly for the first time that Cambodia was being governed by a Marxist-Leninist party. He praised Mao's writings, including "On the Correct Handling of Contradictions among the People." On the same occasion, the Chinese ambassador, Sun Hao, noted that Mao had reached "the scientific conclusion that there are bourgeois elements even inside the Communist party"—a key tenet of Chinese radicalism that was used to justify the continuing purges there.



VOICES FROM S-21
Chapter Three: Choosing the Enemies
David Chandler

Pot Pot's "Resignation"

On September 20, Pol Pot "resigned" as prime minister on grounds of ill-health. The announcement of the resignation was made by Phnom Penh Radio a week after it had supposedly occurred. Pol Pot's place was taken, the announcement said, by Nuon Chea, "Brother Number Two," who had occupied the position since 1963 and was to do so until Pol Pot's eclipse in 1997. Pol Pot's "resignation," if it ever occurred, may have been caused by genuine illness—he suffered from recurrent bouts of malaria and dysentery—or because he feared assassination and wanted to go into hiding. It is more likely, however, that Pol Pot never resigned and that the announcement was intended to throw some of his internal enemies off balance and to draw others into the open. This explanation seems plausible given that neither Nuon Chea nor Ta Mok, interviewed by Nate Thayer in 1997, had any recollection of the event.

Nay Saran was arrested on the same day that Pol Pot resigned. Keo Meas was apprehended five days later. From a study session convened at about this time, perhaps to coincide with the anniversary of the Party's foundation, a brief, anxiously worded document emerged, titled "Summary of the Results of the 1976 Study Session." The next, which consists of notes taken from a speech by a Party spokesman, is much darker in tone than Pol Pot's August speech describing the Four-Year Plan. It is tempting to associate its pessimism with suspicions or information emerging from the two arrests.

Whereas the August speech had mentioned foreign enemies, the September "Summary" referred more ominously to "instruments and agents" of foreign powers who "furtively steal their way into and hide themselves in our revolutionary ranks." The speech foreshadowed the one delivered in December that deplored "a sickness in the party." It also inaugurated a new phase of class conflict in DK, which, the speaker said, would be "sharp... uncompromising, bitter, thorough, and life and

death.....long into the future."

Ney Saran: "The Contemptible Ya"

The full-blown reign of terror that ensued from September onward was probably linked in some way to what Keo Meas, Ney Saran, and other prisoners were being forced to "confess" at S-21. It is impossible to determine whether these prisoners had been involved in genuine plots, although documents that survive from S-21 about them are suspiciously skimpy and may have been culled after 1979 to conceal evidence of connivance with the Vietnamese. As they stand, the documents do little to explain the paranoia that seems to have gripped the Party's leaders from then on.

Ney Saran's confession covers only thirty-one pages, drawn from seven interrogation sessions. Several viciously worded memoranda from Pon to Duch and from Duch to Ney Saran supplement the slim dossier. On 23 September, for example, Pon reported to Duch that he had beaten Ney Saran with rattan whips and electric wires. In a four-page memorandum written to the prisoner on the following day, Duch addressed Saran disingenuously as "Older Brother, in Anticipation," and noted that "you are a person in whom the Organization has placed the greatest confidence, because you have been closer to the Organization and closer to our revolutionary movement of Kampuchea when compared with other people whom the Organization has recently arrested. The Organization has made it clear to us that you cannot hide anything that has happened in the past. The Organization knows what is good and what is evil. You can't lie or blame other people as you have done..... The Organization.....has clear views about stubborn people."

Two days later, Duch wrote to Pon that "If [Ney Saran] continues to hide his treacherous linkages... he should be executed and not allowed to play games with the Party any more." Torture was stepped up, and Pon wrote to Duch:

"In the afternoon I asked Brother Duch to give

permission to use both hot and cool techniques; having received permission toward the early evening I went in to threaten him, telling him to prepare himself at 8 or 9 P.M. for the torture to be continued. At about 10 P.M. I went in to get ready to carry out torture with [my] bare hands. IX [Ney Saran] started to confess by asking us to summarize what he was to report. We clarified this as follows: ‘Please write a systematic account of your treasonous activities from beginning to end.’”

Keo Meas

The confrontation between Pon and Ney Saran is easy to imagine, but a “systematic account” of his activities, if it was ever written, has not survived. Similarly, no full confession by Keo Meas has come to light. The ninety-six pages in his handwriting in the S-21 archive consist of letters that he addressed to Pol Pot over a relatively brief period. Several of them carry Duch’s notation “Don’t summarize,” which suggests that they never left the prison. Keo Meas’s dossier also contains questions posed by Pon and Duch, directives to Keo Meas in Pon’s handwriting signed “Santebal,” and cruel annotation. Even under intense pressure, Keo Meas continued to protest his innocence. He had almost thirty years’ experience in the cut and thrust of Communist debate, and in his letters to Pol Pot he was fighting for his life. “These accusations are absurd,” he wrote. “They are totally incomprehensible to me. I knew and did nothing of the sort.”

As far as the Party’s anniversary was concerned, he wrote on 29 September, the day before it was to be celebrated, that “My view is in favor of maintaining 1951, and if anyone wants to go down a different path from this, I’m not willing to go along. I will....oppose it by maintaining that the Pracheachon Group and the Pracheachon newspapers were legal organs of a Marxist-Leninist Party, which was founded in 1951.”

When Was the Birthday of the Party?

Keo Meas’s stance on the anniversary issue exposed a major contradiction in the CPK’s

perceptions of its history, one that had been papered over for many years and was to be resolved in Pol Pot’s favor. The contradiction had been noted in passing in the 30 March meeting of the Party Center: “Set the birth of the Party at 1960; do not use 1951....make a clean break.”

At stake in what seems like a semantic argument were the large questions of the Party’s leadership and Cambodia’s relation with Vietnam. From 1960 to 1975, the anniversary of the CPK had been celebrated as 30 September 1951, a date that blended 30 September 1960 (when a Party meeting in Phnom Penh had constituted the Workers’ Party of Kampuchea [WPK]) with the year 1951 (when its predecessor party, the Khmer People’s Revolutionary Party [KPRP], had been founded at the instigation of Vietnam).

A CPK cadre who defected to Vietnam from the Eastern Zone in 1978 reported that preparations were being made in mid-September 1976 to celebrate the Party’s twenty-fifth anniversary. “As these were underway, however, we received an urgent message from higher authorities ordering us to suspend the preparation. Later on a circular from the central office informed us that the Party had been founded on 30 September 1960. Anyone who had joined the Party prior to that date should consider himself not a Party member, and his years with the Party before 30 September 1960 were invalid. If he agreed, he would be redeemed by the Central Committee. Otherwise, he would be sent to a re-education camp.”

The September issue of the CPK’s journal, *Revolutionary Youth*, carried an article anticipating the twenty-fifth anniversary, while an article in the September-October special issue of *Tung Padevat* declared that the CPK had been founded in 1960, because “we have made a new numeration.” The rationale for the change, the author said, was that the “Revolutionary Organization has decided that from now on we must arrange the history of the Party into something clean and perfect, in line with our policies



of independence and self-mastery.”

This passage marked another stage in the ascendancy of Pol Pot and his colleagues. Since articles in both journals were always vetted and largely written by Pol Pot and Nuon Chea, the possibility of an uncoordinated disagreement between them is remote. It seems more likely that the *Revolutionary Youth* article was published to draw the “1951” faction into the open, where they could be “smashed,” whereas the article in *Tung Padevat* represented the considered thinking of the Party Center.

In early November, Non Suon, a longtime associate of both men, was arrested as he disembarked from an airplane bringing him home from an official mission to China. At S-21 he protested his innocence at first, but after three weeks of interrogation he succumbed and wrote:

“I am a termite boring from within.... and wrecking the Party in every way I can. No matter how the Party has educated and nurtured me, I have not abandoned my dark and dirty intentions....I would like to present myself to the Party Organization for punishment for the serious crimes I have committed in willingly betraying the Party so that the Party can strengthen and expand [its] ranks....and advance toward the construction of a Communist society.”

Purging Diplomats and Intellectuals

By December 1976, when Pol Pot delivered his “sickness in the Party” speech, the Party Center had decided to keep the CPK’s existence secret from outsiders and to shelve the Four-Year Plan. The rationale for these decisions, given at the December meeting, was that unspecified “documents have revealed that enemies have tried to defeat us using every possible method”—probably a reference to the confessions that had recently been extracted at S-21. At about the same time, although the documents are lacking and the reasons for the timing unclear, the Party Center probably decided to inaugurate sustained hostilities against Vietnam. In early 1977 DK launched a series of vicious cross-border raids

from the Eastern and Southwestern Zones. Hundreds of civilians were massacred in these incursions, which were not publicized in either country.

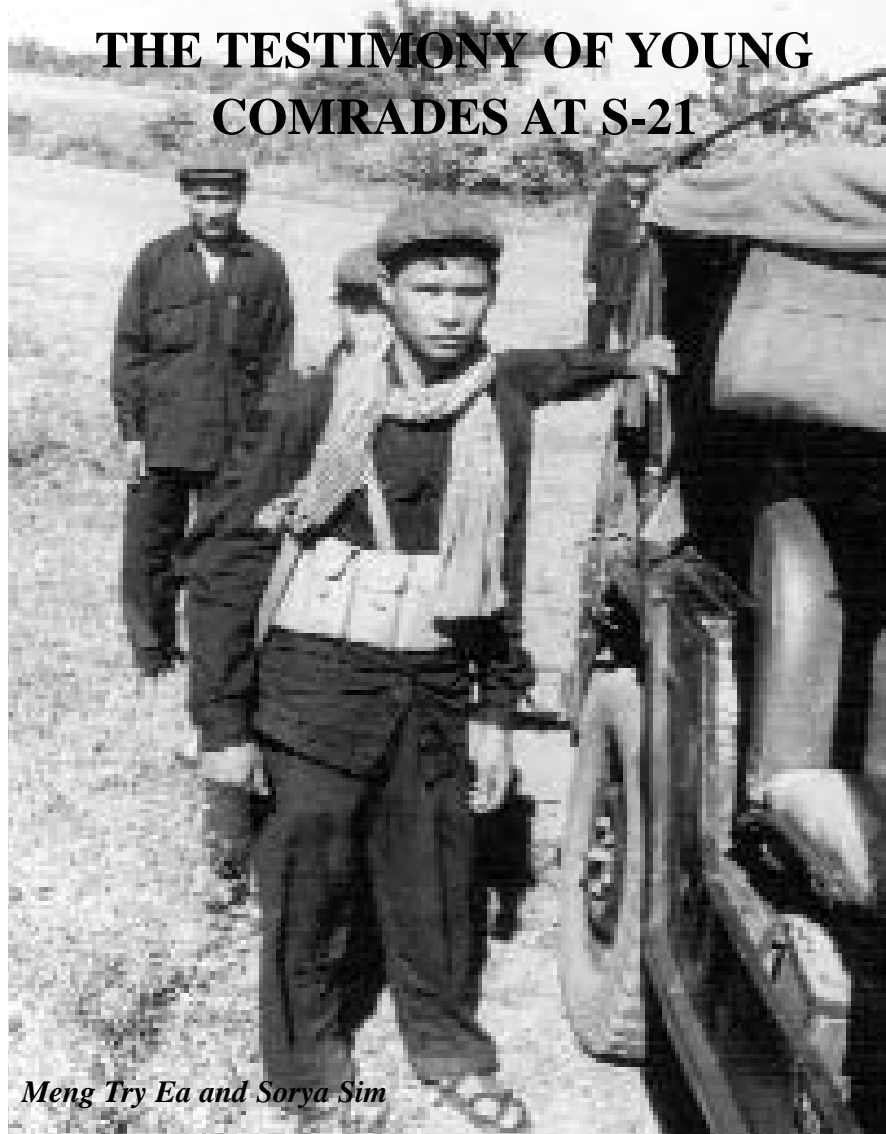
As DK prepared itself for war, the CPK also purged people in the diplomatic service who the Ministry of Foreign Affairs suspected of being “pro-Soviet” or “pro-Vietnamese.” Prominent victims included the DK ambassador to Vietnam, Sean An, and Hak Seang Lay Ni, a foreign ministry official accused of founding yet another rival Communist party, with Soviet encouragement, in the 1960s. Several other diplomats were also rounded up. These punitive measures also reflected the distrust felt within the Party Center for anyone except themselves who had had professional training, extensive residence overseas, or contacts with non-Khmer.

