

Prosecuting the Khmer Rouge

Views from the Inside

Ratana Ly

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INTERNATIONAL
NUREMBERG
PRINCIPLES
ACADEMY

Prosecuting the Khmer Rouge: Views from the Inside

Ratana Ly¹

‘Justice, peace and democracy are not mutually exclusive objectives, but rather mutually reinforcing imperatives’ (United Nations Secretary General 2004).

1. Introduction

Out of Cambodia’s total population of approximately 7 to 8 million, it is estimated that 1.5 to 2 million died of starvation, disease, and execution during the reign of the Democratic Kampuchea (DK) regime, which lasted from 17 April 1975 to 6 January 1979 (Kiernan 1996, 456-460). Following the fall of the DK (also known as the Khmer Rouge Regime), ‘a truth commission, lustration policies, amnesty programmes, and domestic or international trials were all considered or attempted’ to provide justice and peace for Cambodians (Ciorciari and Heindel 2014, 14). Out of these responses, the Extraordinary Chambers in the Courts of Cambodia (ECCC), a hybrid court established jointly by Cambodia and the United Nations (UN) is the only internationally recognised judicial mechanism established to address Khmer Rouge crimes.²

The ECCC is, however, the product of a political compromise, resulting from protracted negotiations between the Cambodian government and the UN, whose relationship was characterised by ‘bitter mutual distrust and an ensuing battle for control’ (Ciorciari and Heindel 2014, 14-37; Fawthrop and Jarvis 2004, 131). This compromise resulted in the limited temporal and personal jurisdiction of the Court and its features, most particularly its majority voting system.³ Despite these limitations, positive outcomes of the negotiations included the agreement to locate the Court in close proximity to Khmer Rouge victims and the significant extent to which victims can participate in the proceedings.⁴

The available literature on the ECCC often adopts an overly legalistic approach to assessing its effect, focusing on international fair trial standards, and considers only the appropriate role of victim participation (Kelsall et al. 2009; Cohen et al. 2015; Jasini 2016). However, there is a general lack of literature on how stakeholders view the Court and why they hold such views.

Against this backdrop, this chapter assesses how the ECCC is accepted by various actors through examining and comparing the attitudes of different actor groups as to whether and how they

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² Agreement Between The United Nations and the Royal Government of Cambodia Concerning the Prosecution Under Cambodian Law of Crimes Committed During the Period of Democratic Kampuchea.

³ Ibid., Articles 1, 3-6.

⁴ Extraordinary Chambers in the Courts of Cambodia: Internal Rules (Rev.9). 16 January 2015, rule 12, rule 12 *bis*, rule 12 *ter*.

accept or reject the ECCC, and the reasons for any differences in attitudes toward it. It also considers whether there is any difference in the extent to which actors accept the ECCC according to which case is before the Court at a particular time. Acceptance is defined as the 'agreement, either expressly or by conduct, to the principles of international criminal justice in one or more of its forms' (Buckley-Zistel et al. 2016, 1).

This chapter is divided into five sections. It first provides a brief overview of events that led to the rise and fall of the Khmer Rouge and the trauma caused by the Khmer Rouge regime. This is followed by an overview of the ECCC, considering the role of international and national politics in the negotiation for the ECCC, and its jurisdiction and cases. The chapter then discusses the methodology used for this paper. The main part of the paper then analyses the patterns, dynamics, and drivers of various actors' acceptance or rejection of the Court. Following analysis of interviews, this chapter concludes that the factors that drive participants' acceptance or rejection are diverse and are often based on the strategic interests of the participants.

2. Historical Background

It is widely accepted that domestic and regional wars and politics contributed to the rise to power of the Khmer Rouge, which can be traced back to the colonisation of Cambodia by France in 1863. In 1951, the Khmer People's Revolutionary Party (KPRP), the first communist party in Cambodia, was formed under the supervision of Vietnamese communists, to help resist French rule, and by 1954, France's rule over Cambodia had officially ended (Kiernan 1996, 12-13).

Following that, this communist party sought socialist reform but it was unpopular, powerless, and repressed by authorities led by Prince Norodom Sihanouk (Becker 1998, 10-13). The party later changed its name to the Communist Party of Kampuchea (CPK), and marked its attack on a governmental army post on 17 January 1968 as the birth of the Revolutionary Army of Kampuchea (RAK) (ECCC Closing Order 2010, para. 23-24).

The Vietnam War was another critical factor in the rise of the Khmer Rouge. Prince Sihanouk was passive about the presence of Vietnamese forces in Cambodia, even though Vietnamese forces attacked American forces from inside Cambodia. In return, the United States heavily bombed Cambodia, producing a wave of Cambodian refugees who were mostly from poor and rural areas. The CPK used the devastation resulting from the American attacks for its recruitment propaganda (Kiernan 1996, 16-25).

The Khmer Rouge also benefited from a coup launched on 18 March 1970 against Prince Sihanouk, who was very popular among the rural poor, which was led by General Lon Nol and backed by the United States. Lon Nol established a regime called the Khmer Republic. According to Elisabeth Becker, following the coup:

'China easily convinces Prince Sihanouk to be on the [Khmer Rouge] side. So [the Khmer Rouge] got the potent, the leadership, at least the figurehead leadership Sihanouk to speak for them not only inside Cambodia over the radio, but to the international community'.⁵

After expanding its power, the CPK broke away from Prince Sihanouk and took over Phnom Penh on 17 April 1975. This day marked the start of the Khmer Rouge regime. Under this regime, known as Angkar, the revolutionary organisation which was constituted by the CPK as a whole and the top leadership of the CPK committed innumerable atrocities, killing approximately a quarter of the Cambodian population (See ECCC Closing Order 2010).

While the atrocities of the Khmer Rouge regime have well been documented (Chandler 1999; Becker 1998), the following illustrates on a more personal level the trauma caused by DK. The family structure, which was an integral part of Cambodian culture, was broken. During DK, family members were separated.⁶ Many victims were forced to marry strangers whom Angkar deemed appropriate for them, and to consummate those marriages.⁷ In addition, some victims were forced to choose between their lives or their families. According to one civil party, after Angkar cut off her brother's head, she was not allowed to show grief. Instead, when Angkar asked her if she was upset with Angkar, she responded that, 'No. He was Angkar's enemy, so he deserved punishment. I am Angkar's child', despite knowing her brother was innocent.⁸

Victims still experience trauma today. One civil party, whose husband disappeared during the Khmer Rouge regime, is still searching for him. She said, 'I want to find out where my husband is – or whether or not he is alive'.⁹ She felt that it was not right to hold a funeral for her husband if he was still alive. Yet at the same time, if her husband was already dead, failing to give him a traditional funeral went against her conscience. Another civil party who lost all her immediate family except her sister during DK said that she still had nightmares about what occurred during the Khmer Rouge regime and that she regularly needed psychological help.¹⁰

After almost four years in power, the Khmer Rouge regime collapsed. On 7 January 1979, a Vietnamese army together with a liberation movement led by Khmer Rouge defectors including current President of the National Assembly Heng Samrin, and Prime Minister Hun Sen overthrew the Khmer Rouge. They then established a new regime – the People's Republic of Kampuchea (PRK) (Fawthrop and Jarvis 2004, 9-18).

