

MEMORY AND THE KHMER ROUGE TRIBUNAL

I. INTRODUCTION.....	63
2. MEMORY REMAINS BEYOND THE KHMER ROUGE TRIAL	64
3. A CROSS-GENERATIONAL REFLECTION ON THE KHMER ROUGE TRIBUNAL.....	65
4. MY FATHER AND THE PROSECUTION OF DUCH AT THE ECCC.....	67

I. INTRODUCTION

This article comprises three essays by young Cambodian women reflecting on their family members' experiences under the Khmer Rouge regime and reactions to the Khmer Rouge Tribunal's efforts to bring to justice the surviving senior leaders and those most responsible for the crimes of that era. To date, the ECCC has held two trials and sentenced Kaing Guek Eav *alias* Duch, the chief of the S-21 security center, to life imprisonment for the murder and torture of over 12,000 people. The Court's second—and likely last—verdict in the case against two surviving senior Khmer Rouge leaders is expected in the first half of 2014.

The authors and their families come from different segments of Cambodian society and offer a range of perspectives on the Khmer Rouge era and the capacity of the ECCC to offer survivors a measure of justice. The first author, Fatily Sa, is a member of Cambodia's Cham Muslim community—an ethnic and religious minority who were allegedly targeted by the Khmer Rouge as part of a genocidal policy.¹ For many years she has worked for a Cambodian organization committed to preserving Khmer Rouge-era documents and survivor accounts, and to promoting Khmer Rouge criminal accountability.

The second author, Sreyneath Poole, has lived in the United States since she was 14 and recently returned to Cambodia to reconnect with her homeland before pursuing graduate studies. Her family, like Fatily Sa's, includes officials of the overthrown Lon Nol regime, a political group also allegedly targeted by the Khmer Rouge for execution.²

The third author, Huy Senghul, is a daughter of Him Huy, the head of a unit responsible for transporting S-21 prisoners to the Choeung Ek killing fields for execution,³ who for many years has volunteered to speak publicly about his experiences. He says that he "recorded the names of the prisoners in a register before they were taken to the pits for summary execution,"⁴ and admits to personally killing only five of the tens of thousands of victims, and only under duress.⁵ His testimony helped convict Duch, whom he claims had paramount responsibility for the crimes that took place at S-21. Him Huy has said that due to his involvement in the killing, he lost his dignity and value,

1 See Case 002 Closing Order, Case No. 002/19-2007-ECCC-OCIJ, ¶¶ 745-70, 1336-42 (Sept. 15, 2010).

2 See, e.g., *id.* ¶¶ 234-35, 243, 254, 309, 479, 695, 707, 977.

3 See Duch Trial Judgment, Case No. 001/18-07-2007/ECCC/TC, ¶ 158 (July 26, 2010).

4 See *id.* ¶ 48 n.224; Case 002 Closing Order, ¶ 464.

5 See Savina Sirik, *Duch Final Judgment: Justice and Humanity*, Documentation Center of Cambodia, at 5-6 (Feb. 2-3, 2012), at http://www.dccam.org/Projects/Living_Doc/ECCC_Tour_and_Field_Trip_Reports.htm

and lived under “suspicion and hatred from his community.” In his view, the trial and conviction of Duch has helped his neighbors to understand that he was not in charge of the prison and that, as a lower-level cadre, he also lived in fear during the Khmer Rouge era.⁶ Like the other authors, Huy Senghul’s views are a reflection of her family’s memories of the regime.

2. MEMORY REMAINS BEYOND THE KHMER ROUGE TRIAL

FATILY SA⁷

Everyone has his or her own bitter and sweet memories. The ones that are most memorable are those that have scared us the most. In the hearts of people who have suffered from Cambodia’s tragic history by living through the three years, eight months and 20 days of the Khmer Rouge regime, horrific memories still haunt them to this very day. Each day under the brutal regime they prayed for it to pass quickly and hoped to see sunlight the next day.

Such bitter memories bring victims to tears and cause them trauma and psychological disorders. Some people are finding ways to forget their past memories under the Khmer Rouge regime, but I doubt that they can ever do so—forgetting the past doesn’t mean they can run away from it.

From my perspective, survivors are not likely to forget memories from the Khmer Rouge regime. As part of my job at the Documentation Center of Cambodia (DC-Cam), one of my many tasks is to document the trial proceedings at the Khmer Rouge Tribunal—formally known as the Extraordinary Chambers in the Courts of Cambodia (ECCC)—dating back to 2007. I have captured trial video footage and photos of the parties in the courtroom, and produced video clips of people’s reactions to the trials. From people’s reactions I can tell they can never forget the past. The loss of their loved ones and the time they spent together are rooted very deeply in their hearts.

