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Understanding Duch and His Impact: Reaching Toward National Reconciliation in Cambodia

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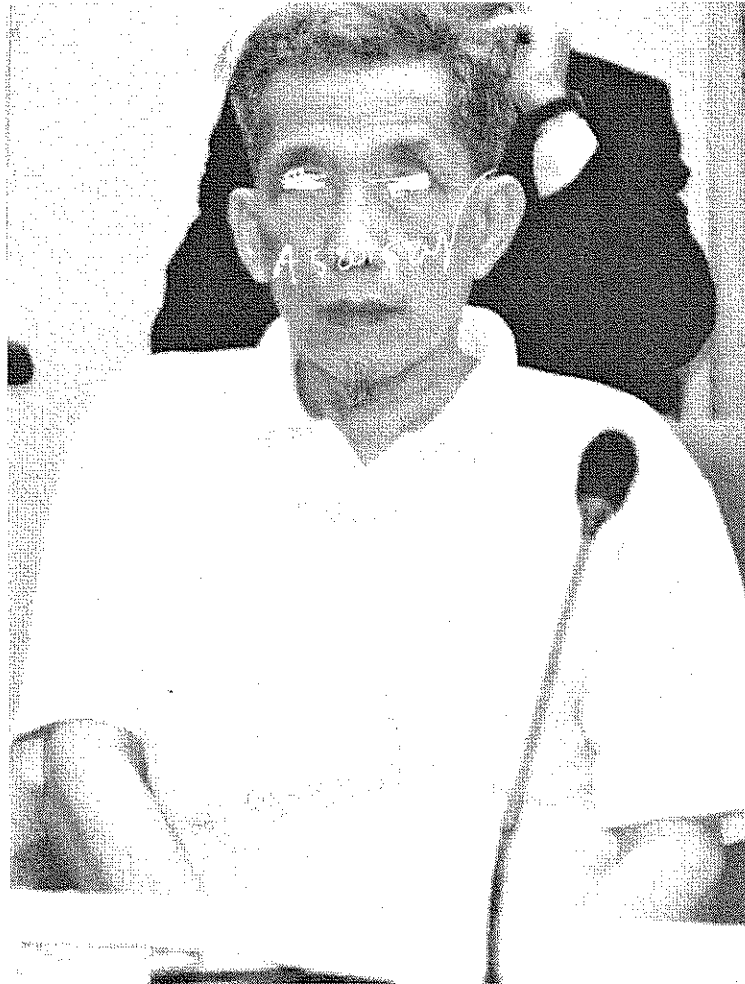
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UNDERSTANDING DUCH AND HIS IMPACT:
REACHING TOWARD NATIONAL
RECONCILIATION IN CAMBODIA



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In Anthropology

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Abstract

The aim of this thesis is to analyze the impact of Case 001, the first war crimes case of the Khmer Rouge Tribunal. I argue that this case has had a positive impact on the process of national reconciliation. However, this impact is limited due to two factors. First, no tribunal can bring about true and complete national reconciliation. Second, the impact that the tribunal could have had was minimized by the fact that many Cambodians perceived the defendant, Duch, the infamous head of S-21 prison camp, to be insincere and self-serving while on trial. I argue that the tribunal serves as merely a single step forward in the process of national reconciliation in Cambodia that is likely to be lengthy and complex.

Duch has exerted great influence over Cambodian society. Yet, little to no research and very little popular writing has been done on this mysterious figure. This first trial is monumental as it defines the standards of justice in Cambodia and lays precedent for the cases to follow. Thus, it is imperative to chart the impact of this case upon Cambodian society, as this research may have bearing over, and will help contextualize, the cases to come. In this way this study may be able to contribute to the process through which Cambodia makes its journey toward national reconciliation.

This study employs a qualitative methodology to reach a detailed understanding of the issues stated and to offer a descriptive context for these matters. I conducted eleven ethnographic interviews with both Cambodians and foreign experts to assess public perception and opinion of Duch and the tribunal. Secondary sources, including court documents and newspaper articles, bolstered my interviews. These secondary sources are heavily employed to

frame a greater context for my evidence and argument, which are derived largely from my interviews.