(Continued in the March 2001 issue)



VICTIMS AND PERPETRATORS

THE TESTIMONY OF YOUNG COMRADES AT S-21



Meng Try Ea and Sorya Sim

(Continued from the January 2001 issue)

These children must be viewed not just as perpetrators, but also as victims of the Khmer Rouge revolution. Also supporting this finding are the views of psychologists regarding children, their malleability, and the damage that can be inflicted upon them by trauma at a tender age, as well as the work of scholars whose studies reveal that the Khmer Rouge purposely selected children to be the vanguard of their revolution because they are so easily shaped.

A significant amount of scientific research has been carried out on the psychology of survivors of genocidal trauma, including some work on survivors of the Cambodian genocide. But very little research has been done on the psychology of perpetrators of genocide. As trauma expert Dr. Judith Herman notes, “Little is known about the mind of the perpetrator.”

To paraphrase Craig Etcheson, psychiatric studies of Cambodian genocide survivors have shown that symptoms of serious psychological problems — such as recurring nightmares, trouble concentrating or sleeping, and signs of clinical depression — can endure for years after the traumatic experience has ended. Recent studies suggest that a significant proportion of the Cambodian population still suffers from these problems, often diagnosed as Post-Traumatic Stress Disorder, or PTSD. Trauma specialists believe that the effects of such traumas can last a lifetime, especially when the

trauma involves long periods of confinement in a prison setting. As Judith Herman has written:

“Prolonged captivity also produces profound alterations in the victim’s identity. All the psychological structures of the self — the image of the body, the internalized images of others, and the values and ideals that lend a person a sense of coherence and purpose — have been invaded and systematically broken down. [...] Even after release from captivity, the victim cannot assume her former

identity. Whatever new identity she develops in freedom must include the memory of her enslaved self. Her body image of herself in relation to others must include a body that can be controlled and violated. Her image of herself in relation to others must include a person who can lose and be lost to others. And her moral ideals must coexist with knowledge of the capacity for evil, both within others and within herself.”

Although there have been few studies that would confirm the possibility, it seems logical that such effects of trauma would also have an impact on the staff of prison camps and other organs of state terror. One study found that torturers from the Greek military regime suffered adverse psychological effects similar in some ways to those of their victims:

“...professional torturers hurt others as a job, but they, too, often find it stressful. In one of the few studies of such professionals, researchers found that after the Greek military regime fell, many former torturers came forward to describe their own problems and sufferings. These resembled posttraumatic stress patterns we have already seen in other groups: nightmares, depression, severe irritability.”

To date, there are no studies that might confirm if these effects appear in Khmer Rouge child cadres who were involved in torture. Although the present paper is the first research study to focus exclusively on Khmer Rouge child cadres, much previous work has been done on the problem of child soldiers around the world. Some of these studies will shed light on child cadres of the Khmer Rouge.

A report on child soldiers prepared for the United Nations found that “Some commanders have even noted the desirability of child soldiers because they are ‘more obedient, do not question orders and are easier to manipulate than adult soldiers.’” The report notes that “The lure of ideology is particularly strong in early adolescence, when young people are developing personal identities and searching for a sense of social meaning. As the case of Rwanda

shows, however, the ideological indoctrination of youth can have disastrous consequences.” Quoting psychiatrist Richard Mollica discussing Rwanda, David Chandler pointed out that “Young people are very idealistic and the powers prey on them.”

James Grant writes that:

“Children as young as seven and eight are often used as soldiers, equipped with fully automatic assault weapons. These children are sometimes forcibly recruited, but more often join warring factions for survival. Many have seen their own parents cruelly murdered. Terrible things have been done to these children, and the children themselves have done terrible things, taking part in the atrocities of war. Reintegrating these children into their communities presents immense problems.”

Joanna Barbara has also studied children who have been recruited into armies. “For children who suffer this fate, separation from parents is but the first of many appalling abuses.” Turning specifically to the question of Cambodian children, Barbara notes, “Cambodian young people who had lived through the Pol Pot regime between the ages of 6 and 12 had suffered catastrophically traumatic events.

Their depression declined over time, but post-traumatic stress disorder was diagnosed at high rates.” She points out that “The children whose moral development has been most destructively affected are those who have been trained to kill. When fighting is over and the children have to return to society, it is very difficult to place them in schools or families.”

Baumeister discusses some of the problems experienced by perpetrators of violent acts:

“Many perpetrators regard themselves as victims. In their accounts, in their recollections, and probably even in their most sincere gut feelings, many perpetrators see themselves as people who have been unjustly treated and hence deserve sympathy, support and extra tolerance for any wrongs they may have committed.”

Baumeister argues that perpetrators often deal

with their feelings of guilt about the bad acts they have committed by concentrating on trivial things, by maintaining a focus on low-level matters. He cites the activities carried out by torturers at Tuol Sleng as an example:

“The low-level focus is also apparent in the self-criticism notes of the Khmer Rouge torturers at the infamous Tuol Sleng prison... Like Communists everywhere, the torturers were supposed to engage in self-criticism. What did they reproach themselves for? In these records, the interrogators discuss such mundane problems as lying down on the job while questioning prisoners, not sharpening pencils, smudging papers, and the like. These tasks are certainly low level, as well as trivial. Not sharpening pencils is about as unabstract a problem as one can imagine.”

The mental health consequences of exposure to

constant torture and killing, one would imagine, are severe for both victims and perpetrators. Mental health professionals have found that such trauma-induced psychological difficulties are particularly difficult to treat in Cambodian patients.

Kinzie, who has studied such patients in some detail, notes that there is significant resistance to therapy: “...the patients spoke of unpleasant memories only with great effort. Even then the result was not a catharsis; grief or working through did not resolve their trauma.”

He believes part of the difficulty lies in cultural factors, limiting the options for successful therapy: “The inability of Asians to discuss in groups personal events in general and the concentration camp experience in particular probably precludes any group therapy as treatment.”

(Continued in the March 2001 issue)

S-21 youths practicing martial arts



“THE NUMBER”—QUANTIFYING CRIMES AGAINST HUMANITY IN CAMBODIA

Craig Etcheson

(Continued from the January 2001 issue)

Survivors

Considering the sheer magnitude of the killing at Khmer Rouge security centers all around Cambodia, it is tempting to think that being arrested by the Khmer Rouge was tantamount to a death sentence. Many Cambodians certainly looked at it that way during the Khmer Rouge regime, and still do. But in fact, this was not necessarily the case. As shown by this year's mapping reports and those from the four previous years of mass grave mapping work, some individuals managed to survive incarceration in the Khmer Rouge security system. Hence we have many surviving witnesses to the brutality of those facilities. Fourteen such people were interviewed in the course of the 1999 mapping work.

Long-term psychiatric studies of Cambodian genocide survivors have shown that overt symptoms of serious psychological problems—such as complaints of recurring nightmares, trouble concentrating or sleeping, and signs of clinical depression—can endure for years after the traumatic experience has ended. Recent studies have suggested that a significant proportion of the Cambodian population still suffer from these problems, which are often diagnosed as Post-Traumatic Stress Disorder. Indeed, many trauma specialists believe that the effects of such severe trauma can last a lifetime.

Prolonged captivity undermines or destroys the ordinary sense of a relatively safe sphere of initiative, in which there is some tolerance for trial and error. To the chronically traumatized person, any action has the potential for dire consequences. There is no room

for mistakes. According to Judith Herman, “Prolonged captivity also produces profound alterations in the victim's identity. All the psychological structures of the self—the image of the body, the internalized images of others, and the values and ideals that lend a person a sense of coherence and purpose—have been invaded and systematically broken down. Even after release from captivity, the victim cannot assume her former identity. Whatever new identity she develops in freedom must include the memory of her enslaved self. Her body image of herself in relation to others must include a body that can be controlled and violated. Her image of herself in relation to others must include a person who can lose and be lost to others. And her moral ideals must coexist with knowledge of the capacity for evil, both within others and within herself.”

Some survivors of Khmer Rouge prisons suffered extremely long periods of captivity, and the traumatic impact on these individuals is likely to have been far more severe than that experienced by the average Cambodian during the terror of the Khmer Rouge regime. In Ratanakiri Province, Mr. Bun Vanthan was held an astonishing eleven years, from 1966 to 1976 in the Boeng Kanseng Prison. Mr. Vantha believes he was arrested because of a complaint letter he sent to Khmer Rouge leader Nuon Chea in 1963, complaining of disorder and insecurity in areas “liberated” early on by the Khmer Rouge. He does not mention why he was spared, nor does he go into any detail regarding the exact circumstances of his release.

In Mondulakiri Province, Mr. Chann Tauch was arrested in December 1977, and imprisoned at the

Phnom Kraol prison. Mr. Tauch says that he was arrested on suspicion of being associated with a group of senior region cadres who were being purged. In the end, he says that he escaped death and was eventually released because his captors came to believe that he was an “ordinary person” and did not have any links to the cadres who had been purged.

Likewise, Mr. Men Savet was held from 1977 to 1979 in Phnom Kraol prison, though he gave no indication of reasons for either his arrest or his survival and release. Also in Monduliri Province, Mr. Leng Chay was arrested in 1977 and incarcerated at the Koh Nhek security office. Mr. Chay says that he was accused of being related to a group of traitors,



Ieng Sary

Nuon Chea

but he, too, gave no indication of why he thinks he survived, or exactly when he was released. Mr. Sall Ra was arrested in December 1974 and held in a place called Office K-11 at Phnom Kraol prison. Mr. Ra says he was arrested on the accusation that his brother had fled to Vietnam, though he did not explain why or when he was released.

In Phnom Penh, students, diplomats and other Cambodians returning to the country after the Khmer Rouge came to power seem as a general rule to have been taken upon arrival at the airport directly to a place called the “Office of Consciousness and Work Education” in Phnom Penh. There they were held for a sort of observation. Those who were not deemed to



Pol Pot

have an appropriate level of “consciousness” were sent on the Tuol Sleng prison for torture and execution. Those who did not attract the attention of the authorities were sentenced to mere labor. Ms. Hem Vanna returned from study in France and was taken to the Office of Consciousness at Boeng Trabek. There, she says, she worked very hard and never talked about anything. “That was how we survived,” she recalled. Another inmate at the Office of Consciousness was Mr. Tep Vutha, who was held at Boeng Trabek for three years, until 1979. He says he had returned from his studies in France and Romania to help rebuild the country, but discovered that his role in rebuilding the country would be limited to handicrafts. Mr. Vutha says that he and his fellow inmates learned to survive by just working hard and staying quiet.