While the Khmer Rouge regime fell in 1979, the political situation between the world's major superpowers and other Southeast Asian countries allowed the Khmer Rouge to retain its seat at the UN until the early 1990s (ibid., 24-35, 84-94), and the 1991 Paris Peace accords were

⁵ Personal interview with Elizabeth Becker, journalist/author.

⁶ Personal interviews with: CP-05, former accountant in a governmental ministry; CP-09, former language translator.

⁷ Ibid., personal interview with CP-09.

⁸ Ibid.

⁹ Personal interview with CP-06, retired.

¹⁰ Personal interview with CP-05, former accountant in a governmental ministry.

ultimately silent on Khmer Rouge accountability, in order to maintain peace (Linton 2007, 200-201).¹¹ While the UN supported Cambodia to have its first general election in 1993, the Khmer Rouge boycotted it and continued fighting (See Fawthrop and Jarvis 2004, 104-107). Clashes between the Khmer Rouge and Phnom Penh authorities continued until the government adopted a 'win-win' policy, which aimed to integrate Khmer Rouge soldiers into the government (Pol 2014, 212-213).¹² Some Khmer Rouge leaders then defected and surrendered to the government, and Pol Pot, the leader of the Khmer Rouge, died in 1998 (The New York Times News Service 1998).

3. The ECCC

3.1 Negotiations for the ECCC

It took many years of negotiation before Cambodia and the UN signed an agreement to set up the ECCC. Beginning in June 1997, Cambodia requested UN assistance to set up a tribunal to bring senior Khmer Rouge leaders to trial, noting that, despite being willing, the country did not have the capacity to conduct such major trials by itself (Letter of Cambodia to the UN Secretary General 1997). In response, a UN Group of Experts recommended that there be an ad hoc international tribunal administered by the UN. This was based on the belief that the Cambodian national court was incapable and corrupt, and riddled with political interference (UN Group of Experts for Cambodia 1999, para. 95-98, 123-130). However, a tribunal created under the UN Security Council would not be possible because China, supporting the Khmer Rouge, would veto any such resolution (Davi 2001). In addition, Prime Minister Hun Sen, later citing national sovereignty, persistently insisted on having national trials with international assistance (ibid.).

The core issue for Cambodia and the UN was 'who had ultimate control over the judicial process – the UN or Cambodia' (Fowthrop 2002; Corell 2002). It has been suggested that, in establishing courts to try alleged war criminals, a 'local-international balance may be more realistic and desirable than complete local ownership' (Sharp 2013, 161-162). The UN and Cambodia eventually compromised, and on 6 June 2003 they signed an agreement to establish the ECCC which gives more authority to Cambodia than to the UN in controlling the Court.¹³

As can be seen in the ECCC judicial structure, the Trial Chamber is composed of five judges: three Cambodian judges and two international judges, while the Supreme Court Chamber (SCC) has seven judges: four Cambodians and three international judges. The President of each Chamber is Cambodian. A decision requires at least affirmative votes of four of five judges in the

¹¹ For details about the Accords, See United Nations. Agreements on a Comprehensive Political Settlement of the Cambodia Conflict. 23 October 1991. Paris.

¹² 'Win-Win' policy or 'Defeat' policy has three core elements: (1) protect the lives of Khmer Rouge defectors (2) protect their properties (3) maintain their positions.

¹³ See supra note 1.

case of the Trial Chamber and five out of seven for the SCC. Furthermore, the ECCC has co-prosecutors and co-investigating judges.¹⁴

3.2 ECCC Jurisdiction and Cases

The ECCC, an internationalised domestic tribunal, was set up in 2006. It has jurisdiction over the most responsible and senior leaders of the DK who committed crimes and serious violations of Cambodian law, international humanitarian law and custom, and international conventions recognised by Cambodia, between 17 April 1975 and 6 January 1979.¹⁵

Thus far, the ECCC has investigated four main cases; one is complete, one is partially complete, and two have yet to reach the trial stage. In Case 001, Duch (the accused), who was the head of S-21, the infamous Toul Sleng prison, was found guilty of both crimes against humanity and breaches of the 1949 Geneva Conventions and sentenced to 35 years' imprisonment. Following appeals, the SCC increased Duch's sentence to life imprisonment.¹⁶

In Case 002, the accused were Nuon Chea, Khieu Samphan, Ieng Sary (deceased), and Ieng Thirith (deceased). They were members of CPK's Standing Committee, and thus senior leaders of the Khmer Rouge (Kiernan 1993). Nuon Chea was the CPK Deputy Secretary General, Khieu Samphan was the DK Head of State, Ieng Sary was DK Deputy Prime Minister for Foreign Affairs, and Ieng Thirith was DK Minister of Social Affairs.¹⁷

After considering the size and scope of the case, the age and health of the accused, and the prospects for completing a trial through to judgment, in 2011 the Trial Chamber decided to split Case 002 into Cases 002/01 and 002/02 (Cohen et al. 2015, 3-4). In Case 002/01, the Court found Khieu Samphan and Nuon Chea guilty of crimes against humanity and sentenced each to life imprisonment. The SCC upheld the sentence in November 2016 (Handley 2016). In Case 002/02, Khieu Samphan and Nuon Chea were charged with additional offences contained in the Closing Order in Case 002.¹⁸

Meas Muth (Case 003) was allegedly a DK Navy commander.¹⁹ Sou Met, the former Khmer Rouge air force commander, and a suspect in Case 003, died in June 2013.²⁰ In Case 004, the accused is Yim Tith. Im Chaem and Ao An, who initially were part of Case 004, were severed to Case 004/01 and Case 004/02 respectively because the co-investigating judges have concluded

¹⁴ Ibid., Articles 3-6.

¹⁵ Law on the Establishment of the Extraordinary Chambers in the Courts of Cambodia for the Prosecution of Crimes Committed During the Period of Democratic Kampuchea (with inclusion of amendments as promulgated on 27 October 2004). NS/RKM/1004/006 (2004), Article 1.

¹⁶ For a summary of *Duch* Case, See ECCC. 'Biography of Kaing Guek Eav'.