Findings highlighted both positive and negative attributes of Case 001 with regard to objective observations. The court has successfully ended a period of impunity for Khmer Rouge cadres and Duch's proclamations are powerful in the sense that they are unique. The case uncovered a great deal of factual information, has acknowledged victims, and has offered them an arena to speak out. However, the case's narrow scope, insufficient reparations, and Duch's apparent inconsistency limited its abilities to bring about reconciliation.

Subjective findings illustrated an overwhelmingly negative response to the case on behalf of Cambodians. Duch is generally perceived as insincere, dishonest, self-serving, and the court's judgment is considered inadequate. This negative perception may impede reconciliation. However, there are cleavages based on age. Younger generations have responded more positively to the trial, whereas older generations cling to rage and anger. These findings illustrate the case's limited ability to positively impact society.

Case 001 has had a positive impact upon the process of national reconciliation. However, this impact was restricted by inherent limitations and shortcomings of the trial and also by negative responses to the tribunal by Cambodians. Thus, the case should be perceived as a single step forward in the long process toward national reconciliation. This process should be aided and supported by other means, namely institutional reforms and attitudinal changes. Although Case 001 of the Khmer Rouge Tribunal has proven to be a difficult and painful stepping stone in the nation's long healing process, it is a valuable and justified process that ignites a sense of optimism that Cambodia will one day be able to rise above its violent past to form a reconciled nation.

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The cover image depicts a defaced photograph of Duch at Tuol Sleng Genocide Museum, taken in July 2010 in Phnom Penh, Cambodia. Personal photograph by author.

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1 Introduction

This past summer I volunteered as a communications intern at the Bophana Audiovisual Resource Center in Phnom Penh, Cambodia. The Center seeks to recover Cambodian national memory by restoring and safeguarding relevant audiovisual materials in its own public database. As an intern, I developed marketing campaigns, planned events, and taught professional business English to the Cambodian staff. Concurrently, I conducted independent research under Professor Justin McDaniel for my senior thesis in Anthropology. Little did I know, this experience would push me onto the threshold of change in Cambodia and I would become a spectator in the nation's struggle to rectify its horrific past and reconcile its wounded people.

Over thirty years have elapsed since the fall of Democratic Kampuchea in Cambodia. In that time not a single person has been held to account for the murderous crimes of the Khmer Rouge (KR) regime, which slaughtered 1.7 million people and brutalized millions more (Persson 7). This "culture of impunity" has effectively overlooked the nation's past, and in the process has discredited the pain and suffering of millions of victims as illegitimate or insignificant (Sarath). In response, a sense of despondency has descended upon many as they give up hope that the injustices of the regime would never be acknowledged, much less rectified.

Thirty years later Cambodia is seeking justice. The Extraordinary Chambers in the Courts of Cambodia, or the ECCC, was founded in 2005 to try leading Khmer Rouge officials and those most responsible for the crimes committed under the regime (Tully 277). Five former Khmer Rouge cadres deemed most responsible for these crimes have been apprehended. The first case has found Duch, the infamous head of S-21 prison camp at Tuol Sleng, guilty. The

remaining four indicted leaders are currently awaiting trial. In many ways the Khmer Rouge Tribunal has brought hope to the forlorn and a voice to those that have been silenced. But is this enough?

This study analyzes the impact of Case 001 on the process of national reconciliation in Cambodia. I argue that the Khmer Rouge Tribunal has indeed had a positive impact on the process of national reconciliation. However, this impact is limited due to two factors. First, no tribunal can enact true and complete national reconciliation. Second, the impact that the tribunal could have had was minimized by the fact that many Cambodians perceived Duch to be insincere and self-serving in his actions on trial. Therefore, the tribunal serves as merely a single step forward in the extensive process of national reconciliation in Cambodia.