In Kratie Province, Mr. Yoen Chhoen was imprisoned for six months and ten days at the Kanh Chor Sub-district security center, on the accusation of associating with Vietnamese. During the times when his jailers did not provide adequate water to the prisoners, he says he survived by drinking his own urine. He attributed his survival to a successful deception he foisted on the Khmer Rouge; he changed his name, thus confusing the cadre in charge of the prison about his identity. Among eight hundred prisoners at this security center, Mr. Chhoen says, only three survived.

Also in Kratie Province, Ms. Pal Ran was detained for more than three years at Wat Khnol Roka, in a prison known as Koh Barong. She says that after her husband was executed, she was accused of planning to throw grenades at Khmer Rouge cadres. But she gave Documentation Center interviewers no indication of precisely how or why she believes she may have survived.

In Kampong Chhnang Province, Mr. Kim Porn was arrested in April 1977 and held until October 1978 at a security facility known as Prey Damrei Srot

prison. His offense was having had his staff cook rice for the “17 April” people, an act of kindness considered criminal according to the Khmer Rouge worldview. Mr. Porn gave no indication of why he was eventually released, but did say that he had been classified as a “light offense prisoner.”

Documentation Center researchers located and interviewed four Khmer Rouge prison survivors in Kampong Thom Province in 1999. Mr. Men Le was charged with having “connections” to the Sihanouk and Lon Nol regimes. Mr. Ao Yoeng said the reason for his arrest was that he had been accused of involvement in political affairs, in that he was a Buddhist movement facilitator. Mr. Chhapp Bun was accused of having been a chief of Baray District. Mr. He Hai did not indicate what he believed was the reason for his arrest. All except Chapp Bun were held first at Tradet Prison, then transferred to Wat Baray Choan Dek, and were prisoners from 1976 to 1979. Mr. Bun says that he believes he stayed alive because he was a productive worker, making many ox carts for the Khmer Rouge, but there was no real indication from the other three how or why they survived.

It is fascinating to note that the majority of these former prisoners of the Khmer Rouge did not volunteer any information to Documentation Center of Cambodia researchers about why they think they survived their experience in the security centers of Democratic Kampuchea. This is a particularly intriguing question in those cases where the informants claim that they were among only a few out of hundreds or even thousands of prisoners to have survived incarceration in a particular facility, such as Mr. Yoen Chhoen of Kratie Province. It is possible that in some of these cases, the prisoners had to do things to survive which they would prefer not to recall today, certainly not to an interviewer with a tape recorder and a mandate to identify criminals from the “Pol Pot time.”

(Continued in the March 2001 issue)

INTERNAL DEPORTATION AND MASS POPULATION TRANSFERS

Elizabeth van Schaak

International criminal law protects against the most egregious mass population transfers, but does not explicitly condemn all involuntary transfers. Some transfers in which the community benefit outweighs individual cost are considered acceptable, and few people would argue that all forcible transfers are, by definition, unlawful. However, many mass population movements violate widely accepted norms of human rights and as such are violations of accepted international law. As explained below, existing positive law on population transfers only directly addresses a limited number of situations.

Law in this area has grown out of the Nuremberg trials which first brought population transfers under the purview of international criminal law. Mass expulsions of citizens across international borders, similar to those implemented by Hitler during WWII, thus are considered clear violations of international humanitarian law. Transfers aimed at specific minority groups and deportations of civilians from occupied territories are other widely acknowledged violations. Transfers between States are nonetheless allowed under certain circumstances provided the transferee is a signatory of the Fourth Geneva Convention. Numerous factors, however, may affect the legal status of other transfers. These factors include, but are not limited to, whether the action in question:

- ◆ is internal or across international borders;
- ◆ takes place during a time of armed conflict or in peacetime;
- ◆ involves removal of an individual or mass populations; or
- ◆ is aimed at a specific minority group.

In addition, the potential human rights violations caused by encouraging settlements in specific regions or in occupied territory is receiving increased attention. However, these violations are often dealt with separately from the removals discussed above. Other movements such as refugee movements or economic migrations are not considered in this body of law.

a. Sources of the Law

1. Nuremberg Principles

The horror of mass transfers was first officially recognized in the Nuremberg trials, which classified many of the Nazi transfers as war crimes and crimes against humanity. Article 6 (c) of the IMT Charter defines “Crimes Against Humanity” as “murder, extermination, enslavement, deportation and other inhumane acts committed against any civilian population *before or during the war*” (emphasis added). The deportation of the original population and attempts to “Nazify” occupied territories were repeatedly condemned during the trials.

2. Geneva Convention

Article 49 of the Geneva Convention Relative to the Protection of Civilian Persons in Time of War also prohibits “individual or mass transfers and deportation of protected persons from occupied territory to that of the occupant or to that of any other power, occupied or not, regardless of their motives.” The Geneva Convention is generally considered part of customary international law; however, these provisions deal primarily with international armed conflict. Common article III addresses conflicts not of an international character. It states that persons not actively involved in the hostilities shall “in all

circumstances be treated humanely and without any adverse distinction founded on race, color, religion or faith, sex, birth or wealth, or any other similar criteria.” It does not, however, specifically mention population transfers.

The applicability of the prohibition on mass transfers in Article 49 is further limited to civilians in occupied territories with the following exceptions: 1) nationals of a party not bound by the convention; 2) nationals of a state which has diplomatic representation in the state in whose hands the civilians are; and 3) individuals covered under the first three Geneva Conventions—soldiers wounded in the field or at sea and prisoners of war.

3. European Convention

Articles 2 and 3 of the Fourth Protocol of the European Convention for the Protection of Human

Rights also address the state of the law on population transfers. Article 2 guarantees liberty of movement and freedom to choose one’s residence subject only to restrictions which are “in accordance with law and necessary in a democratic society in the interests of national security or public safety, for the maintenance of public order, for the prevention of crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.”

Article 3 provides that:

1) No one shall be expelled, by means either of an individual or of a collective measure, from the territory of the State of which he is a national; and

2) No one shall be deprived of the right to enter the territory of the State of which he is a national.

In *Cyprus v. Turkey*, the European Commission on Human Rights also linked the removal of people



to the right to private life. The Commission condemned both internal transfers and those taking place across international borders. These provisions are, of course, only applicable to signatory nations of the European Convention on Human Rights, but may be indicative of an emerging prohibition against mass transfers.

Many transfers, which do not fit neatly into the above categories, may still be covered by other human rights conventions. The Universal Declaration of Human Rights, for example, acknowledges in Article 13 the basic right of individuals to freedom of movement and the right to choose their place of residence. Article 3 acknowledges the right to the security of persons and Article 25 the right to an adequate standard of living.

4. Removals as Crimes Against Humanity

Some forced removals have been considered crimes against humanity and/or violations of humanitarian law. Removals or transfers, the brutality and/or discriminatory nature of which violate human conscience and basic humanitarian norms, need not fall into one of the above categories to violate international law. For a transfer to be classified as such, it must be clearly involuntary and include state involvement or acquiescence. If the partial or total destruction of a minority group is the aim of the transfers, removals could also possibly be considered Crimes of Genocide.

5. Limitations Based on Sovereignty

Article 2 (7) of the UN Charter places the most severe limitations on the positive law on population transfers. It states that, “nothing contained in the present Charter shall authorize the UN to intervene in



The evacuation to the countryside

matters which are essential within the domestic jurisdiction of any State.” Transfers occurring in civil wars and not directed at a specific minority group may, therefore, be considered outside the scope of international law, unless they are severe enough to constitute crimes against humanity, genocide or violations of other basic international norms.

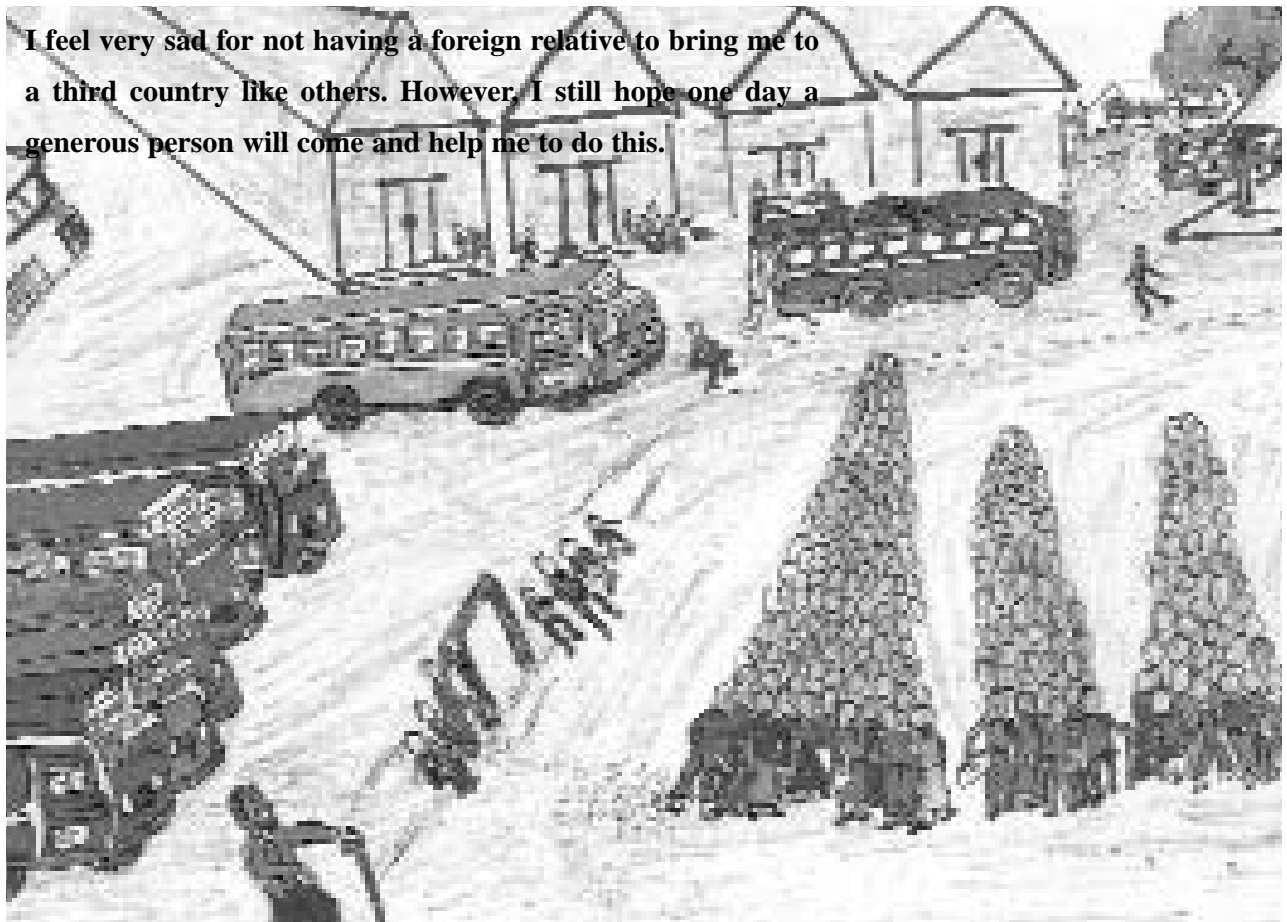
b. Application to Cambodia

The brutality and massive scale of the transfers in Cambodia from 1975-78 present a unique situation in international law. Entire towns and cities were evacuated as urban populations were transferred to the countryside. Subsequently, the migrants were used as forced laborers to bring new areas under agricultural production. The enormously high human cost of these transfers and the ensuing famine and extreme hardship substantiate the position that the transfers constituted crimes against humanity.