¹⁷ For a summary of these cases, See: ECCC. 'Biography of Nuon Chea'; 'Biography of Khieu Samphan'; 'Biography of Ieng Sary'; 'Biography of Ieng Thirith'.

¹⁸ See ECCC. 'Case 002'.

¹⁹ For a summary of *Meas Muth* Case, See ECCC. 'Biography of Meas Muth'.

²⁰ For a summary of *Sou Met* Case, See ECCC. 'Public Redacted Dismissal of Allegations Against Sou Met'. June 02, 2015. No:D86/03.

their investigations into Im Chaem and Ao An, but not Yim Tith. Ao An is accused of running a several security centres. Im Chaem was a secretary of Preah Net Preah District.²¹

Case 003 and Case 004 were not part of the Prime Minister Hun Sen's plan for the ECCC. Before establishing the ECCC, he said that 'only four or five leaders' at most would face trial (Davi 2001) and so far, he has maintained his position on this (Naren 2015). In this regards, some participants in this study believe that, due mainly to the politics inside and outside the courtroom, these cases may not proceed to trial.²² A Phnom Penh Post journalist, however, argued that 'if the people insisted on Case 003 and Case 004 proceeding, Prime Minister Hun Sen might support the continuation of the proceedings at the ECCC so as not to lose public support'.²³

Since its establishment, the national and international sides of the ECCC have regularly disagreed on how to approach the cases, in particular Case 003 and Case 004. This has been demonstrated, for example, by the abrupt resignation of some international judges. Such friction may be due to the international side having different socio-cultural backgrounds and not understanding the Cambodian context (Kent 2013, 306-319).

4. The Different Actor Groups and their Relations to the ECCC

While the cases at the ECCC remain ongoing and fresh in people's minds, it is important to examine what stakeholders think about the Court. To discover this, qualitative research methods were adopted in the form of semi-structured interviews with selected actors, supplemented by analysis of secondary data including media updates, textbooks, newspapers, and various websites. The main location for the interviews was Phnom Penh because that is where the ECCC, experts, NGOs and institutions working in relation the ECCC have their main offices. However, to get the views of Khmer Rouge sympathizers, the author also travelled to Anlong Veng, a former Khmer Rouge stronghold.

Between June and September 2016, 58 people participated in this study: 34 men and 24 women. The participants in this study were those who either have directly participated in activities in relation to the ECCC or those who were Khmer Rouge soldiers and sympathisers. The paper focuses primarily on 6 categories of actor: 3 governmental officers/politicians; 16 experts (historians, trial monitors, lawyers, experts on ECCC); 10 non-governmental organizations (NGOs) officers;²⁴ 17 community members (9 of whom are civil parties); 6 former Khmer Rouge members; and 6 'others' (media personnel, embassies, and the Office of the High Commissioner

²¹ For a summary of these cases, See: ECCC. 'Biography of Ao An'; 'Biography of Im Chaem' and 'Biography of Yim Tith'.

²² Personal interviews with: NGO-05, former ECCC trial monitor at an NGO; Victor Koppe, Nuon Chea's defence lawyer.

²³ Personal interview with ME-02.

²⁴ NGOs were: Cambodian Human Rights Action Committee; Cambodian Human Rights and Development Association – ADHOC; Kdei Karuna; Youth for Peace; Cambodia Justice Initiative; Union of Youth Federation of Cambodia; Transcultural Psychosocial Organisation; Cambodia Defender Project; Destination Justice; and Youth Resource Development Program.

for Human Rights).²⁵ While the participants come from these institutions, their views are personal and do not necessarily represent their institutions.

Due to time constraints, no representatives of the prosecution side at the ECCC were interviewed;²⁶ however, civil parties' lawyers and defence lawyers did participate. Most participants, while willing to share their views on the ECCC did not want to have the interviews recorded and so the interviews were recorded only where participants expressly consented to this. To ensure the accuracy of the answers given during interviews, the author took notes during the interview and transcript information collected soon after each interview.

This chapter does not seek to demonstrate that most or all Cambodians support or reject the ECCC. Instead, it solely aims to provide a variety of perspectives of ECCC stakeholders on whether and why they accept or reject the ECCC.

5. Patterns, Dynamics, Drivers of Acceptance and Rejection of the ECCC

Almost all 58 participants supported the creation of the ECCC, with the exception of a few former Khmer Rouge members. However, for those who accept the ECCC, what drove their acceptance was diverse. This was particularly the case in relation to the different cases investigated by the ECCC.

The most dominant patterns influencing acceptance of the ECCC across different actor categories were: (1) the ECCC's performance (consisting of the length of the process, its outreach, victim participation, and reparations); (2) the historical record of what happened during the Khmer Rouge regime and why; (3) peace (stability) versus justice arguments; and (4) the extent of political influence on the ECCC.

The first three of these patterns are considered in separate sections that follow. The issue of political influence, however, does not receive separate consideration as it is a recurrent theme that affects all three of these narratives on acceptance. It is therefore a theme that runs throughout the analysis.

5.1 ECCC Performance

Fifty participants commented on the overall performance of the ECCC, discussing issues such as the length of the process, ECCC outreach, victim participation, and reparation. Participants could comment on one or more of these ECCC performance elements.

²⁵ Media personnel is the Cambodia Daily; The Phnom Penh Post; and Bophana Audiovisual Resource Centre. Embassies are Embassy of Germany, and Embassy of Sweden in Cambodia.

²⁶ The author contacted the staff working for the prosecution. However, the prosecution staff was not available during the period which the author allocated for conducting the interview.

5.2 Length of ECCC Proceeding

Concerning, firstly, the aspect of lengthy processes, 16 participants from all six categories considered the process to be too long and too slow: over ten years since its establishment, only three perpetrators have had proceedings against them concluded.²⁷ One of the concerns of many civil parties, a civil party lawyer, and an NGO worker, was that the accused would die before the ECCC issued its final judgments.²⁸ In the words of a civil party aged in her 60s and unwell, 'I do not know when Case 002 will finish [...] I am afraid that either myself or the accused will die before that'.²⁹ Victor Koppe, Nuon Chea's defence lawyer, also argued that the ECCC was taking too long, stating 'when I took the Case [002] almost nine years ago, they said it would take two to three years – including the appeal – then we would be done. Look at here, nine years later'.³⁰

A number of experts and NGOs working with victims, and a civil party herself, shared a view that the such lengthy trials had made the public lose interest and their motivation to follow the trial proceedings.³¹ It was also suggested that, in the case of victims of the Khmer Rouge, in addition to thinking that the ECCC process has taken too long, they are also frustrated that almost 40 years since the fall of the Khmer Rouge, they are still waiting to see whether the accused will be found guilty or will be punished. A few victims in this study even mentioned that their own families did not support them spending so many years following and engaging in the ECCC processes.