This study is organized into four independent but complementary chapters. Chapter one summarizes the theory and methodology regarding the process of truth and reconciliation, examining models that have been employed in other nations in the wake of genocidal regimes. This chapter serves to contextualize and examine the current model employed by Cambodia. Chapter two traces the nation's history and highlights factors that led to the emergence of Democratic Kampuchea, illustrates the brutality of the regime itself, and traces the country's subsequent steps toward recovery. Chapter three shifts to focus on Duch, first offering a brief biography and then tracing the proceedings of Case 001 with careful attention to Duch's actions and statements on trial. Chapter four presents my interviewees' responses to Duch, his actions on trial, and to the tribunal itself, illuminating the impact that this case will have on the process of national reconciliation in Cambodia. Finally, the conclusion will marry the data of the four chapters to present key findings.

This study employs a qualitative methodology in order to reach a detailed understanding of the issues stated and a descriptive context for these matters. I conducted eleven ethnographic interviews with both Cambodians and foreign experts to assess public perception and opinion of Duch and the tribunal. Secondary sources, including court documents and newspaper articles, bolstered my interviews. These secondary sources are heavily employed to frame a greater context for my evidence and argument, which are derived largely from my interviews.

Duch has exerted great influence over Cambodian society. Yet, little to no research and very little popular writing has been done on this mysterious figure. This first trial is monumental as it defines the standards of justice in Cambodia and lays precedent for the cases to follow. Thus, it is imperative to chart the impact of this case upon Cambodian society, as this research may have bearing over, and will help contextualize, the cases to come. In this way I hope that this study will be able to be a part of the process through which Cambodia makes its journey toward national reconciliation.

1 Theory and Methodology Regarding the Process of Truth and Reconciliation

Cambodia is not unique in its need for national reconciliation. Genocide and mass human rights abuses appear to be mistakes that humanity is destined to repeat across space and time. Thus, Cambodia has a number of models for national reconciliation to select from and examples to build upon. Unfortunately, there is no perfect model or example that can bring about full and true national reconciliation. Indeed, the concepts of “true justice” and “complete national reconciliation” are idealistic to such an extent that they are fictional. This is not to say that efforts to achieve justice and national reconciliation should not be attempted or that progress cannot be made. In this chapter I first explore the concept of national reconciliation, followed by an examination of existing theory and methodology of genocide determinations, truth and reconciliation, and “memory-justice”, and finally explore the desires of victims in the wake of genocide to contextualize Cambodia’s decision to establish an international human rights tribunal.

Guatemala is frequently referenced throughout this chapter. This is due to the fact that the conditions surrounding the genocide in Guatemala between the years 1981 and 1983 are markedly similar to those in Cambodia (Oglesby and Ross 22). These developing nations have both suffered human rights abuses committed by the state, witnessed a reintegration of former perpetrators into society, and subsequently seen these crimes termed “genocide.” Thus, Guatemala’s example can serve as a departure point to understand and analyze Cambodia’s attempts to bring about justice and national reconciliation.

What is National Reconciliation?

The notion of national reconciliation is quite vague and encompasses numerous definitions. Bloomfield defines the concept as, “a process through which a society moves from a divided past to a shared future” (12). Galtung explains reconciliation as offering healing to both perpetrators and victims in order to end animosity and incite “relations with justice and peace” (3). Persson attempts to include varying ideas into a single definition: “A societal process involving mutual acknowledgment of past suffering and the changing of destructive attitudes and behavior into constructive relationships towards sustainable peace” (17). These three definitions acknowledge that it is important to perceive national reconciliation as a process rather than as a concrete goal.