The transfers were not consensual, were not carried out in a humane fashion and resulted in many deaths. The inhumane transfers, however, do not fit neatly into the narrowly defined prohibitions on population transfers.

They are more easily categorized as general crimes against humanity. Because all transfers were intranational, it is difficult to categorize them as “deportations,” which would be necessary for them to fall under the prohibition in Article 6 (c) of the IMT Charter.

Furthermore, as the transferees were citizens of the state responsible for the transfers, they similarly aren’t covered by Article 49 of the Fourth Geneva Convention. However, the inhumanity of the transfers is clearly at odds with common Article 3 of the Geneva Convention, which calls for humane treatment of civilians not taking part in the hostilities.



DOCUMENTARY EVIDENCE LINKING SURVIVING LEADERS OF THE COMMUNIST PARTY OF KAMPUCHEA TO CRIMES AGAINST HUMANITY IN CAMBODIA, 1975-1979: AN ADDITIONAL PRELIMINARY SAMPLING FROM THE HOLDINGS OF THE DOCUMENTATION CENTER OF CAMBODIA

Steve Heder

This short paper updates and modifies some of the conclusions of my May 1999 sampling of documents from the Documentation Center of Cambodia (DC-Cam). It should be read in conjunction with that earlier document, which provides a general background to problems and possibilities of linking individual leaders of the Communist Party of Kampuchea (CPK) to specific acts that may be part of a pattern of killings and other acts that could constitute genocide or crimes against humanity committed against victims targeted on political grounds.

This paper reflects the results of a follow-up visit to DC-Cam in late July-early August 1999, during which I reviewed and copied a newly-available collection of documents of the CPK. These documents, which DC-Cam had dubbed “Khmer Rouge Communications,” include in particular a number of telegrams and other messages originating from the CPK’s various Zones, from military units formally subordinated to the CPK Central Committee and from ambassadors of Democratic Kampuchea (as the CPK-led state was known from 1976). They mostly relate to the period between mid-1977 and mid-1978. These new documents expand considerably the quantity of such materials, and increase the evidence of at least “guilty knowledge” on the part of two surviving members of the Standing Committee of the CPK Central Committee about political killings committed in CPK Zones and also about killings of Vietnamese civilians and other war crimes committed in connection with armed conflict between Democratic

Kampuchea (DK) and the Socialist Republic of Viet Nam. Those two surviving Standing Committee members are Nuon Chea, who was (first) Deputy Secretary of the CPK Central Committee, and Ieng Sary (alias Van), who was DK Deputy Prime Minister in Charge of Foreign Affairs.

The documents use the standard CPK euphemisms to refer to processes that include killings, above all the terms “smash” and “sweep and cleanly away,” as well as the DK Constitution’s phrase, “higher level of punitive sanction.” They are variously addressed to “Beloved and Missed Brother Pol” [Pot], “Beloved and Missed Brother “[Pol] [Pot], “Respected Brother,” “Respected and Beloved Brother,” “Beloved and Missed Brother,” “Respected, Beloved and Missed Uncle,” “Beloved and Missed Brother 009,” “Respected and Beloved Brother 009,” “Respected and Beloved Organization,” “Beloved Committee 870” [870 being code for the Central Committee], “Respected Organization 870,” Mo [for *muntir* or “office”]-870,” “Committee Mo-870,” “Respected and Missed Committee 870,” “Beloved Mo-870,” “Beloved and Missed Mo-870,” “Respected and Beloved Mo-870,” Beloved and Committee 870” and “Missed Committee 870.” Except when Pol Pot’s name is specified by abbreviation, these salutations leave unclear to whom these documents were sent. However, they were routinely marked for copying (*chamlang choun*) to a list of five members of the Standing Committee who were usually resident in the capital, Phnom Penh: the late Pol Pot himself (referred to merely as “uncle”), Nuon Chea (referred to as

“Uncle Nuon”), Ieng Sary (referred to as “Brother Van”), the late Von Vet (referred to as “Brother Von”) and the late Son Sen (referred to as “Brother Khiev”). They do not resolve who among the five had decision-making authority on what issues, or in what forums decisions were made, but they do seem to make clear that both Nuon Chea and Ieng Sary were part of the same routine information loop that also included Pol Pot, Von Vet and Son Sen. In some cases, the documents solicit authorization from the addressee to conduct executions.

For example, Nuon and Van were among those copied on a 15 June 1977 telegram from Um Neng alias Vi, the Secretary of the Northeast Zone (later purged and committed suicide), reporting the recent arrest there of “209 Yuon [Vietnamese] troops.” Vi explained that the prisoners, who included nine women, were “of Jarai nationality” and claimed to want to defect to DK, evidently to escape ill-treatment in Viet Nam resulting from the men’s previous service in anti-Communist armed forces there. After interrogation, however, Vi’s assessment was “that these contemptibles are external enemies who have come to go undercover on our soil.” Vi requested “additional views...from the Organization” about what to do with the prisoners. Using the Constitutional phrase, he noted that the Zone unit that had originally captured them had made a “request...for a decision for the highest level” of sanction to be imposed on them “straightaway,” but that he had awaited the prisoners’ “responses [i.e., “confessions” made during interrogation] before being agreeable to such a decision.” Vi’s report also used the several networks of “contemptible undercovers [i.e., undercover enemies] at the rubber and cotton plantations and in the mobile units who had been removed from the military in 1974.” He revealed it had been decided that they would be secretly taken away from their current locations, and added, “Once responses have been obtained from all of them and clearly tape-recorded, the request is made for a decision from the highest level for all of them.”

Both were also copied on a telegram dated 25

June 1977 from the West Zone, addressed to the “Respected and Beloved Organization.” It described the arrest by a “defense unit” in Kampung Chhnang Sector of 24 persons, including one woman, who upon interrogation said they had fled 120 days earlier from the Prey Chhor district of Kampong Cham, hoping to join an armed opposition group. This message solicited the advice of the Organization as to “what sort of measures” should be taken against these prisoners.

Another telegram, dated 6 September 1977, from the Secretary of the (new) North Zone, Chan Sam alias Kang Chap alias Se (later purged and executed) and addressed to “Committee 870,” reported that the “internal enemy situation” in the North was that it had: “discovered one undercover enemy burrowing from within after another in the grassroots, offices, ministries and the military both by keeping track of traitorous counter-revolutionary activities and through responses. On the one hand, we have discovered one after the other enemies who are former civil servants, police and soldiers. On the other hand, compared to before, we now have a gradual decrease in terms of undercover enemies burrowing from within: a very few of their henchmen remain.”

Se gave assurances that the Zone was carrying out “ongoing” measures to “continue sweeping all these enemies cleanly away one after the other; putting into motion an all-round combat movement that takes the production movement in particular as the key link; in other words, they will be found on the combat battlefield of purging and sweeping.” He explained that “there remained a very small number who are still deviating from the line on production. There is still opposition to the revolution via legal ways, in accordance with old habits and in accordance with old methods of ploughing, harrowing, transplanting, broadcasting, with regard to which there is stubborn insubordination, refusal to go along with the line of production.”

This opposition persisted even though the Zone had done indoctrination about “the line of production many times already.” The Zone was now differentiating “between those who do not yet understand and those

who are in opposition,” and would take “measures in accordance with the concrete reality” against the oppositonsists.

Similarly, with regard to the Zone military, despite “purging and purging, re-educating and re-educating, and indoctrinating and indoctrinating” the troops “politically, ideologically and organizationally,” a “small minority” of combatants “who were formerly henchmen of undercover enemies” still remained problematic. One had recently fled to Thailand, after which the Zone had “removed a number of other evil and liberal elements from the army... to go to do production in the rear.” Moreover, “in conjunction with this,” the Zone was taking “one re-education and purge measure after another.”

Nuon and Van were copied on a Northwest Zone situation report of 6 November 1977, which told of enemy activities that were supposedly the cause of attempts by ordinary people to flee to Thailand. In an apparent reference to arrests and disappearances of such people, it declared that the enemy was saying that “if anyone else is taken away,” more would flee. This telegram mentioned the arrest of one “contemptible Chheuan .. who was agitating ordinary people to flee.” It provided assurances that in addition to “going all out to propagandize and re-educate ordinary people so that they will understand with additional clarity what socialist revolution is,” the various sectors of the Northwest Zone were “going all out to find more enemy apparatuses” and were under instructions that their “grassroots and the military must cooperate closely to smash all types of enemies.” Another message from the Northwest Zone, dated 21 December from the Zone Secretary, Muol Sambat alias Ruoh Nheum (later purged and executed), to “Organization 870,” proposed that “Security,” apparently the Central S-21 security office in Phnom Penh, interrogate one “Ham, who is in charge of Military Logistics.” Nheum explained that “the Zone wants this achieved quickly in order to find all the links.”

Ten days later, Nuon and Van were copied on a message from the Central Committee Naval Division

164 Secretary Mut, in which he expressed his determination to defend “the socialist Kampuchean motherland by sweeping cleanly away and without half-measures the undercover elements of the enemy, whether the Yuon or other enemies.”

On 10 January 1978, (new) North Zone Secretary Se sent another message to “Committee 870,” with Nuon and Van among those copied in, in which he described the measures taken to deal with the activities of armed opposition elements purportedly infiltrated into Preah Vihear and Utdar Meanchey provinces from Thailand and also to deal with “contemptible enemies who deserted from our army and grassroots.” The measures included strengthening agricultural producer cooperatives by “relying in particular on the basic classes, to sweep undercover enemies and *dacoits* alike cleanly away.” A message the next day from the Secretary of the Northeast Zone, Vi, reported the discovery of “undercover burrowing enemies” who had been “nurturing traitors by concealing paddy” and “agitating others to flee,” including one “chief of the undercover traitors” named Nou, who had purportedly “been active for a long time.” Another message from Vi, dated 13 January, reported that he had “instructed there be an internal cleanup” following an incident in which four Vietnamese had entered a local military office of the Zone.

Three months later, Se reported more problems and purges in the North in a message to “Committee 870” copied to Nuon and Van. Discussing the “enemy situation along the Thai border,” he said there were still “traitors who are surreptitiously sneaking around to conduct guerrilla attacks against us on the Preah Vihear border when our army is on foot in the forest.” One reason for this was supposedly “that our army is not yet internally good, as a result of which secrets are leaked giving the enemy advance information.” However, Se said, “we have taken measures with regard to this problem already.” Deeper inside the North Zone, there had been “a *dacoit* group of approximately 30 or 40 persons,” but the Zone’s “district and sector armies” had been “combing the

forest to find and smash” them and “been able to smash and capture all such *dacoits* one after the other.” In addition, “the henchmen who were surreptitiously providing them with foodstuffs have all been captured by us.” Finally, Se spoke of “the situation of undercover enemies burrowing from within.” Such “enemy remnants” had “raised their heads back up and conducted activities of opposition against us.” They had “made contact with police, soldiers and civil servants, all of whom disguised themselves as new people.” However, “after they conducted activities of opposition against us,” the Zone had “clearly recognized their faces” and thus “systematically swept them cleanly away.” Although “a number of soldiers, police and civil servants fled after we had swept approximately 20 head of them cleanly away,” the Zone was “continuing to take further measures to find and arrest them.” Specifically with regard to “the undercover enemies in Preah Vihear sector, they no longer exist after we took and are continuing to take further measures to sweep them cleanly away.”