At least six other participants from all actor categories other than former Khmer Rouge justified the long process by pointing to the nature of the crimes, the importance of searching for justice, and the potential deterrent effect of the ECCC.³² In the view of Youk Chhang, director of the Documentation Centre of Cambodia, 'the ECCC is not wasting time nor is taking too long. The ECCC does try its best to function and to bring the most responsible and senior leaders to justice'.³³

It can be seen that there is a general agreement that the ECCC process has been protracted, but that people's feelings about this differ. Concerns have been raised that people are losing interest in following the ECCC proceedings as years have gone by and perpetrators and victims are dying. On the other hands, there are also voices which justify the length of the proceeding by pointing out to the scale of the crimes committed.

²⁷ Personal interviews with: 3 civil parties; 7 experts; 1 government officer; 1 media; 3 NGOs; 1 university student.

²⁸ Personal interviews with: CP-08, farmer; CP-09, former translator; EX-02, civil party lawyer; NGO-10, an officer at Empowering Youth for an Equitable Society at Youth Resource Development Program.

²⁹ *Ibid.*, personal interview with CP-09.

³⁰ Personal interview with Victor Koppe.

³¹ Personal interviews with: CP-09, former translator; Sokkheang Ly, Director of the Anlong Veng Peace Centre; NGO-04, officer at Youth for Peace; NGO-10, officer at Empowering Youth for an Equitable Society at Youth Resource Development Program, and 2 civil party lawyers.

³² Personal interviews with: CP-02, novelist; Youk Chhang, Executive Director of the Cambodia Documentation Centre; Gov-03, high ranking governmental officer/politician; ME-01, journalist at the Cambodia Daily; NGO-01, staff member at Cambodia Human Rights Action Committee; SS-02, University student.

³³ *Ibid.*, personal interview with Youk Chhang.

5.3 Outreach

Thirty-four participants discussed the outreach programme of the ECCC. In this study, outreach has two forms. The first is the broadcast of ECCC proceedings themselves, and the second is the explanation of and education about, ECCC decisions.

In relation to the first form, ten participants, five of whom were civil parties, were either neutral or positive about broadcasting the ECCC.³⁴ These civil parties said that they participated in the ECCC activities because they had heard about the Court either through the radio or an NGO.³⁵ A high-ranking government officer said, 'I think the ECCC has been doing a good job in broadcasting about itself – it transports people to the Court and it broadcasted the trial on television. If the television broadcast is limited, it might be because of financial shortage at the ECCC'.³⁶ A journalist from the Cambodia Daily said, 'I have not encountered any obstruction [from the ECCC] to report on the ECCC [...] I have no restriction from my workplace to report on the ECCC either, except maybe the word limit'.³⁷

Almost half of the participants, who commented on ECCC outreach, however, were dissatisfied with or indifferent to the broadcast techniques of ECCC proceedings for various reasons. Many noted that while there was a lot of coverage on television for Case 001, the other cases received little or no television coverage.³⁸ Several experts working at the ECCC thought that the end of live ECCC broadcasts on television was due mostly to politics, given that the accused frequently mentioned the names of current senior government officers.³⁹ An ECCC staff member said, 'if the trial is broadcast live on TV, then many people will be watching it and might ask questions about the involvement of the current senior governmental officers in the Khmer Rouge regime'.⁴⁰

Moreover, several others took the view that the wrong means of broadcast was what rendered the ECCC media ineffective.⁴¹ For example, a journalist and some university students commented on the limited ECCC broadcast on television and social media, and on the decision to publish news about the ECCC proceedings mainly in English rather than Khmer. One of these students further mentioned that while mobile phones, which can be used to check the ECCC website, are predominantly used by younger generations, older generations in the provinces watch television, so the Court should broadcast on television more. He said, 'even if old people

³⁴ Personal interviews with: 6 community members; 2 experts; 1 government officer; 1 journalist.

³⁵ Personal interviews with: CP-03, retired nurse; CP-04, retired; CP-07, retired; CP-09, former translator; VC-01, seller.

³⁶ Personal interview with Gov-03, high ranking governmental officer/politician.

³⁷ Personal interview with ME-01.

³⁸ Personal interviews with: EX-08, ECCC staff member; Media-02, the Phnom Penh Post journalist; NGO-05, former ECCC trial monitor at an NGO; NGO-06, staff at Union of Youth Federations of Cambodia; 2 civil party lawyers, and 2 university students.

³⁹ Personal interviews with: EX-08, ECCC staff member; 2 civil party lawyers.

⁴⁰ Ibid., personal interview with EX-08.

⁴¹ Personal interviews with: ME-02, the Phnom Penh Post journalist; NGO-06, staff at Union of Youth Federations of Cambodia; 3 University students.

do not understand everything, at least they will remember something – such as who is on trial'.⁴²

Turning to 'explanation of and education about the ECCC', several NGOs and university students interviewed thought that the ECCC should explain its decisions to the public so they understand and know what the ECCC is doing. A former trial monitor said that although the ECCC brings in people from the countryside to watch the proceedings, these people still leave the courtroom without really understanding the ECCC and its processes. According to him, 'outreach is about promoting the understanding of the ECCC. The ECCC should not only broadcast but also provide some explanation and educate people on why the ECCC makes a particular decision'.⁴³ A village chief in Anlong Veng, where many locals were former Khmer Rouge members, said 'there are presentations on the ECCC at schools. Most locals here know about the existence of the ECCC. However, most people here do not understand how the ECCC works'.⁴⁴ Not distributing books about the ECCC widely was another factor influencing why people were not happy with the ECCC outreach.⁴⁵

All former Khmer Rouge members interviewed for this study were either indifferent about, or opposed to, the broadcast of the ECCC altogether. They did not have the means to follow the ECCC proceedings or simply did not want to hear about it. A former Khmer Rouge member said, 'I never met with people who come to Anlong Veng to promote the ECCC. I go to the forest [for agricultural purposes] every day. I do not want the television to broadcast about the ECCC trial. I do not want to hear about the ECCC'.⁴⁶ It appears that former Khmer Rouge members in this study were concerned that people would know more about the Khmer Rouge regime and about the ECCC and thus people would discriminate against them for being former Khmer Rouge members.

Overall, participants, except former Khmer Rouge members, supported the broadcast of the ECCC, and wanted the broadcast to be as widely distributed as possible, including through television, social media, books, and to be in Khmer in order to enable more people to follow the work of the Court. Participants also expected the ECCC to explain its decisions or educate the public so that they have a sense of understanding and saw that the ECCC is working to provide them with justice.

⁴² Personal interview with SS-03, University student.

⁴³ Personal interview with NGO-05, former ECCC trial monitor at an NGO.