My father, Sa Math, once told me that he cannot forget the memory of his parents who were brutally killed under the Khmer Rouge. Every time my father sees pickled cucumber, it reminds him of his mother, who always packed one in his school lunch. The regime separated people from their families and removed my father from his parents. The regime took at least one life from each Cambodian family, and mine was no exception. It took the lives of a number of our immediate and extended family who were accused of participating in a Cham rebellion in late 1975. In the village where my family resided, almost 100 families were killed. They killed my grandfather and his younger brother by binding their bodies and dropping them into water, drowning them. My grandmother died because there was no medicine to treat her illness. My father survived because he worked hard to hide his identity as soldier of the overthrown Lon Nol regime.

One day, my father was accused of being a Lon Nol soldier. He tried to convince the cadres that he was only a farmer who could not read or write, but five cadres came to his house at night and took him away with some other villagers. They got on a boat and crossed the river to an island. My father thought his identity had been discovered and he was going to be killed. While walking, the Khmer Rouge cadres clubbed the head of a villager and he fell down. When my father saw that, he fell down on his knees and, in shock, was unable to move. The cadres told my father to get up and keep moving. My father was afraid as if his soul was no longer with him. The cadres threatened to kill my father if he told anyone. And he did not tell anyone.

Eight years after the collapse of the Khmer Rouge regime, I was born and grew up unaware of the history of my family and country. Through my work, I began to learn about the atrocities that had befallen us. After two years with DC-Cam, I was selected for an internship with the Shoah Foundation Institute at the University of Southern California. I met many Holocaust survivors who came to share their experiences. I also interviewed many Khmer-American survivors who would never return

⁶ *Id.*

⁷ Fatility Sa is a film archivist with the Cham Identity Project at the Documentation Center of Cambodia.

to the country they love, fearing the emotional trauma of facing the memories of lost family and friends.

After my return, I was determined to interview my father for his stories, starting on June 30, 2009. Now it has been over four years and I still don't have the whole story. He could not hold back his tears talking about his family under the brutal regime. Now he is sick and hospitalized. I always keep him up-to-date on the Khmer Rouge Tribunal because he is interested. My father told me that the survivors and the accused are getting too old and are dying one after another. He hopes that the verdict will come before the survivors and the accused all die. One day in prison for the Khmer Rouge leaders before their deaths would be adequate for him and his loved ones.

Since it is impossible to forget the past, memorialization of their memories can give survivors the strength to move on and contribute to preventing brutal acts in the future. Survivors have been passing their memories to their children and grandchildren, allowing young people to become aware of their families' and the country's history. Younger generations can benefit from the experience of their elders and use these lessons to move to a better future. I believe that memory plays a very important role in uniting people and helping Cambodians to move beyond being victims of their tragic history.

3. A CROSS-GENERATIONAL REFLECTION ON THE KHMER ROUGE TRIBUNAL

SREYNEATH POOLE⁸

When discussing the Khmer Rouge Tribunal, the questions that always come up are “what is the significance of the Tribunal to the regime survivors, the people of Cambodia, and the nation as a whole?” and “can justice be served?” Different people have different answers. No matter what their opinion, from a historical point of view, what happened and will happen at the Tribunal plays a significant role in Cambodia's contemporary history.

The Khmer Rouge Tribunal is important because it allows the nation to find the truth, and allows the victims and perpetrators to come to terms with the past, to reconcile, and to heal. This is what the Tribunal represents. The Court's first trial, Case 001, ended with a life imprisonment sentence for Kaing Guek Eav, *alias* Duch, who oversaw the infamous Toul Sleng or S-21 detention center. This sentence opened up a path by which the nation can seek justice from the regime that destroyed every facet of life. Case 002 is even more significant because the accused are the people who had direct involvement in implementing the disastrous Democratic Kampuchea regime policies that killed approximately 1.7 million people.⁹ The amount of money that has been spent since the inception of the Tribunal also shows its importance. Since 2006, the entire operation has cost \$208.7 million,¹⁰ showing all the willingness of those involved to fund the trials so that justice can be achieved.

However, not everyone shares this opinion. My mother's view of the Khmer Rouge Tribunal is not one that the people working at the ECCC would like to hear. My mother was a victim of the regime. She was only a child, around the age of six or seven, and she was lucky that she was not separated from my grandmother, like many children were from their parents.

In my conversations with her about the Tribunal, she tells me that she does not know about the Khmer Rouge Tribunal, so she does not pay too much attention or care about it. Part of me is not convinced, because my mother follows domestic Cambodian news all the time. Although she admits that she does not religiously follow the trial hearings, she says that she does not believe the trials will

8 Sreyneath Poole received a BA from the University of Redlands in California in “The Nature of Imbalance: East Asian Politics and Media,” graduating with honors in international relations. She is currently volunteering with DC-Cam in Phnom Penh.