On 10 April, Se again reported that armed Cambodian opposition groups were continuing “to

conduct activities to harass us along the border,” but vowed “to attack and smash them.” He claimed that since “the contemptible Hang” (alias Bou Phat), the Secretary of Sector 103 (Preah Vihear), had been arrested along with his “henchmen,” the opposition was no longer able to utilize such “contemptible traitors” as “back-up” for their activities. Similarly, the “*dacoit* enemies, who the contemptible Hang had previously organized,” had been “captured and smashedone after the other, and we are in the process of putting into motion a combing of the forest to look for them further.” More generally, the Zone was “in the process of continuing to sweep cleanly away the contemptible remnants one after the other, both those who oppose our revolution overtly and those who do so by covert means.” Se explained, “this we are doing by relying more and more solidly on the ordinary people, in particular the ordinary people of the basic classes, who see with more and more crystal clarity who is a friend and who is an enemy.” The production situation had supposedly improved because the “the ordinary people have.....more and more faith in the collectives and the Party leadership” as a result of “the fact that we have purged all the oppositionists one after the other.”

In Sector 103 in particular, by “putting into motion a clean sweeping away of undercover burrowing enemies, we are also relying on the ordinary people. We are able to put things into motion well, and the enemy is unable to raise his head back up on account of the strong pressure and constantly sweeping cleanly and purging. We have achieved victories over all enemies from the very beginning right up through the present. The ordinary people are maximally happy about the clean sweep of enemies in Sector 103.”

(Continued in the March 2001 issue)



An S-21 bed for important prisoners

HAVING BEEN PARDONED, CAN JUSTICE STILL STALK IENG SARY?

Bora Touch



In addition to the lack of due process, the 1979 trial of Ieng Sary and Pol Pot was invalid on the basis that the the Vietnamese army-installed government was not recognized by international law or the United Nations. (However, while the latter's recognition may not be necessary for the legitimate existence of a government or state, the UN's failure to recognize the Vietnamese government supports the argument that the 1979 trial was not legal or legitimate.) The government that was recognized by the international community as the legitimate government of Cambodia was the resistance Coalition Government of Democratic Kampuchea (CGDK). Under international law, the prosecutor of Ieng Sary should have been the CGDK and not the People's Revolutionary Council, later known as the People's Republic of Kampuchea (PRK), but Sary was a big personality in the CGDK. In addition, Vietnam's aggression upon Cambodia was an international crime that required redress. The 1979 "trial," in the eyes of the international legal community, was no different from the one held by the People's "court" in Anlong Veng in 1997. In this latter "trial," Pol Pot and his clique were convicted of murder. (Although the convictions were not related to genocide, the "court's" decision ruled out sending Pol Pot to face an international court.)

Accepting the result of the 1979 trial would be tantamount to accepting the verdict of the Anlong Veng "court." According to my reading of Decree-law no.1, the 1979 trial and the conviction were nullified by the 1991 Paris Peace Accords and the 1993 Constitution. Upon the ratification of the Accords, everything started afresh: no conviction, thus, no 1996 royal pardon (pardon is granted after conviction, whereas amnesty is granted before conviction).

On this basis, the royal pardon of Ieng Sary (for his 1979 conviction) effected by the 1996 Royal Decree would have been legitimate if it were in the form of a pre-

conviction amnesty, if the King has the constitutional power to grant pre-conviction amnesty in the first place. Under the French, American and British constitutional traditions and practices, the President (and the Cabinet on behalf of the sovereign, in the case of the UK) has the power to grant both pardon and pre-conviction amnesties. I would argue, however, that this is only the French, American and British traditions and does not necessarily mean that the King in Cambodia has this same power. The Khmer wording of the 1993 Constitution regarding the King's power to grant amnesty or pardon is ambiguous on this point. The relevant constitutional provision uses the term *loekaengtoh*, literally meaning to "lift guilt," implying that the King may only have the power to grant post-conviction pardon. The precise Khmer word for amnesty is *nittooskamm*. There are examples where kings or heads of state can only grant post-conviction pardon.

This does not mean that Cambodia is prohibited from enacting a law expressly providing for pre-conviction amnesties. To date, however, Cambodia does not have a law allowing amnesties. The 1988 PRK Executive Decree on "Pardon of Convicts" was purported to grant pardon only for post conviction and is not operative or legitimate: under the current Constitution, the executive branch is not empowered to enact laws as it is under the French Constitution. Also, acts or decrees that had been enacted before the promulgation of the current Constitution and purported to have legal command are not to be inoperative.

Even if the Royal pardon were legitimate, the 1979 trial in which Sary was convicted of genocide was not, as Steve Marks argued, as defined under respective conditions... See S. Marks, "Elusive Justice for The Victims of the Khmer Rouge," *Journal of International Affairs*, Spring 1999, 52 (2) at 691. From this view, there is nothing preventing Sary from being prosecuted for genocide, crimes against humanity and war crimes in addition to crimes committed under pre-1975 laws

(assuming these laws are re-ratified by the current Parliament). The legitimacy of the 1996 Royal pre-conviction amnesty given to Sary and the constitutionality of the Law on Outlawing Democratic Kampuchea (1994), (“the 1994 Act”) aside, the 1994 Act prohibited the King from giving the KR leaders amnesty. One might argue, as Steve Heder has, that Sary was out of the KR leadership by 1993; thus, the amnesty provision of the law did not apply to him. I would argue that Sary was, or at least was presumed to be, a KR leader. The law did not define what would constitute KR “leaders,” but most of us would agree that Sary, even if he split from the KR in 1993 (i.e., before the KR Law came into effect), would be taken, presumed and believed to be one of the leaders of the KR rebels before his defection in 1996. It is a fact that Sary was not just a simple soldier. Another argument is that a split in the leadership does not necessarily mean a split from the KR movement in the eyes of the law, and Sary led the break-away group. Additionally, if one looks at the definition of the 1994 Act, one may or would come to a conclusion that Sary’s 1993-1996 activities constituted crimes under the KR Law. The definition of “KR” under the 1994 Act could be far reaching if the post-1997 coup “trial” and conviction of Prince Ranariddh and his generals under, inter alia, the 1994 Act, has some value in this particular context. This might be helpful in supporting the theory that Sary could not escape his responsibility under the 1994 Act.

In short, the 1996 Royal Decree is not the blanket amnesty it appears to be and Sary is not shielded by it. What is required is Hun Sen’s political will to allow justice to take its course in relation to Sary.

The King’s involvement in this scenario is ironic. At the time and after Sary was put on “trial” in 1979, the then-Prince Sihanouk was also regarded by the new regime as, *bratekeriya*, a reactionary, an enemy of the new rule. By Decree-law no. 2, Sihanouk was “guilty” of the crimes against Heng Samrin/Hun Sen’s “revolution” or whatever it was. Until now, King Sihanouk has not been given amnesty.

Another legally bizarre aspect of Sary’s amnesty was that the Royal Decree was signed by the King before it received parliamentary approval; but the King insisted,

according to his official biographer Julio Jeldres, that a two-thirds approval by Parliament was needed before the Decree became effective or public. Contrary to the King’s wishes, Prince Ranariddh revealed the Decree to the ASEAN ambassadors before the Parliament approved it.

First of all, parliamentary approval is not required before a royal decree of this nature becomes effective. Prince Ranariddh’s revelation to the ASEAN ambassadors before the Parliament’s approval did not breach any law but his father’s wish, and his wish was not legal but political face-saving. The whole scenario has made a mockery of the system of representative democracy.

Hun Sen’s statement to the effect that Sary cannot be tried twice for the same offense(s) is legally baseless. Bringing Sary to justice again does not violate the principle of double jeopardy stipulated under the International Covenant on Civil and Political Rights because (1) crimes allegedly committed by Sary happened before Cambodia ratified the Covenant, and the Covenant does not operate retroactively (2) none of his rights are violated by re-trying him because at the 1979 trial he was not acquitted; rather he was convicted and sentenced to death. In theory, Sary’s re-trial could only benefit him as the result of a new trial cannot be worse than the 1979 one.

Re-trials are often ordered in democratic countries if the first trial was considered to be unfair or irregular. In addition, new prosecutions against Sary for crimes defined under the international conventions, as I stated above, are not re-trials; therefore, double jeopardy is out of the game. Hun Sen’s statement is thus nothing but an indication that his former boss will not be called to account for his alleged crimes.

An integral element of a genuine process of national reconciliation is accountability for crimes committed. If Sary has nothing to do with atrocities committed by the Khmer Rouge, as he claims, why not let an independent court hear his story? If Sary wants Cambodia to progress, as he claims, why would he not have it progress on the path of the rule of law rather than the rule of impunity, a culture that Hun Sen has promoted and fervently defended? If he wants peace, why would he threaten to bring Cambodia back to civil war every time there is a call for accountability?

**THIS LAW WAS ADOPTED BY THE NATIONAL ASSEMBLY OF THE
KINGDOM OF CAMBODIA ON 2 JANUARY 2001, DURING THE 5TH
ORDINARY SESSION OF ITS 2ND LEGISLATURE**

PHNOM PENH, ON DECEMBER 29, 2000

THE PRESIDENT OF THE NATIONAL ASSEMBLY

**MINUTES ON THE SESSION OF
THE NATIONAL ASSEMBLY OF THE KINGDOM OF CAMBODIA
A DRAFT LAW ON THE ESTABLISHMENT OF EXTRA-
ORDINARY CHAMBERS IN THE COURTS OF CAMBODIA
FOR PROSECUTING CRIMES COMMITTED DURING THE
PERIOD OF DEMOCRATIC KAMPUCHEA**

(Continued from the January 2001 issue)

First, I would like to comment on the term Democratic Kampuchea, which we use because we want to prosecute, we want to work on the period 1975-1979. We use the term Democratic Kampuchea because these crimes were committed in the period of Democratic Kampuchea. But according to research, Democratic Kampuchea did not start on 17 April 1975, did not end on 6 January 1979. It started after 17 April because at that time it was a Front, and there was also a procedural arrangement to establish Democratic Kampuchea. So, it began in 1976 and ended when the Tripartite was established, that is after 1979. You may ask if such a title affects the period for the trial. I think the draft law clearly defines the period, which we call Competence Temporelle. In Articles 1 and 2, we define this period as 17 April 1975 to 6 January 1979. Other articles also repeat points that relate to the period. We have placed emphasis on this period. So, I think that there can't be any misinterpretation because the title reflects the general idea, articles, and the scope of the law.