⁴⁴ Personal interview with Gov-01.

⁴⁵ Personal interview with SS-03, University student.

⁴⁶ Personal interview with KR-03, farmer.

5.4 Victim Participation

Despite adding to the length of the proceedings, many expressly supported victim participation, although some of them questioned the quality of existing victim representation.⁴⁷ Victims participated for different reasons. Some saw it as a forum to allow them to tell their stories in order to feel relieved, in addition to contributing to finding justice. A civil party said, 'I feel more relieved when I go to the ECCC and meet other victims. We shared our stories and I learnt that I was not the only one who suffered greatly during the Khmer Rouge regime'.⁴⁸ Some victims also felt relief when the ECCC took their concerns into consideration. One civil party said 'the ECCC makes civil parties feel safe and secure, taking care of and protecting us' during participation in the ECCC proceedings.⁴⁹ Another said, 'justice means [...] the victims can witness the existence of the court through participation and that the court takes the opinion of the civil parties into consideration. For example, after the ECCC issued its judgment in Case 001, they asked us (civil parties) whether we were satisfied with the judgment'.⁵⁰

Despite these positives, two civil party lawyers interviewed, pointed out that most civil parties' lawyers have multiples careers and represent civil parties at the ECCC voluntarily, thereby compromising their ability to represent their clients.

One can thus conclude that the participants supported victim participation as it allows victims to tell stories of what happened during the Khmer Rouge regime and to have their stories officially acknowledged. This gives them some level of relief. However, since victims also rely on civil party lawyers to represent them, what victims can convey to the Court depends on the quality of their representation.

5.5 Reparation

It has been observed that rehabilitation and compensation for previous harm and violations is essential to allow victims to come to terms with previous authoritarian regimes (Arthur 2009, 356-357). At the ECCC, victims who are accepted as civil parties can apply for reparations. Three actor groups, including seven civil parties, eight NGOs, and seven experts, supported reparations, although many of them criticised how the current reparation system works.

Most civil parties supported collective reparation as they thought that demanding individual compensation may encourage the rest of the country to also seek it, but some civil parties still wanted additional individual financial compensation. While the latter appeared to pursue personal strategic interests, in Cambodia, where people do not want to be involved in any judicial processes, the desire for individual compensation may be influenced by people's fear of participating in court processes. As a civil party commented, 'if I can get financial compensation,

⁴⁷ Personal interviews with: 8 civil parties; 7 experts; 5 NGOs; 1 embassy staff.

⁴⁸ Personal interview with CP-06, retired.

⁴⁹ Personal interview with CP-08, farmer.

⁵⁰ Personal interview with CP-09, former translator.

then I can prove to those who had told me not to participate in the ECCC proceedings, that it is not useless to participate'.⁵¹

Some experts and NGOs who work with victims believed more could be done to improve the reparation system. A civil party lawyer from an NGO argued that since the Khmer Rouge engaged in commercial dealings with other countries, the ECCC should investigate whether Khmer Rouge financial assets remain in those countries (See Fawthrop 2013). He also believed that the entrance fee from the Tuol Sleng Museum should be given to victims rather than going to the government.⁵² In addition, a representative from Kdei Karuna, an NGO working on Khmer Rouge related projects, said that even if the ECCC cannot provide financial compensation to each civil party, the Court through the government should at least provide hospitals, mental health support, and schools for Khmer Rouge victims. He added that such support is a general responsibility of the government rather than an additional obligation.⁵³

Therefore, it can be seen that, participants support the provision of collective reparations. However, some NGOs working with victims and some victims believed that more could be done to improve the reparation system. Furthermore, it was felt that collective reparations in terms of public facilities should be provided.

5.6 Historical Record and Truth Finding

It has been suggested that, to achieve justice, 'all citizens' must know the truth and what is told must be 'officially recognised' (Arthur 2009, 356). At an individual level, such processes of truth telling may even have a healing or therapeutic effect (Hirsch 201, 818). However, how international criminal tribunals are shaped, and who actually introduces historical evidence, can affect how these courts produce historical narratives (Wilson 2011, 9-16). Criminal tribunals also tend to focus only on relevant facts for establishing the guilt of individual perpetrators, rather than the whole story of past abuses (Hirsch 2014, 820). Despite such limitations, in the case of the ECCC, where the scope of the crimes and jurisdiction are limited and thereby affect storytelling, most participants in this study still felt that the ECCC has an important role in providing some historical record and truth finding about the Khmer Rouge regime. Two embassy personnel shared the view on the importance of learning about the past through the ECCC. According to Andreas Johansson of the Swedish Embassy, 'supporting the ECCC is also a way of helping Cambodia to not forget what had happened, to document it and maybe the coming generation [...] will be able to learn from it'.⁵⁴ Daniela Dempf of the German Embassy said:

⁵¹ Personal interview with CP-08, farmer.

⁵² Personal interview with EX-09, civil party lawyer.

⁵³ Personal interview with NGO-03.

⁵⁴ Personal interview with Andreas Johansson, First Secretary, Programme Manager Democracy and Human Rights at Swedish Embassy, Phnom Penh.

'It is helpful in a long term to learn about the history now. It would not help if what happened does not come out. For German experience, it is helpful not to close up the history of what happened for decades. Tribunal is one of the mechanisms to do so'.⁵⁵

More than a third of participants, however, expressed frustration over how the ECCC finds the truth.⁵⁶ Many experts, together with some NGOs and civil parties, were particularly frustrated that senior government officers do not testify at the ECCC.⁵⁷ An ECCC staff member said, 'even if senior government officers testify, the whole story will not be revealed; however, at least we could learn more about what happened'.⁵⁸

Similarly, many participants commented that the fact that Nuon Chea and Khieu Samphan rarely talk may affect the quality of the recording of Khmer Rouge history.⁵⁹ According to Youk Chhang, the truth is not revealed where the prosecutor provides her side of the story, but the accused remain mostly silent. Youk Chhang said, 'what people want is to know the truth of what happened and they want to hear from the most senior leaders and those most responsible about why such atrocities happened'.⁶⁰ The deaths of some accused during the trials have also affected the historical information obtained from the proceedings.⁶¹

Victor Koppe agreed that Cambodian people want to know why the crimes happened or why certain things happened but he argued that the Court had not made it convenient for Nuon Chea, Khieu Samphan, and Ieng Sary to talk. He stated that:

'If it was not for us or for me [the defence], we would not get close to history. You would get what you get now in the books. We're bringing a lot of new elements. We're really trying to come as close to history as possible. But right now, the court is not at all interested in finding out what really happened'.⁶²

At least one trial monitor, a defence lawyer, a historian, and two ECCC staff members shared Koppe's view that the ECCC had not made it convenient for the accused to talk.⁶³

Other factors that participants thought may affect the historical record are the effect the passage of time may have on the memories of witnesses and the selective way in which cases have been prosecuted.⁶⁴ One former ECCC trial monitor said, 'the Court is created only to prosecute those

⁵⁵ Personal interview with Daniela Dempf, First Secretary and Deputy Head of Mission, German Embassy, Phnom Penh.