A few key matters and parties must be addressed by the process of national reconciliation, as highlighted in the above definitions. These issues include truth, justice, closure, healing, and forgiveness (Bloomfield 12, 14, Galtung 4). The process should recognize the suffering of victims and illuminate the motives of the perpetrators (Lambourne 315). Legal accountability is key, as is the participation of individual parties (314-15). Direct and indirect victims must be able to “put aside feelings of hate, fear, and loathing, to put aside views of the other as dangerous and subhuman, and to put aside the desire for revenge and retribution” (Fisher 27). In turn, perpetrators are expected to acknowledge their crimes and express contrition (Lambourne 315). Apology and forgiveness and the willingness to begin a new relationship based on trust form the foundations of reconciliation (Lambourne 314-15). In addition, both communal and individual elements must be addressed (Bloomfield 13). Direct victims are central, but so are underlying communal attitudes and beliefs regarding the “enemy” and the crimes committed (13). Both those that suffered directly and the greater community must be

taken in to account in order to progress national reconciliation (13). If these issues and parties are sufficiently considered, positive results will likely ensue.

Reconciliation offers several deliverables. Its ultimate goal is to redefine relationships so that former enemies can live side by side (Bloomfield 12). It also prevents “the use of the past as the seed of renewed conflict,” ending the cycle of violence and injustice, oftentimes through democratic institutions (Huyse 19). The process achieves these ends by facilitating the personal healing of survivors, offering reparations for previous injustices, establishing a common understanding of the past, and helping both victims and perpetrators to move on toward the future (19). It also establishes shared power and civilized political dialogue (19). Unfortunately, reconciliation is an arduous process, especially in the wake of genocide.

Genocide

Genocide is one of the darkest legacies of the twentieth century. It has plagued almost every continent in the world, prompting many to wonder how such catastrophes arise. More importantly, one is impelled to contemplate how to respond to genocide and mass violations of human rights, and whether widespread amelioration and reconciliation are possible. Here, responses to genocide and human rights abuses in Guatemala and South Africa help us better understand the genocidal regime and its much delayed criminal tribunal in Cambodia.

The term “genocide” was coined at the United Nations Convention on the Prevention and Punishment of the Crime of Genocide in 1948 following World War II (Oglesby and Ross 21). It was defined as the “‘intent to destroy, in whole or in part, a national, ethnic, racial, or religious group, as such’ through means that include killing or causing serious harm to members of the group; imposing measures to prevent births within the group; or forcibly removing children from the group” (21). Thus, in order to label mass human rights violations as genocide, one must be

able to determine that victims were targeted by virtue of belonging to a particular national, religious, ethnic, or racial group (23). Further, there must be proof of intent (21). Article II of the Genocide Convention further clarified this definition by delineating genocide into both objective and subjective actions (26). Objective actions include murder, inflicting serious bodily or mental harm, and imposing measures for population control, all on members of a particular group (26). The subjective measure is the intent to annihilate this population, either in whole or in part (26). This subjective measure was probed further in 1996 at the International Criminal Tribunal for the Former Yugoslavia (26). It was ruled that this intent does not need to be explicit, but can be inferred from political institutions and disparaging and discriminatory actions (26). As Guatemala's Commission for Historical Clarification (CEH) stated, "it is enough to intend to destroy the group, whatever the motive may be" (26). This definition of genocide was effectively employed in Guatemala.

One of the most recognized genocide determinations was by Guatemala's Commission for Historical Clarification. This truth commission was created to draft a report of the abuses that occurred during the 'acts of genocide' in Guatemala between 1981 and 1983, as well as the abuses that occurred over 34 years (Oglesby and Ross 22). 8,000 testimonies were collected and led to the report *Memoria del Silencio* (Memory of Silence), a document that would shock the public with its strength (Ross 79). This 3,500 page report determined that 93% of the human rights abuses were committed by the state as part of a continuous campaign of violence involving the police, the military, death squads, and state organized "civil patrols" (Gulden 26). Their "scorched earth" campaign waged brutal attacks against those suspected of supporting rebel groups, massacring between 100,000 to 150,000 citizens between 1981 and 1983 alone (Jonas 11). The report highlighted indigenous highland peasants as the primary victims of this violence,

and that 83% of these victims were Mayan (Gulden 26-27). More importantly, these crimes were labeled as genocide (Ross 79). This proclamation had a significant affect on Guatemalan society, illuminating the potential repercussions, both positive and negative, that a genocide determination carries.