Those were the first and second of the five points I have just mentioned. Now let's turn to the third point: the description of the process that led to the writing of this draft law. What did we do in 1997? What did we do in 1998, and especially 1999 and 2000? There have been more than 3 years, almost 4 years of arrangements for this trial. In June 1997, we submitted a proposal to the United Nations to ask for assistance in establishing a Khmer Rouge tribunal. In November, Secretary General Kofi Anan sent 3 experts to do a feasibility study of this process. That was all that was done in 1997. That is, they sent their high-level experts who are former high-level judges from different countries to study and report back to the Secretary General of the United Nations. 1998, which we define as transitional, saw the election, which we have assessed as a miracle on the Mekong, and from there we formed the National Assembly and government, thinking we had to close a black chapter of our history. In 1999, many events and tasks helped us progress toward establishing this mechanism, especially the exchange of viewpoints on whether to have an international tribunal or a purely national tribunal, to a principle we coin "convergence." The two points of view have gradually moved closer. In April, one side talked about an international tribunal, and the other side talked about a national tribunal. So, a new principle of compromise appeared on these points, which we call a tribunal with international characteristics. They talked about a tribunal with international

characteristics, and in April 1999, there was a meeting between Senator John Kerry and Samdech Prime Minister Hun Sen, putting forward the principle of a national tribunal with participation by foreign judges. In May, we invited a group of lawyers from France to help on this issue. France sent a group of lawyers it deemed to be high-level lawyers, including those from their supreme court, their lawyers, their superiors, and others from various courts. So, in May 1999, we held discussions with the French lawyers. In July 1999, the Royal Government established a Task Force to assume this task, of which I was a chief. Also in July 1999, the Task Force started to work on drafting the law.

The present draft law is not the first draft law, the second, the third, the fourth, or the fifth. The first one was made in July 1999 and was submitted to the delegation of the United Nations led by Excellency Ralph Zacklin, the deputy of Excellency Han Corell - chief of the legal office of the United Nations and deputy of the Secretary General. In July 1999 Zacklin led a delegation from the secretariat of the United Nations Secretary General here and we submitted our draft law to him (that is to say that the present draft law was written since 1999). And the first draft law was not theirs. The first one was ours, belonging to Cambodian lawyers who worked in consultation with various experts. I would like to also inform the National Assembly that we had legal experts from France, from India, from Russia, and also from the US. The US has played many important roles in the compromise, especially between us and the United Nations. So, there has been so much discussion. I would like to stress the point that the first draft law was prepared and submitted to the delegation led by Mr. Zacklin.

Three delegations have come three times. Each time was about one week. Each delegation included about 6-7 or 8-9 people who were their best lawyers. The first time was in July 1999 and they examined our proposal. At that point, we did not yet agree. They demanded the majority be foreign judges and we demanded the majority be Cambodian judges. So, the discussions brought about only some points of agreement and the basic deadlock was the point on the number of judges. In September 1999, normally, the United Nations General Assembly session is held and Samdech Premier Hun Sen always led the delegation that participated.

At that time, we met with Excellency Secretary General of the United Nations Kofi Anan, and at that time Samdech Premier Hun Sen sent a memorandum with a three-point proposal. The first point was that the United Nations could take part in assisting on this issue by providing judges and experts to help modify our draft law to make it what they call credible, to conform to legal procedures to enhance the trust of the international community, and to provide foreign judges to work with Cambodian judges. The second was that the Secretary General of the United Nations would only provide experts to draft the law and that Cambodian judges would make decisions by themselves. The third was that Excellency Secretary General of the United Nations stay away and leave it to Cambodia to take care of both laws and judges. At that time, Excellency Secretary of the United Nations did not respond. So, we set up a Task Force in which I was assigned to be representative of the Royal Government and the Secretary General of the United Nations assigned Mr. Han Corell - deputy secretary general and legal analyst. At that time Han Corell told us that they had not responded to the three-point questions yet. They needed to seek mutual understanding, and he would advise the Secretary General on how to respond. They asked me what would I do when I was back in Cambodia. I told Han Corell that when I returned to Cambodia we would continue to draft the law and I would submit it to the government. When the government was finished, the law would be submitted to the National Assembly. After approval, the National Assembly, using legal procedures, would submit it to the Senate, then to the constitutional council. Last, it would come into effect after being promulgated by the king. I told this to Han Corell. I said that if the United Nations did not participate, we would go ahead. At that time, the Excellency Deputy Secretary General proposed that I let him know before I submitted draft laws to the government and that he was considering how to respond.

I would like to bring to your attention that the task of drafting laws is not easy: even the highest-level UN lawyers would ask me for a postponement during meetings so the lawyers could discuss issues before they responded. They carefully consulted before they answered a question. They were not unprepared; rather, they based things on legal principles. When we proposed one thing, they asked us to postpone a little bit to consult before they answered, so did we. We carefully consulted before we answered them, not simply individually speaking at will. It was all about principle. They respected their interests - the interests of the United Nations - and we respected the interests of the Kingdom of Cambodia.

So, these negotiations took a long, not a short, time. In September 1999, we received a proposal asking for the resumption of discussions and negotiations between the Task Force and the international community. Things had been progressing a little slowly since we proposed the three points; that's why in September we consulted on the request to negotiate and to continue the course.

In October 1999, we continued this process and worked with high-ranking officials of the US State Department, who acted as mediators in reaching a compromise between us and the United Nations. In December 1999, we received high-level legal experts from India, Russia, and France to provide consultations on how to proceed to conform to the legal principles they hold. The Russian experts made their comments from their points of view, the Indian lawyers made comments based on their viewpoints, and the French lawyers also made comments that reflected their opinions. The French formed a group of lawyers in Paris that was to meet and respond to any questions we had or issues on which we wanted them to comment. On 17 December 1999, the Task Force completed the second draft law and submitted it to the Cabinet on 24 December. On 6 January 2000, the Cabinet met a second time and made some amendments, and on 10 January Excellency Premier of Japan and the former Premier of Japan visited and discussed this issue. On 14 January the government made another modification allowing for co-investigating judges. We had asked for only one investigating judge because outside Cambodia they do not have investigating judges, while Cambodia, following Romano-Germanique tradition, does. We felt that they did not need to have such judges because they have never had them, so let Cambodia do it alone. But on 14 January, we agreed to modify this. On 18 January we submitted this draft to Samdech President of the National Assembly.

On 8 February 2000 Secretary General Kofi Anan wrote a letter containing four points. The first point asked us to assure them that we would arrest perpetrators. The second asked that there would be no request for amnesty. The third asked for the independence of foreign prosecutors. Independence means that there are two prosecutors, but one working separately and independently. We did not agree on this point. I would like to remind you that on 8 February the four points were proposed. The fourth point demanded a majority of foreign judges. So, there was tension over the four points. On 12 February, Excellency Secretary General met with Samdech Premier Hun Sen in Bangkok during the UNTAD meeting. The Bangkok meeting regenerated the process, that is Excellency Secretary General announced that he had optimism and sent Excellency Han Corell to Phnom Penh again.

In March 2000, a second delegation of the Secretary General of the United Nations, led by Excellency Han Corell, visited Phnom Penh. The Task Force worked for about one week to compromise on points, especially the four points on which we had not agreed, and that I mentioned were proposed by the Secretary General of the United Nations. In April 2000, in Havana, Cuba, Samdech Premier Hun Sen met with Excellency Han Corell and also with Senator John Kerry. No agreement was reached at the Havana meeting. Mr. Kerry came to Phnom Penh again in April 2000 and a compromise was reached on the disputed point on co-prosecutors. Another solution was reached in May 2000. In May Samdech Premier Hun Sen sent Excellency Kofi Anan and Mr. John Kerry a letter suggesting a compromise on the new principle I just mentioned.

In July, Mr. Han Corell led another delegation to continue negotiations on the process to establish this mechanism. In this last negotiation we solved various points and agreed on important principles, but not 100% on minor points. The agreement on major principles meant that we reached the compromise we have today. In September 2000, the Task Force of the government resumed work with the Legislative Commission of the National Assembly. On 20 November 2000, Senator Kerry returned, saying that he wanted a clear process, to see how the process was going, and whether the National Assembly would debate the law to confirm the position of the Kingdom of Cambodia. On 28 November the Task Force and the Legislative Commission completed its task and moved forward to the present task.

Before concluding, I would like to rephrase the important points on which compromise was obtained. The compromises consisted of four main steps. These steps reflected the efforts of both sides. The first step, on which we had complete disagreement, concerned the demand of one side that there be an international court, while the other demanded a national court. In the first compromise, the foreigners stopped talking about international law, and began talking about a court with international characteristics. Thus, we reached the first compromise - the court is a national court, but foreign judges are involved in Extra-Ordinary Chambers. This first compromise brought with it a new principle in the court system.

This had never happened - high-level lawyers of the international courts will come to learn from us and to gain experience from us. This is the first time that there has been such a principle. Your Excellencies and all lawyers can ask why this law doesn't match our established laws. It is because this case is a new development, and it is the first case in the world. This law is not based only on existing principles and laws; it is the first law based on a new principle. So the first compromise was on the first new principle, which is about the national court and Extra-Ordinary Chambers joined by foreign judges.

The second principle was the second compromise. That is why we have allowed foreign judges to participate in the court. We were deadlocked on the second step because the internationals wanted a majority of foreign judges in the court while we wanted the majority to be Cambodian judges. While dealing with this deadlock, we reached a new principle in which the internationals agreed to a majority of Cambodian judges and a minority of foreign judges, but the minority had the ability to block a decision. We also set up the new formula, which had never existed before. According to this new formula, decisions can be made by "Super Majority." There are 9 judges in the supreme court, and a decision cannot be reached unless 6 judges vote for it. This means that a decision cannot be reached unless there is a vote from a foreign judge. This was the second principle. As I mentioned, this was unprecedented, and we are the first to run this kind of court.

The third step of compromise was the concept of co-investigating judges. As we told the internationals "if you don't know about an office of prosecutors [investigating judges], you don't have to do it, let Cambodians do it on our own. You only let your prosecutors participate in the courts." But they didn't agree. After discussions, we came up with a formula that is the third compromise - there would be co-investigating judges.

The fourth step was an important one. It concerned instances when co-prosecutors don't agree with each other. One side might indict while another side might not. So what could be done? Normally, when we apply a co-prosecutors system, both sides must agree. As a principle, we talked about cooperation, so the first principle is to make sure that co-prosecutors agree and have unanimity so they can work together. However, we raised a question about what could be done if they could not work together. What if they worked hard together for a while to reach one point and then break up? So, we agreed on a solution by developing a new and an unprecedented mechanism, which has never existed in law courts, and in English we say "pre-trial chambers." This means that a trial cannot start without first having a pre-trial (in Khmer we say "pre-trial chambers"). With respect to the new mechanism, Your Excellencies may ask me where I got the word for this new mechanism. As it is an unprecedented mechanism, a new word must be used. This new term is a pre-trial chamber. Some may be doubtful, as they have never heard of it in courts. They have never heard "pre-trial chamber" because it is very new and unprecedented. This is the first time that this mechanism was developed to cope with problems in cases where co-prosecutors or co-investigating judges conflict. This was the solution in the fourth step of compromise between us and United Nations.

In conclusion, I think that if we examine this law, we must consider all of its aspects thoroughly. This shows that the aspects of law and politics and history are relevant and connected. If we focus only on law, this draft law cannot be completed. First, I would like to raise this point: if we base our decisions only on existing laws, and when the laws are silent on a point, and we consider that illegal, then this draft law cannot be realized. This draft law embodies new concepts and formulas, as well as the new principles I mentioned earlier in the National Assembly. The four big compromises are the result of a lengthy course of negotiation lasting from 1997 to late 2000. I would like to conclude my introduction here.