⁵⁶ Personal interviews with: 4 community members; 11 experts; 1 media; 5 NGOs.

⁵⁷ Personal interviews with: CP-01, staff member in the government; EX-01, ECCC trial monitor; EX-10, expert on Khmer Rouge; EX-14, ECCC defence lawyer; 2 NGO officers.

⁵⁸ Personal interview with EX-08.

⁵⁹ Personal interviews with: 1 civil party; 9 experts; 1 media; 1 NGO.

⁶⁰ Personal interview with Youk Chhang, Executive Director of Cambodia Documentation Centre.

⁶¹ Personal interview with NGO-03, staff member at Kdei Karuna Organisation.

⁶² Personal interview with Victor Koppe.

⁶³ Personal interviews with: NGO-09; EX-14; EX-12; and 2 ECCC staff members.

⁶⁴ Personal interviews with: VC-01, seller; EX-16, Legal Consultant at the ECCC; NGO-05, former ECCC trial monitor at an NGO.

the government wants to prosecute [...] therefore we should consider if the Court is created so that we could set a history as designed by the politics'.⁶⁵

Nevertheless, at least five participants from various actor categories commented that finding the truth is not the sole responsibility of the ECCC.⁶⁶ According to Sok Kheang Ly, the Director of the Anlong Veng Peace Centre, finding what happened and why is not entirely reliant on the accused being prosecuted at the ECCC. Rather, it is the collective work of society, which means giving people from all backgrounds the opportunity to talk and to find out together what happened and why. He also thought that Cambodia should set up additional mechanisms to find the truth.⁶⁷

Thus, it can be concluded that, in general, participants acknowledged the importance of the ECCC in providing a history of the Khmer Rouge years. However, many participants also had concerns that this history is biased given that, in addition to the Court's limited jurisdiction, the accused in Case 002 barely talk and senior government figures have not testified. The accused are also dying. Other participants felt that other mechanisms in addition to the ECCC could be used to find the truth.

5.7 Peace (stability) versus Justice Arguments

In the context of this study, 'justice' refers to support for prosecution, while 'peace' refers to factors which may influence participants' perception to not support prosecution.

On the subject of justice, while experts were more concerned with whether the ECCC upholds fair trial rights standards, civil parties supported justice through prosecution, conviction and sentencing. A civil party said, 'prosecuting Khieu Samphan, Nuon Chea, Ieng Sary and Ieng Therith provides justice. It reduces my anger'.⁶⁸ Two former Khmer Rouge members, one of whom is a current village chief in Anlong Veng, also supported prosecution at the ECCC, at least in relation to Case 002. This village chief said, 'the leaders in Case 002 led the country to the wrong place. They even deserve death penalty'.⁶⁹

Concerning peace, current political and social factors, religion, apologies and admissions of guilt by perpetrators, the advanced age of the accused, and people's prior expectation of who would be prosecuted all influenced their decisions on whether to support prosecution at the ECCC. On political and social factors, Prime Minister Hun Sen is wary of war if the ECCC 'goes beyond limit' (Naren 2015). Former Khmer Rouge members and their sympathizers who are farmers in Anlong Veng appeared to be genuinely concerned with 'war' in its literal meaning or at least widespread chaos in society. Referring to the Prime Minister's statement, a former Khmer

⁶⁵ Ibid., personal interview with NGO-05.

⁶⁶ Personal interviews with: ME-03, staff at Bophana Audiovisual Resource Centre; SS-02, University student; Daniela Dempf, First Secretary and Deputy Head of Mission, German Embassy, Phnom Penh; Sok Kheang Ly, director of the Anlong Veng Peace Centre; EX-12, history Professor.

⁶⁷ Ibid., personal interview with Sok Kheang Ly.

⁶⁸ Personal interview with CP-5, former accountant in a governmental ministry.

⁶⁹ Personal interview with Gov-1, village chief in Anlong Veng.

Rouge member said, 'even without the Court, the former Khmer Rouge and the locals can live together in peace...Cambodians can even be divided because of the Court'.⁷⁰ Another Khmer Rouge sympathiser asserted that, 'the ECCC can do what it wants as long as it will not bring war or chaos in society. I just want peace and security. When it comes to war, [...] only the poor people like us become soldiers and die'.⁷¹ Many civil parties thought that there would not be any war as a result of prosecution at the ECCC because former Khmer Rouge members are already very old, they have no armed forces, and there is no longer any forest in Cambodia to hide in. Similarly, Becker suggested that 'war' is just an unrealistic threat by Prime Minister Hun Sen.⁷² All three government officers raised a concern that prosecution beyond Case 002 may negatively affect the government's 'win-win' policy.

Religion, apologies and admissions of guilt by perpetrators, and the advanced age of the accused may affect how people view peace and justice. While the role of Buddhism was not the focus of this study, at least two civil parties aged in their late 60s and late 70s mentioned that Buddhism has helped them to forgive the perpetrators.⁷³ However, this does not necessarily mean that they do not want to know what or why atrocities happened during DK. Concerning apologies and admissions of guilt by perpetrators, a well-recognized Cambodian history professor said, 'the Khmer Rouge leaders I have talked to said that they regretted that they walked the evil path without realising it. This is already acceptable that they regret it'.⁷⁴ He further said that instead of going beyond Case 002, 'the ECCC should be turned into a historical museum. The history continues to judge the perpetrators'.⁷⁵ Moreover, the advanced age of the accused makes some participants prioritise peace. According to one former Khmer Rouge member, 'I do not want any more prosecution. Senior former Khmer Rouge members Nuon Chea and Khieu Samphan cannot do anything now; they are already very old. I have pity for them'.⁷⁶

In addition, people's prior expectation of who would be prosecuted also influenced their views on peace and justice. A civil party said:

'When the ECCC was created, I thought that only four people: Khieu Samphan, Noun Chea, Ieng Sary, Ieng Thearith would be prosecuted. Now that they are prosecuted, it already made me feel happy. Those in Cases 003 and 004 just followed orders, so it does not matter whether they are prosecuted or not'.⁷⁷

While this shows people's general perception on peace and justice, participants' expressions shifted depending on who was on trial. In Case 001, 43 participants approved, while 13 others

⁷⁰ Personal interview with KR-01, farmer.

⁷¹ Personal interview with VC-03, farmer living among former Khmer Rouge members in Anglon Veng.