There are certain risks that come with a genocide determination. Such a prosecution can lead to further conflict within the society (Oglesby and Ross 21). For example, it can serve to reify the racial aspects of a conflict (25). It also prompts a new class of victim to emerge-- those who are persecuted on the basis of who they are (21). This new category of victim changes political dimensions by adding significance to this group of people (23). It also affects the present political environment (31). Guatemala is a case in point. Despite the CEH's report, the Guatemalan government has yet to acknowledge the genocide, calling the document a partial history (31). Not wanting such information to be further disseminated, the government abruptly canceled a school textbook detailing the report (31). Despite these risks, a genocide determination can also have strong positive effects.

Courts and commissions should not fear a genocide determination merely on the basis of the potential negative repercussions it may carry. Such a declaration can prove beneficial both to present and future victims. By labeling human right abuses as "genocide," victims are extended partial remedy for their sufferings by virtue of their newfound identity label (Oglesby and Ross 35). A genocide determination can also set a precedent for future judicial practices, both locally and overseas (34). Oglesby and Ross write, "the CEH's determination of genocide has implications within and beyond Guatemala, for the way in which it might bolster the growing practice of universal jurisdiction" (34). However, it is almost always difficult to reach a genocide determination.

Legal complications surrounding the prosecution of genocide abound. In order for genocide to be appropriately prosecuted, a society needs both the appropriate political landscape and legal infrastructure (Oglesby and Ross 21). The existence of either of these in a post-genocidal society is extremely rare. First, in many of these post-genocidal societies, the formerly oppressive military regime still retains a good deal of power (Lerche). Second, the former legal system that couldn't effectively manage human rights abuses likely will still not have the capacity to ameliorate through the rule of law (Lerche). Much of the corruption and limitations of these institutions will carry on into the present day, preventing the ability to make a genocide determination, or leading to a determination independent of legal ramifications. The results of such complications can again be exemplified by Guatemala's example. Former Head of State General Rios Montt was implicated as perpetrator of genocide by the CEH report (Ross 80). Yet his deputy, Antonio Portillo, was elected President in 1999 (80). Montt himself was able to trump constitutional restrictions and win a bid for presidency in 2003 (80). This is a horrifying example of the continuing impunity that is common of genocidal perpetrators (80).

Another matter that complicates genocidal determinations is the inevitable ambiguity between perpetrator and victim. Victims and perpetrators are too often considered to be distinct, homogenous, and diametrically opposed groups (Borer 1088). In reality, these two groups oftentimes overlap, and are by no means homogenous (1089). There are different degrees of perpetrators and victims. For example, military deserters and former torturers cannot be considered perpetrators to the same degree (1098). There are also issues regarding the chain of command. Elites at the top frequently order others to commit murders, tortures, abductions, etc., so that while they did not carry out these crimes themselves, they are the intellectual authors of the abuses (1101). This partitions perpetrators into both direct and indirect categories, those that

respectively committed and conceived the crime (1101). In theory, sectoral or “passive” perpetrators can also be apportioned blame for not reacting to surrounding injustices, alongside “beneficiaries,” that benefited from the regime (1103, 1112). Clearly not all perpetrators are equally guilty. Thus, the problem lies in assessing the deserved degree of responsibility (1106).

This same issue exists for victims as well. The death of an innocent is not an isolated incident. Rather, this crime deeply effects family, friends, and communities. These entities are known as “victims once removed” or “secondary victims” (Borer 1109). There are also “victims by proxy,” or indirect victims that were turned into direct victims, for example family members that were tortured for information about their loved one(s) (1110). Again, not all victims are the same (1110).