9 Professor Ben Kiernan's estimate.

10 See ECCC at a Glance (Oct. 2013), available at http://www.eccc.gov.kh/sites/default/files/ECCC%20at%20a%20Glance_ENG_Oct_2013.pdf.

produce any meaningful results. She says the trials have taken too long, and too much money has been spent with no significant outcome. When I asked her if she thought justice could be served from the trials, she gave me a straightforward “no” without further elaboration.

My great-aunt, my grandmother’s youngest sister, has a different opinion than my mother. Now in her early 50s, because she was older during the Khmer Rouge regime, her experience left a deeper impression on her. Not much different from many stories that have already been told, my great-aunt was relocated to Kratie province and was forced to work in the fields, dig dykes, and build dams. Life was horrible for her and it undoubtedly shaped her life today.

She is an incredibly admirable woman. She is politically active and a strong advocate for social justice. Since day one of the first trial she has followed closely the Tribunal’s development. She believes that the Tribunal is important for her, as well as for the nation. To her, the Tribunal serves a role in helping the nation find ways come to terms with the past and seek justice.

Still, like my mother, she thinks the Tribunal operates too slowly and the accused in Case 002 are getting too old and dying off. She expressed her disappointment with the death of accused Ieng Sary and the dismissal of Ieng Thirith due to her deteriorating mental condition, but said that the trial could not be rushed because it is part of a legal process. She is adamant that the Tribunal cannot give her and the people of Cambodia “one hundred percent justice,” but believes that the victims can find some peace and be satisfied if the final ruling decision reflects the gravity of the crimes that the accused have committed. She hopes to see life-imprisonment for those responsible for the crimes that happened.

The trial of the two ex-Khmer Rouge leaders remaining in Case 002 is important to her, but it is not enough. She would like the Tribunal to investigate those who had direct involvement in the killing of the people at the regional and commune level. She has also hinted at bringing those who are currently in positions of power to trial. For her, this will prevent key perpetrators from getting away with murder, and serve as a warning for future leaders not to commit atrocities because there will be mechanisms to punish them for their crimes.

My grandfather shares the same opinion as my great-aunt. When I asked his views, he told me that he fully supports the Khmer Rouge Tribunal. Like many of the regime’s victims, he wants to see the people who caused him suffering held accountable for their crimes.

In my opinion, my grandfather’s story is one that should be shared with the public. He was born in Svay Rieng province and moved to Phnom Penh in the early 1950s to follow his parents who were seeking employment. My grandfather was a well-educated man. Despite coming from a modest-income family, he completed all levels of schooling that were offered at the time. He then worked at the US embassy as an office secretary until Prince Norodom Sihanouk ended Cambodia’s relations with the US. He returned to work at the embassy as a military radio operator when relations were re-established. He once told me that he had to inspect a US arms warehouse in Anlong Veng, which was part of the US Military Assistance Advisory Group (MAAG) operation.

My grandfather was smart and lucky to out-live the Khmer Rouge regime. Given his intellectual capacity and his connection with the US, he should have been one of the first people to be executed. At one point during the regime, he was imprisoned and forced to do hard labor. He was released about a month later because, from what he told me, *Angkar* [the Khmer Rouge organization] could not prove that he was guilty of whatever crime they suspected of him. He was taken away a second time by the Khmer Rouge cadres when Vietnamese forces entered Cambodia in 1979. They needed extra hands to cook and carry the injured and dead off the battlefields.

Everyday, my grandfather watches foreign television news to keep updated on what is happening around the world. He also reads anything that relates to the Khmer Rouge to try and learn what happened and discover new information. In our brief conversation on the topic, he told me that the Khmer Rouge trials are a just way of holding the ex-Khmer Rouge leaders accountable and punishing them for their crimes in a legal manner. Like my great-aunt, he said that the ECCC’s operations are slow and he wished that the process moved quicker because the ex-Khmer Rouge leaders are getting

too old. My grandfather wants to see the ex-Khmer Rouge leaders given a sentence of life imprisonment even if they do not live long. To him, it is a symbolic gesture, which gives him a feeling that justice has been achieved. He believes that the trials are a way to teach the younger generation and future leaders to understand the horror of what happened and its legacy so that future generations will not follow the same path.

As for me, I am of the generation that was born around the signing of the Paris Peace Agreement. When I was living in Cambodia, I knew next to nothing about the Khmer Rouge. All I knew was that Pol Pot was bad, but I was not sure if Pol Pot was a person or something else. It was not until I moved to the US that I learned about what happened to Cambodia. At first, it was overwhelming to learn about the atrocities. It did not make sense to me. I am still learning and trying to figure out what happened and some things still do not make sense.