⁷² Personal Interview with Elizabeth Becker, journalist/author.

⁷³ Personal interviews with: CP-03, a retired nurse; CP-06, retired.

⁷⁴ Personal interview with EX-12, history Professor.

⁷⁵ Ibid.

⁷⁶ Personal interview with KR-01, farmer.

⁷⁷ Personal interview with CP-05, former accountant in a governmental ministry.

either rejected or were indifferent.⁷⁸ The active participation and cooperation, confession and guilt admitted by the accused also influenced participant perception of whether participants accepted Case 001. The prosecution, the guilty verdict, the sentencing, and the reparations ordered were also what drove participants to accept Case 001. Their level of acceptance was also affected by how the Court upheld fair trial rights.

Participants who were indifferent toward or rejected Case 001 simply said that they did not know Duch or did not have enough information to comment on his trial. All former Khmer Rouge members, and victims who were now living alongside former Khmer Rouge members in Anlong Veng, were indifferent towards Duch's trial. A former Khmer Rouge member said, 'I do not know him and I do not know what he did. I do not know his trial'.⁷⁹

For Case 002, 49 participants supported it and what influenced their levels of acceptance were the prosecution and sentencing of the accused. The non-confession of the accused, the level of truth revealing, the failure of senior government officers to provide testimony, the length of the process, and reparations, also influenced how participations accepted Case 002. Most of those who rejected or were indifferent towards Case 002 did so simply because they mainly thought that Nuon Chea and Khieu Samphan are already very old. However, six of the seven participants who rejected Case 002 were either former Khmer Rouge members or were currently living among former Khmer Rouge members in Anlong Veng.

Turning to Cases 003 and 004, 32 participants supported these cases, but some of them did so conditionally. Another history professor at a leading Cambodian university, for instance, said that he wanted to know everything about the Khmer Rouge through the ECCC and supported Cases 003 and 004 proceeding if Case 002 did not enable people to know about Khmer Rouge history. However, he added that 'make sure that there would be no war. If there would be war, then I do not want these cases to proceed'.⁸⁰ It is suggested that when the Professor used the word 'war', he did not mean it in its literal sense. Instead, it appears that he referred to 'war' as hard feelings between members of the government, as many former Khmer Rouge members currently hold senior government positions, and that some group may take advantage of the disagreement between people in the government for their political advantage, which could lead to more tension in Cambodian politics and thereby adversely affect Cambodian development.

Some 23 participants who either rejected or were indifferent toward Cases 003 and 004 mostly thought that the accused were old and were not the very top leaders. All former Khmer Rouge members rejected Cases 003 and 004 for these reasons. Youk Chhang, on the other hand, thought that all perpetrators should be brought to justice, but responsibility for doing so should move to the domestic courts. In Youk Chhang's words 'Case 001 and Case 002 are enough to

⁷⁸ The embassies did not comment on ECCC cases. The OHCHR officer did not comment on Case 003 and Case 004.

Acceptance does not necessarily mean that they are completely happy with ECCC case; it means simply 'not rejection' nor 'not indifferent'.

⁷⁹ Personal interview with KR-02, farmer.

⁸⁰ Personal interview with EX-11.

build the foundation of criminal justice system to prosecute Khmer Rouge crimes and that other cases should be transferred to Cambodian domestic court'.⁸¹

To sum up, participants are strategic in their decisions to either support peace or justice. Their strategic decisions are more prominent when it comes to different cases at the ECCC. Participants support the prosecutions, but at the same time social and political factors, religion, admission of guilt and apologies by perpetrators who are already very old, influence their perception on peace and justice. People's prior expectation of who would be prosecuted also affects how participants view prosecution.

6. Conclusion

Almost 40 years after the collapse of the Khmer Rouge regime, Cambodia is still in the process of healing what was a broken society. About one in four Cambodians died during the rule of DK. Families were separated, and some continue to seek their family members in the hope that they are still alive. Some victims continue to need regular psychological therapy.

The ECCC, established in 2006, became a symbol of hope that justice could finally be pursued. Ten years later, however, the ECCC has convicted only three individuals, two of whom are in their 80s and 90s. Asking what people's views and perceptions towards the ECCC are, their responses are diverse and often based on their strategic interest. Their views of the Court are influenced by how the ECCC has performed in terms of its length of proceeding, outreach, victim participation and reparation, and how it provides a historical record of the events. Social, political, religious and cultural factors also influence how participants accept or reject the ECCC or individual cases at the Court.

It appears that while participants, in particular Cambodian participants, want justice in the form of prosecuting and convicting Khmer Rouge perpetrators, they want this to be done taking into consideration Cambodian political, social and cultural factors. In other words, they want the prosecution in order to find justice for victims, to deter others, and to unite the country rather than divide it. One thing that most if not all participants agreed on is the importance of learning about and remembering the history of the Khmer Rouge regime. More importantly, participants want to hear from the very top Khmer Rouge leaders and those most responsible as to what really happened and why.

⁸¹ Personal interview with Youk Chhang, Executive Director of Cambodia Documentation Centre.

7. Bibliography

- Agreement Between The United Nations and the Royal Government of Cambodia Concerning the Prosecution Under Cambodian Law of Crimes Committed During the Period of Democratic Kampuchea. 06 June 2003.
- Agreements on a Comprehensive Political Settlement of the Cambodia Conflict. 23 October 1991. Paris.
- Arthur, Paige. 2009. *How 'Transitions' reshaped human rights: A conceptual history of transitional justice*. Baltimore: Johns Hopkins University Press.
- Becker, Elizabeth A. 1998. *When the War Was Over: Cambodia and the Khmer Rouge Revolution*. New York: Perseus Books Group.
- Chandler, David P. 1999. *Brother Number One, a Political Biography of Pol Pot*. Berkeley: Westview Press.
- Ciorciari, John D. and Heindel, Anne. 2014. *Hybrid Justice: The Extraordinary Chambers in the Courts of Cambodia*. Ann Arbor: University of Michigan Press.
- Cohen, David; Hyde, Melanie; Van Tuyl, Penelope and Fung, Stephanie. 2015. *A well-reasoned opinion? Critical analysis of the first case against the alleged senior leaders of the Khmer Rouge (Case 002/01)*. Honolulu: East West Center.
- Corell, Hans. 2002. Negotiations Between the UN and Cambodia regarding the establishment of the court to try Khmer Rouge leaders: Statement by UN Legal Counsel Hans Corell at a Press Briefing at UN Headquarters in New York, 8 February 2002.
- Davi, Sharmila. "Cambodia." Accessed 08 December 2016.
<https://www.globalpolicy.org/component/content/article/163/28794.html>.
- ECCC. "Biography of Yim Tith." Accessed 5 January 2017.
<https://www.eccc.gov.kh/en/charged-person/yim-tith>.
- ECCC. *Closing Order*, Case File No. 002/19-09-2007-ECCC-OCIJ, 15 September 2010.
- ECCC. "Biography of Ao An." Accessed 5 January 2017. <https://www.eccc.gov.kh/en/charged-person/ao-an>.
- ECCC. "Biography of Ieng Sary." Accessed 17 November 2016.
<https://www.eccc.gov.kh/en/indicted-person/ieng-sary-fomer-accused>.