Samdech Krom Preah:

Thank you Your Excellency. Before proceeding to the first chapter, let's take a break.

Excellency Maonh Sophan, please read the first chapter to the National Assembly.

His Excellency Mr. Maoh Sophan:

I would like to be allowed by the Assembly to read the first chapter 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. Chapter 1, general regulations, first article: "This law was made to judge the senior leaders of Democratic Kampuchea and those who were most responsible for the crimes, severe violation of Cambodian criminal laws, international humanitarian law and international conventions ratified by Cambodia, in the period from 17 April 1975 to 6 January 1979." I would like to be allowed to present the contents of the first chapter to the National Assembly to discuss

and approve. Thank you.

Samdech Krom Preah:

Your Excellency Cheam Yiep, please.

His Excellency Mr. Cheam Yiep:

I would like to pay my respects to Samdech Krom Preah, President of the National Assembly; Samdech First President; His Excellency Second President; and the whole National Assembly. With respect to 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, there is a first chapter on the general provisions, and the first article has only one article. I would like to participate in the discussion on the content as the following. On behalf of parliamentarians in Prey Veng province, I would like to express my deepest gratitude to the Royal Government and international communities, especially the United Nations, for paying attention to the creation of new historical achievements for Cambodia like the draft law. After receiving the report and statement just presented by His Excellency Sok An, Senior Minister and Minister of the Ministers Council, I completely support the content of the first article of the draft law, but upon this consent, I would like to give my reasons for agreeing as follows.

First, I think that after receiving the draft law, the Royal Government and the international communities, especially the UN, have agreed to make this draft law move forward in conformity to three principles, which all Cambodian people are waiting for. First, justice, which was already raised to the National Assembly by His Excellency Sok An, and is the most significant in the history of mankind and Cambodia. From 17 April 1975 to 6 January 1979 was a period of darkness and unjust killing. Second, in order to reduce the hostility of those who survived and whose families died from the unjust acts committed in the regime, the draft law has been written, as related by His Excellency Sok An.

Second, we find that in order to realize justice for the people who lived and suffered under this regime, and whose family members were unjustly butchered and persecuted by this regime, the draft law is to try the senior leaders of Democratic Kampuchea.

Third, I would like to agree to this draft law, which developed principle 3, in respect for sovereignty. No matter what, first we find that we have defended the sovereignty of Cambodia by organizing an institution as well as structure or a mechanism of Extra-Ordinary Chambers that allows for more Cambodian than foreign judges - only a few foreign judges will participate. I would like to inform the National Assembly that I call on people who used to serve the Democratic Kampuchea regime not to get confused. We have examined the contents of this draft law, which is to judge the crimes committed by the senior leaders of Democratic Kampuchea. We request and appeal to civil servants, military officials, and soldiers who used to live under and serve the Democratic Kampuchea regime - after integration or defection to the Royal Government led by Samdech Prime Minister Hun Sen, not to worry. Because so far as a parliamentarian, I notice that there have been disturbances among brotherly people who used to be involved in the Democratic Kampuchea regime.

I would like to appeal to them not to cause disarray because in the first article, the purpose of the law is stated clearly: it is to judge only the senior leaders of Democratic Kampuchea. And according to the appeal from the Royal Government as well as the amnesty of the King or the National Assembly, the leaders are divided into two categories. We find that this is the principle of extra-ordinary courts. That is why we divide the leaders into two categories: 1) leaders who already received amnesty from the King or parliamentarians, and 2) leaders who defected to the Royal Government or sought asylum. That is why I am concerned about what people who integrated the great society of Cambodia have learned about that time. Now that the National Assembly is discussing and approving the draft law, those people are afraid. Please do not worry at all - the draft law is made to judge only the senior leaders of Democratic Kampuchea. That is all. Thank you.

Samdech Krom Preah:

Please His Excellency Pen Panha.

His Excellency Mr. Pen Panha:

I would like to pay my respects to Samdech President of the National Assembly and the National Assembly. In general, I agree on the general provisions. The first chapter, which consists of only one article, clearly determines the dates and who will be judged. These are the general provisions which cover the entire contents of the draft law that the

Assembly..... I am happy that we are trying to close down the black history of Cambodia. This is not as easy as closing notebooks after leaving a parliamentary session. Because this part of our history was filled with the blood, deaths, and torture of millions of people, we must close down this history with justice, good will, honor and responsibility. We close down this history because we want to pay tribute to the dead, the Cambodian people who are living now and the next generation that will replace [us]. The closing down of this black chapter in our history is considered as an everlasting peal of a big bell, which rings to wake up the consciousness of all Cambodians and other nationals as well as those who are suffering hardship through genocide or discriminations. It will waken the consciousness of all mankind to make sure that we all and all families of mankind obtain peace, freedom, and live peacefully in our world. Thank you.

Samdech Krom Preah:

Your Excellency representative, please.

His Excellency Mr. Sok An:

I would like to pay my respects to Samdech President of the National Assembly again, Samdech First Vice President, Your Excellency Second Vice president and the whole National Assembly. I would like to be allowed to clarify the purpose of the first chapter. These are general provisions that comprise only a single article - the first article. According to the speech of His Excellency Pen Panha, this article is short, but it states three clear principles. In the second chapter, we talk about competence, but in reality, the first article also covers the competence of the draft law. The circle of the competence is based on three major legal aspects:

The first is what we call the aspect of the competence of individuals (“La compe’tence personnelle”) and is to define a target that is an objective of a trial by Extra-Ordinary Chambers. So it clearly states that only senior leaders and those who most were responsible for [the crimes] will be tried. The law will try a small targeted group who committed the most wrong acts. And in the concept of the first article, we find that the targeted group is not widespread; the concept is to define the targeted group distinctly and obviously to [prosecute] the smallest number.

We call the second aspect “La competence materelle.” This short, single article tries to define offenses such as crimes, serious violations of criminal law, international criminal law, international norms, and international conventions recognized by Cambodia.

The third point’s major aspect is a definition of competence within a time frame: “La competence temporelle.” The dates are stated clearly: from 17 April 1975 to 6 January 1979. I would like to rephrase that although the general provisions are short and comprise only one article, they cover three types of competence - the competence of the individuals targeted, the competence of crimes, and the competence of time. I would like to come to an end.

Samdech Krom Preah:

Please, the Floor votes to approve the first chapter.

Secretary of the Parliamentary Session:

I would like to tell Samdech Krom Preah, the President of the National Assembly, Samdech First Vice President, and Your Excellency Second President that 96 of 96 Assembly members have voted to support the first chapter 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. Thank you.

Samdech Krom Preah:

Now the first chapter has been approved. The second chapter is long, and I would like to inform you that the discussion of this chapter will be delayed to Tuesday because Monday is the first day of the year. The Floor will continue its discussion on the draft law on Tuesday, the second day of January. For the Universal New Year, as the President of the National Assembly, Samdech First Vice President and His Excellency Second Vice President, we would like to wish Neak Ang Ma Chah, Your Excellencies members and all members long life, good health, triumph over all enemies, and big success in order to serve the nation in the highest institution - the National Assembly. Thank you.

[Tuesday, 2 January 2001]

Secretary of the Parliamentary Session:

I would like to pay my respects to Samdech Acting President, Your Excellency Second Vice President and the whole

Floor. I would like to inform you that 90 parliamentarians are present today. Thank you.

Samdech Heng Samrin:

I would like to pay my respects to Your Excellency Second Vice President, Your Royal Highness, Your Excellencies, the National Assembly members and the Royal Government's representatives. Today, we will continue by discussing the second chapter 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. The Chairman of the Commission, please, read the second chapter.

Secretary of the Parliamentary Session:

I would like to pay my respects to Samdech Acting President, Your Excellency Second Vice President and the National Assembly. I would like to be allowed to read the second chapter as follows:

CHAPTER II: COMPETENCE

Article 2:

Extra-Ordinary Chambers shall be established in the existing court structure, namely the trial court, the appeals court and the supreme court, to bring to trial senior leaders of Democratic Kampuchea and those who were most responsible for the crimes and serious violations of Cambodian laws related to crimes, international humanitarian law and custom, and international conventions recognized by Cambodia, that were committed during the period from 17 April 1975 to 6 January 1979.

Senior leaders of Democratic Kampuchea and those who were most responsible for the above acts are hereinafter designated as "Suspects."

Article 3:

The Extra-Ordinary Chambers shall have the power to bring to trial all Suspects who committed any of these crimes set forth in the 1956 Penal Code of Cambodia, and which were committed during the period from 17 April 1975 to 6 January 1979:

- Homicide (Articles 501, 503, 504, 505, 506, 507 and 508)
- Torture (Article 500)
- Religious Persecution (Articles 209 and 210).

The statute of limitations set forth in the 1956 Penal Code shall be extended for an additional 20 years for the crimes enumerated above, which are within the jurisdiction of the Extra-Ordinary Chambers.

Article 4:

The Extra-Ordinary Chambers shall have the power to bring to trial all Suspects who committed the crimes of genocide as defined in the Convention on the Prevention and Punishment of the Crime of Genocide of 1948, and which were committed during the period from 17 April 1975 to 6 January 1979.

The acts of genocide, which have no statute of limitations, mean any acts committed with the intent to destroy, in whole or in part, a national, ethnic, racial or religious group as such:

- killing members of the group;
 - causing serious bodily or mental harm to members of the group;
 - deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
 - imposing measures intended to prevent births within the group;
 - forcibly transferring children from one group to another group.
- The following acts shall be punishable under this article:
- attempts to commit acts of genocide;
 - conspiracy to commit acts of genocide;
 - participation in acts of genocide.

(Continued in the March 2001 issue)

DIARY

(Translation)

The Documentation Center of Cambodia has brought to light more than 400 notebooks and personal diaries written during the Khmer Rouge period. They belonged to both Khmer Rouge cadre and Khmer Rouge victims. Those written by the cadre mostly depict personal matters relating to the daily work of Angkar, discussions held at livelihood meetings or political education sessions, and military strategies from the central level. In contrast, the personal diaries of victims generally recount their life stories from the heart. Both notebooks and personal diaries help illustrate the fact that expressions of feelings may not be curbed even in circumstances of hardship, misery, and vicious suppression.

(Continued from the January 2001 issue)

Morgat 15 September 1975

Today the weather is very nice. The wind is blowing hard, while the sea is rushing to the shore, making sparks of waves. Although it's a bit cool, the sun is still shining. I am sitting in a room, watching the waves. The colors of the sea change from time to time due to the sunlight. The freezing wind in September makes me feel homesick. I wonder if there is some spell that is making me miss Cambodia, although its new administration is being criticized.

I still believe that this regime is not bad. My decision to return home to my country is not for a political reason. Rather, it is my own feelings that push me to serve Cambodia, even though it is so poor and there will be so many difficulties for me. It doesn't matter [what happens]. My main point is whether my strength contributes to the reconstruction of the nation. In reality, life in a country of "materialism" is enjoyable. However, we are the slaves of "things." I love nature; thus, I must return to the national community - the one I love and gave birth to me.

Life here [France] is different from the one in Cambodia. So, what's the point of living here? It would be better to live in Cambodia than to live here in conditions of slavery. Moreover, I have to return home as I am eager to see my family; we have been separated for quite a long time. What's the point of enjoying a lonely life, while my beloved mother is full of sorrow each day because she misses me? Without mental calm and being full of sorrow, how can [I] enjoy [my life here]? I would rather face physical difficulties than be worried. This seems to push me to decide to return home. It doesn't matter what hardships I will face. I would be happy to suffer rather than be worried.