After learning so much about the suffering and destruction that the Khmer Rouge regime inflicted in Cambodia, and more specifically to my family, I believe that the Khmer Rouge Tribunal is important. It helps the nation learn and understand about our past and foster dialogue as a way to reconcile with the past, heal, and grow. Nevertheless, I share a similar sentiment to my mother. I think the ECCC is operating too slowly. I feel frustrated by the ECCC's speed of operation because I am worried that the ex-Khmer Rouge leaders will be dead before they can be properly punished for their crimes.

I am also frustrated with the political sensitivity that the ECCC faces operating as a UN-backed Cambodian tribunal, which further slows down the process. However, these are not the main reasons for my weariness. I wish for the Tribunal to expand its investigation and not be limited to addressing what happened between 1975-1979. My wish is for the Tribunal to examine the issue from a global perspective and also hold external actors accountable. I do not believe that the ex-Khmer Rouge leaders should be the only ones to stand trial. There are external actors who are just as guilty of allowing the rise of the Khmer Rouge regime.

Right now the nation is waiting for the final verdict in Case 002 and has a variety of expectations. As for me, I know that my wish cannot be fulfilled in the foreseeable future, and that my weariness with the ECCC—and feeling that justice cannot be served—will continue.

4. MY FATHER AND THE PROSECUTION OF DUCH AT THE ECCC

HUY SENGHUL¹¹

I was born in 1992 in Koh Thom District, Kandal Province. I am the fourth child among my six siblings. My father's name is Him Huy, a well-known former guard at S-2I security prison, under chief of command of Kaing Guek Eav *alias* Duch. Under the Khmer Rouge rules, many were arrested and detained at S-2I, and later executed. I knew very little of what exactly happened under the Khmer Rouge regime although my parents had lived through it. It was not until people started talking about their stories and until I became a volunteer at the Documentation Center of Cambodia (DC-Cam) that I found out more about Khmer Rouge history.

On April 17, 1975, the Khmer Rouge cleared people out of Phnom Penh city to the rural areas to work in the rice fields. Parents and children were separated and forced to labor with scarce food supply. For instance, they received only one or two scoops of gruel a day. Furthermore, children were not permitted to go to school, and their job was to collect animal excrement and guard oxen.

I learned about the Khmer Rouge history from my father and my work at DC-Cam. My father felt regretful, and his personal stories remained unforgettable. He often told me that he thought he could never have survived the regime. For him, this remains painful, particularly his recollections of

¹¹ Huy Senghul is a member of the Book of Memory Project, DC-Cam, and a third year student of law at Asia Europe University.

Tuol Sleng Prison [S-21]. He told me that during the regime he sometimes thought of committing suicide as he could hardly bear the harsh situation. However, he was fully aware that if decided to do it, his family would meet a similar fate. Like many other lower-ranking cadres, my father had no choice. He had to follow orders from the top leaders. Duch was his leader, and thus, Duch shall be the only person responsible for the crimes committed at S-21 known as Tuol Sleng Prison.

After the collapse of the regime, my father was imprisoned for one year at Koh Thom District Security Office for crimes he committed during the Khmer Rouge reign of terror. Finally, our family was reunited upon his release. My father often recalled, "What I did in the past was to survive." If he denied an order, he would be killed. I observe that he bears remorse from horrific events that occurred.

Nonetheless, he strives to come to terms with it for the sake of our family's survival. He is a hard-working father. He works vigorously in the rice paddies to earn a living for our family. After the Khmer Rouge regime, we were poor farmers. However, because of his hard work, we are able to lead normal lives like others. For instance, some of my brothers and sisters were married, and make their livings running their own businesses, while I am now continuing my studies at a university in Phnom Penh.

My father loves his children. He never hits any one of us. He is determined not to let his children meet the same fate as he did under the Khmer Rouge regime. In addition, every one of our neighbors has a friendly relationship with him. He is never involved in conflict with anyone. Because he is a good role model for us, we as his children follow in his footsteps.

I hate Duch. I despise what he did under the Khmer Rouge regime. I am happy that Duch was sentenced to life imprisonment, and that the gravity of his crimes will never be mitigated. I thought to myself that if the regime had never existed, our family's condition would have been much improved because we would not have had to start from scratch. Duch was not only the former chief of S-21 and my father's supervisor, but he is also the one who was responsible for operations at S-21, the Prey Sar security office [a nearby reeducation/work camp], and the Choeng Ek killing fields. Duch was a cruel revolutionist. He is responsible for the deaths of more than 12,000 souls, including children.

I traveled to witness the reading of Duch's appeal verdict at the Khmer Rouge Tribunal with my father in February 2012. Initially, I was anxious and worried that Duch would not be sentenced to life in prison. However, I was pleased to hear the Tribunal's Supreme Court Chamber sentence Duch to serve in detention for the rest of his life. I was delighted, and so was my father. Finally, Duch received a sentence that he deserved for what he had done.