- ECCC. "Biography of Ieng Thirith." Accessed 17 November 2016.
<https://www.eccc.gov.kh/en/indicted-person/ieng-thirith-former-accused>.
- ECCC. "Biography of Im Chaem." Accessed 17 November 2016.
<http://www.eccc.gov.kh/en/charged-person/im-chaem>.
- ECCC. "Biography of Kaing Guek Eav." Accessed 16 November 2016.
<https://www.eccc.gov.kh/en/indicted-person/kaing-guek-eav>.
- ECCC. "Biography of Khieu Samphan." Accessed 17 November 2016.
<https://www.eccc.gov.kh/en/indicted-person/khieu-samphan>.
- ECCC. "Biography of Meas Muth." Accessed 17 November 2016.
<https://www.eccc.gov.kh/en/charged-person/meas-muth>.
- ECCC. "Biography of Nuon Chea." Accessed 17 November 2016.
<https://www.eccc.gov.kh/en/indicted-person/nuon-chea>.
- ECCC. "Case 002." Accessed 01 December 2016. <http://www.eccc.gov.kh/en/case/topic/2>.
- ECCC. "Public Redacted Dismissal of Allegations Against Sou Met." No:D86/03. Accessed 05 December 2016.
https://www.eccc.gov.kh/sites/default/files/documents/courtdoc/2015-06-04%2013:59/D86_3_Redacted_EN.pdf.
- Extraordinary Chambers in the Courts of Cambodia: Internal Rules (Rev.9). January 2015.
- Fawthrop, Tom. 2002. "Will Cambodians every get justice?" *The Asia Times*, 30 November. Accessed 06 December 2016.
http://www.atimes.com/atimes/Southeast_Asia/DK30Ae02.html.
- Fawthrop, Tom and Jarvis, Helen. 2004. *Getting Away with Genocide? Elusive Justice and the Khmer Rouge Tribunal*. Sidmouth: UNSW Press.
- Fawthrop, Tom. 2013. "Khmer Rouge Leader Ieng Sary had US\$20m in Hong Kong account." *The South China Morning Post*, 31 March. Accessed 04 January 2017.
<http://www.scmp.com/news/asia/article/1203492/khmer-rouge-leader-ieng-sary-had-us20m-hong-kong-account>.
- Handley, Erin. 2016. "KRT upholds guilty verdicts for Chea and Samphan." *Phnom Penh Post*, 23 November. Accessed 23 November 2016.
http://www.phnompenhpost.com/search/node/national%20krt%20upholds%20guilty%20verdicts%20chea%20samphan?search_options=search_titl.

Hirsch, Michal Ben-Josef. 2014. "Ideational change and emergence of international norm of truth and reconciliation commission." *European Journal of International Relations* 20:3.

Identical Letters Dated 15 March 1999 From the Secretary-General to the President of the General Assembly and the President of the Security Council: Report of the Group of Experts for Cambodia Established Pursuant to General Assembly Resolution 52/135. March 16, 1999. U.N Doc. A/53/850-S/1999/231. Accessed 31 December 2016. http://cambodia.ohchr.org/WebDOCS/DocReports/4-Other-Reports/Other_CMB16031999E.pdf.

Jasini, Rudina. 2016. "Victim participation and transitional Justice in Cambodia: the case of the Extraordinary Chambers in the Courts of Cambodia." Accessed 4 February 2017. [http://www.impunitywatch.org/docs/IW_Report_Victim_Participation_in_Cambodia_\(April_2016\).pdf](http://www.impunitywatch.org/docs/IW_Report_Victim_Participation_in_Cambodia_(April_2016).pdf).

Kelsall, Michelle Staggs; Baleva, Mary Kristerie A.; Nababan, Aviva; Chou, Vineath; Guo, Rachel; Ehlert, Caroline; Nget, Sovannith and Pheak, Sovornt. 2009. "Lessons learned from the "Duch" trial." The Asian International Justice Initiative's KRT Trial Monitoring Group.

Kent, Alexandra. 2013. "Friction and Security at the Khmer Rouge Tribunal." *Journal of Social Issues in Southeast Asia* 28:2.

Kiernan, Ben. 1993. *Genocide and Democracy in Cambodia: the Khmer Rouge, the United Nations and the International Community*. London: Yale University Press.

Kiernan, Ben. 1996. *The Pol Pot Regime: Race, Power, and Genocide in Cambodia Under the Khmer Rouge 1975-79*. London: Yale University Press.

Law on the Establishment of the Extraordinary Chambers in the Courts of Cambodia for the Prosecution of Crimes Committed During the Period of Democratic Kampuchea (with inclusion of amendments as promulgated on 27 October 2004). NS/RKM/1004/006 (2004).

Linton, Suzannah. 2007. "Putting Cambodia's Extraordinary Chambers into Context." *Singapore Year Book of International Law and Contributions* 11:195-259.

Naren, Kuch. 2015. "Hun Sen warns of civil war if ECCC goes beyond 'limit.'" *The Cambodia Daily*, 27 February. Accessed 21 November 2016. <https://www.cambodiadaily.com/archives/hun-sen-warns-of-civil-war-if-eccc-goes-beyond-limit-78757/>.

Pol, Saroeun. 2014. *Defeat Strategy: Techo Sen of Cambodia*. 3 D Graphics Publishing.

Sharp, Dustin N. 2013. "Interrogating the Peripheries: The Preoccupations of Fourth Generation Transitional Justice." *Harvard Human Rights Journal* 26:149.

The New York Times News Service. 1998. "Khmer Rouge Rebellion Ends With A Surrender." *Chicago Tribune*, 6 December. Accessed 21 November 2016.
http://articles.chicagotribune.com/1998-12-06/news/9812060327_1_ta-mok-khmer-rouge-meas-sophea.

United Nations. 1997. "Letter dated 21 June 1997, from the First and Second Prime Ministers of Cambodia to the UN Secretary-General". U.N. Doc. A/51/930-S/1997/488.

United Nations Secretary General. 2004. "The rule of law and transitional justice in conflict and post-conflict societies." S/2004/616.

Wilson, Richard Ashby. 2011. *Writing History in International Criminal Trials*. Cambridge: Cambridge University Press.

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