Morgat 16 August 1975

Today is not a sunny day. It's so cool that I'm not well. The sea is steady. There is fog and we cannot see far. I stay alone in my room, preparing luggage for my return to Paris. I feel one day I will be back here. Here there is lovely, attractive scenery. However, as for the people surrounding [me], some are good, some are bad. [We] cannot read their hearts. Oh human hearts! No one is happy to see the happiness of others. Oh my life always meets obstacles. I have never been contented. Oh the sea! Why you don't move like you did yesterday? And why are you not so charming? Are you worried? Why does your charm change? You seem to know what I feel. Only scenery can rid me of my discontent. Without you I would be much more frustrated.

Now it's nine p.m. Tonight the moon is shining, accompanied by glittering stars. The moon is not full yet. The sea is steady. One can see a battleship, decorated with glittering items. The weather is also very cool. The weather here seems to be different from that in my country, where people sit happily under the moonlight, looking everywhere. However, they may not do the same thing here as it is so cool. Oh, I really miss such circumstances in my home country. The charm of the Mekong River under the moonlight can be compared to the charm here. When can I see my home village again?

It has been six years that I've lived far way from my home, and two years that I've lived apart from my beloved and respected family. [I] remember every event. I left you dad and mom with sad feelings. At this moment I miss my

parents, I remember their advice, and my mother's merits are beyond comparison. Mom and dad are poor, but they made every effort to overcome all impediments, to say nothing of their good understanding of national or political concepts. If every woman had the same heart as my mom, perhaps there would be much progress in Cambodia. When seeing other families gathering, I really miss you, mom. You might feel I miss you, right? You don't know how far my life is roaming. I do miss you, mom and dad. I always remember your advice: "I leave you, but my feeling is with you at all times, daughter." I will try my best to overcome any obstacle and hope that I will have a chance to meet you in the near future so that I can contribute to the renewal of Cambodia.

Morgat, 17 September 1975

Today it's a bit cool. There is sunlight and less fog. Without this weather, I would have been in Paris. Now the schedule is changed. Oh Morgat, it's very cool once the wind is blowing. Either visit here by next year or return home? The moment I remember the day to return home, the moment I become happy with an infusion of sorrows. On the one hand, I am happy because I hope I will meet my family and friends. On the other hand, I become so worried because I am not sure whether my country is independent and self-reliant or not. National issues always haunt me. However, I have to go in order to witness the events happening in the country no matter what hardships I face. Throughout my life, I have experienced hardship, sorrow, and happiness.

I have seen the cultures of other developing and developed countries. From them, I can make good judgments on my own country. I can further realize the value of my country. For this reason, I am still preoccupied with the traditional customs, charm and resources of my country, which is still considered an underdeveloped country. I think that I can put some ideas gained from various countries into real practice in my country in order to upgrade the living conditions of the poor. If my return faces any obstacles, I will still be satisfied because the decision has come from my genuine, thorough consideration.

I myself will not be one to seek political asylum. I used to live in a poor family. I will not be completely absorbed in the wealth and charm of other countries. Although I can enjoy my life there at any time, I am not happy to live there, because I am a Khmer. Being a Khmer I have to help Cambodia, which brought me up. To me, the evacuation of the people in Phnom Penh is correct. Its aim was to bring equality for every individual. This does not have anything to do with revenge. Rather, it is that the old regime is corrupt, and those who used their power to oppress others have been swept out - they are individuals with minions who do not know hardship. For this reason I think this activity is right. As for those who never experienced hardship or knew the rice seedling, they will undoubtedly think it is a hell. Thus, I made a decision to return home so I can witness what is happening.

Morgat, 18 September 1975

This is the last night for me to stay in Morgat. Tonight it is drizzling. Nothing is visible, except fog. I don't know whether I will have a chance to come here again. Oh, nature! You seem to be as worried as I am about leaving. Tonight I feel I am flying far away without real direction. I think of what needs to be done when I arrive in Paris. Who will I meet? How are my friends in Cambodia? There is no information [about them]. When can we have a relationship again? I miss them all. I don't know what makes me so worried about this. Can we meet each other again in this life? Where are you now honey? Do you miss me? I decided to return home to lead my life with my family again. However, I do not know how much you have changed. But I miss you every day, my heart is never broken. In thinking about you, I pity you so much. But, at the thought of you boasting, I really hate you and seem to be happy with the revolution in our country.

From this experience you will realize hardship and give up your bad points. Your family, famous for its wealth and that used to look down on others is now in the same position as others. There is no "classiness" like before. It's the end of your luxurious life. And elegance, cars and wealth also vanish. What do you think about the revolution? How do you feel? You have lived a happy, luxurious life since birth. This is a kind of hardship people suffered for the sake of your family's happiness. Now no one will become your servant. I am sure you realize the hardship and difficulties in earning money for your living. Before, when you were far away from earning wealth, you even destroyed it. Now you understand, do you?

If you understand this concept clearly and love me as I love you, we will be hand in hand for initiating a new family life in the new regime, moving towards prosperity and happiness, okay? My writing is a heart-to-heart dedication to you - my beloved and missed one.

Rueil, 8 November 1975

Time is moving quickly. Now it has been nearly a year since I arrived in Paris the second time. The spring of the year has passed by. Autumn is coming. Oh, nature! After sadness, you can recover. On the other hand, human beings cannot do the same thing. Their lives cannot move backward. Oh, the yellow leaves together can make attractive natural carpets. The leaves, you seem to be withered, but picturesque. The night has come. It's really quiet. The door is firmly closed. The darkness in the room reminds me of thoughts I have had before, mixed with happiness and sorrow, hatred and crying. This is what it is commonly known as the "suffering of life." In childhood, [I] never knew hardship. [My] mom took good care of [me] all the time. But, since adolescence came, I have never known happiness. Why? What were my sins in my former life? However, it doesn't matter if I have a chance to meet my family. Otherwise I will live separately from them again. Oh life! Are there people suffering as I am?

Rueil, 11 November 1975

Today I watched a movie called "West Side Story," which is very interesting. It covers general concepts on the roots of life-and-death love. However, in the end the lovers could not meet and live together.

(Continued in the March 2001 issue)

Want to know the truth

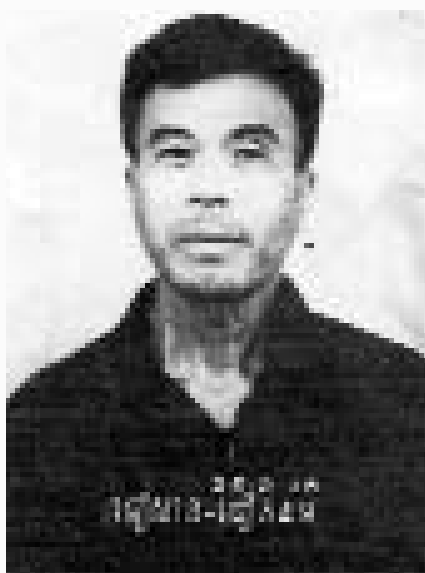
Dara P. Vanthan

Mr. Van Sar wrote a letter to the Documentation Center of Cambodia on 15 November 2000, asking for documents relating to a man named Yuk Chantah, whose photo appeared on page 17 of the July 2000 issue of *Searching for the Truth*. Yuk Chantha's mug shot was taken before he was killed without the benefit of a trial.

According to file number Y143, Yuk Chantha was former second secretary of the Cambodian embassy in Tanzania from 1972 to 1976. At some point during this period, he was sent back to Cambodia and placed in a reeducation camp at the former Boeng Trabek High School, Office K-17, before his arrest on 16 February 1978. His wife, Chhay Samith, alias Mom, was also arrested at the same time and brought to S-21, where she was detained in House 33, Room 4. The couple had three children, but no information on their fates has been discovered.

A file from S-21 suggests that after interrogating Chantha on 1 March 1978, interrogator Chhun sent a signed report to Angkar stating, "Perhaps, contemptible Chantha was disloyal since the time he was with his father named Yuk Khorn of the military court. This is important. He lived in the Soviet Union for 19 years. So, [his] connection and service in favor of Soviet private organization took place." The execution lists from S-21 show that Yuk Chantha was killed on 18 July 1978.

Van Sar - the victim's cousin - said, "[I] want to seek real justice." He also wondered about the accusations the Khmer Rouge made against Yuk Chantha. The Documentation Center of Cambodia has been working to seek truth and justice for the victims of the Khmer Rouge. One of the Center's tools is the "Family Tracing" column in its monthly magazine, *Searching for the Truth*. Its aim is to heal the mental wounds of the victims' families by providing knowledge about their relatives' fates, including the place, time, and reasons for execution. Like Van Sar, they want to know the truth.



KHMER ROUGE SONG:

DO NOT FORGET THE FRESH BLOOD OF OUR COMRADES

Compiled by Sayana Ser

Oh my babies, please wait for my advice. I will tell you every day so that you will remember for the rest of your life.

You are living with happiness in the newly founded society without any concepts of “poor or rich” or oppression. Brothers and sisters are enjoying equal rights.

With independence and power, workers and farmers have become masters over themselves. They are enjoying highly favorable living conditions, while Kampuchean life has become glorious in the world.

Babies please remember that the new society has been founded by no one else besides hundreds of thousands of comrades who have sacrificed their valuable lives.

They devoted everything without regret—their blood and lives—for the sake of conquering the excellent power and put it under the control of each of us.

Thus, you, babies must absolutely defend our society and keep it clean and just by screening for more precious value for the sake of the next generation.

Brothers and sister must constantly go on with setting the “revolutionary fire” so that it will never be forgotten. Examine yourselves every second based on the precious line of our Angkar.

Babies please respect the organizational discipline, while living with Angkar’s rations, in accordance with the revolutionary moral code. My babies please do not be over-enjoying.

Babies please do not forget the fresh and warm red blood of our comrades, which can form streams glittering with seven colors and will bring about happiness for all of us.

Babies please live, work and study to be as qualified as our combatants who have sacrificed and to be their descendents. Please do not forget babies.

**ដើម្បីទប់ទល់ការបោះពុម្ពនិងចែកចាយដោយអាក្រក់ក្នុងថ្ងៃដ៏យូរអង្វែងនៃសង្គ្រាមកម្ពុជា
ទស្សនាវដ្តីចំនួន១០០០ច្បាប់ជារៀងរាល់លេខនឹងដាក់លក់នៅក្នុងរាជធានីភ្នំពេញប៉ុណ្ណោះ មួយច្បាប់ក្នុងតម្លៃ ៧០០០រៀល**

មជ្ឈមណ្ឌលឯកសារកម្ពុជាអំពីការរស់នៅក្នុងសង្គ្រាម មូលនិធិនានា និងសាធារណជនគ្រប់រូប សូមជួយទប់ទល់ការបោះពុម្ពផ្សាយទស្សនាវដ្តីនេះទៅតាមលទ្ធភាពដែលអាចធ្វើបាន។ ព័ត៌មានបន្ថែមចំពោះការបោះពុម្ពផ្សាយទស្សនាវដ្តីស្វែងរកការពិត សូមមេត្តាទាក់ទងមកនាយកមជ្ឈមណ្ឌលឯកសារកម្ពុជាតាមទូរស័ព្ទលេខ (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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