It is surprisingly common for one to play both the roles of victim and perpetrator simultaneously (Borer 1099). The report from South Africa’s Truth and Reconciliation Commission (TRC) illuminates this blurry relationship. The African National Congress (ANC) was widely accepted to be representative of the victims’ interests under the apartheid regime (1093). However, the TRC identified the ANC as a perpetrator in its report, claiming that the group committed human rights violations in its political activities and armed struggles (1093). One can also switch from the label of “victim” to “perpetrator” and vice versa relatively easily. The TRC overturned existing presumptions about these supposedly polarized and dichotomous groups. Many black Africans who were formally labeled as criminals by the state were acknowledged as freedom fighters in the TRC report and many white Afrikaners who perceived themselves as fighting terrorism were blamed for apartheid in this report (1095-1096). Borer emphasizes that perpetrators that can also be seen as victims are also in need of reconciliation, rather than demonization (1114). Thus, it is important to not think of these two parties in terms

of absolutes (1116). These blurry relationships can be further illustrated through Cambodia's example.

The tragedies committed in Cambodia under Democratic Kampuchea have been termed genocide, but have yielded mixed results. This recognition may offer partial remedy to victims as serious crimes have been recognized and condemned. However, as to be expected, this determination is tied to many complications. Boundaries are blurred between degree of guilt, chain of command, and between victim and perpetrator. High-ranking cadres developed the ideology of the regime, whereas low-ranking cadres were responsible for carrying out ordered crimes (Suon). Thus, former cadres frequently state, "I was just following orders," complicating the allocation of guilt and raising the question of whether perpetrators can simultaneously be victims of the regime. As is common in post-genocidal states, former Khmer Rouge cadres have been reintegrated into society and continue to hold high positions in the government, wielding authority over the judiciary and upholding a continuing "culture of impunity" (Sarath). These complications render the utility of this genocide determination itself nebulous. However, when coupled with prosecution, these determinations can carry more clout.

Controversy abounds regarding the best way to prosecute genocide in light of these myriad complications. Genocide is deeply tied to the history, geography, ethnicity, and religion of a particular people and a specific place. Thus, when determining the proper method for responding to genocide and mass human rights abuses, it is imperative to consider the conflict within its specific societal and cultural context. It is equally imperative to consider a society's resources, limitations, and the predicted repercussions of the adopted method.

Methodology behind Truth and Reconciliation

Many violent communal conflicts have accumulated over generations and become ingrained in various cultures and institutions, and in the process become immune to traditional methods of conflict-resolution (Lerche). This necessitated the creation of new innovative methods of addressing mass human rights abuses (Lerche). Three methods of conflict resolution have grown prominent in the 20th century: amnesty, truth commissions, and criminal courts (Booth 778).

These three divergent methods each have very different approaches based on their intended outcomes. Amnesty, or pardon and oblivion, is certainly the most controversial. Amnesty is a widespread forgetting for the sake of a common future (Booth 778). Criminal trials are held in a court of law and are followed by legal punishment and can be held by domestic courts, international courts, or by international tribunals (778). This method was employed at Nuremberg and following the Argentine “dirty war” (778). Truth commissions seek to disclose the past rather than bestow blame and responsibility. Examples include South Africa’s Truth and Reconciliation Commission and the Saville Inquiry (778). The select approach is largely dependent on the political atmosphere of the society. Although each approach has its merits, no approach can be trusted to ameliorate the pains of a war-torn community.

Amnesty

Amnesty is immensely controversial in the wake of genocide. It can be defined as mercy granted in judicial proceedings, an undeserved gift that undercuts justice (Booth 783). Thus, it does not operate under the ties of justice or morality (785). Amnesty is oftentimes used in truth commissions as an enticement for perpetrators to come forward (784). However, due to its unmerited mercy, amnesty should be employed only in the most fragile and unstable of societies.

Amnesty can serve numerous purposes. It can cater to special interests, including the pursuit of civil peace, the desire of perpetrators and collaborators to escape responsibility, and the desire for redemption by passive bystanders (Booth 784). Amnesty can also be employed by politicians to guide public memory through selective remembrance (784). However, amnesty comes with many moral implications. It turns the focus away from justice and fulfilling a debt to victims and instead brings attention to the present and future (784). This essentially makes the remembrance of victims non-mandatory (784). This also raises the question of whether institutions should extend amnesty to perpetrators when victims are the only ones with the real right to do so (785). Further, this pardon is not on the basis of compassion, but is merely an avoidance of moral judgment (784). Nonetheless, many feel that such sacrifices are necessary for the sake of a nation's future.

Many argue that amnesty is necessary for transitions to democracy (Booth 785). Amnesty puts the past out of sight for the sake of a common future (778). This "mutual forgetting" is necessary in unstable post-genocidal societies attempting to transition to democracy, and in Booth's opinion, "democracy and its future must... take precedence over the past and its demands that justice be done" (784). This rationale has been employed in many young democracies, including Uruguay and post-war Europe (784). Though amnesty surely does serve to aid the transition to democracy, its effects on societal reconciliation are less certain.

Amnesty's true effects on societal reconciliation are entirely circumstantial and rooted in context. Sometimes conditions of amnesty are seemingly a necessary pre-requisite to reconciliation (Lerche). For example, the former Chilean Head of State General Pinochet accepted a truth commission only on the condition of amnesty (Lerche). Human rights experts believe that the Chilean truth commission positively contributed to national reconciliation

(Lerche). In other circumstances, amnesty can impede reconciliation (Lerche). One such example is the South Africa Truth and Reconciliation Commission (TRC). It was argued that the TRC favored perpetrators over victims (Lerche). By receiving amnesty, perpetrators are essentially absolved of all responsibility for their heinous crimes (Lerche). In contrast, all that the TRC had to offer to victims were uncertain reparations that loomed in some hazy point in the future (Lerche). Amnesty can also create conditions for false reconciliation, as was the case in Latin America (Lerche). Here military regimes were able to pass through investigations with their legitimacy merely undermined, but with their power still intact, creating the false illusion that they had put the past behind them, turning the page on the memory of their injustices and wiping their own slate clean (Lerche). Thus, one should carefully consider the potential ramifications regarding societal reconciliation before implementing a policy of amnesty.

Amnesty is certainly less than ideal. Unfortunately, due to the complex societal and political landscapes of post-genocidal nations, justice cannot always be a top priority. Oftentimes, investing in a society's future takes precedence over ameliorating its past.

Truth Commissions

Truth commissions are an increasingly common mechanism for societal reconciliation. These post-war structures publicly investigate and document human rights abuses, collect testimonies and evidence, and offer suggestions for structural reforms (Lerche). They are generally ad hoc and are established either by legislation or presidential decree for a set length of time and for a set task (Lerche). They are very common in societies transitioning from an authoritarian regime to democracy, especially ones that are deeply divided either socially or communally (Lerche). For this reason they are oftentimes favored over criminal trials.

However, their end result does not seek to enact true justice, but rather attempts to establish a shared truth in order to facilitate reconciliation (Lerche).

Truth commissions seek to establish national reconciliation following widespread conflict. Lerche defines reconciliation as “a technique which goes beyond settling a conflict’s material stakes to restoring social relations and healing hearts and minds.” This societal reconciliation hinges upon the illumination of shared truth (Lerche). Joseph Monteville developed this concept (Lerche). He envisions it to be a transformative tool necessary for sustainable peace and a mechanism to acknowledge the dignity of ignored victims (Lerche). It involves guided and open dialogue between rival parties in a safe and neutral setting that serves to allow one party to recognize the other and accept his differences, values, and beliefs (Lerche). Monteville envisions three steps to this reconciliation: acknowledgement, contrition, and forgiveness (Lerche). According to his model, perpetrators must openly confess and acknowledge their crimes in full, then accept responsibility, sincerely repent and request forgiveness, and in response the victim must voluntarily and sincerely offer this forgiveness to the perpetrator (Lerche). Though this model has proven very effective to enact reconciliation on the individual level, its results on the national level with entire societies remain ambiguous, especially when a trade-off between reconciliation and justice exists (Lerche). This model is especially problematic in situations where the direct victims are no longer present to offer forgiveness (Lerche). Thus, truth commissions’ abilities to enact true societal reconciliation are dubious (Lerche). Unfortunately, these commissions have other negative aspects.

Truth commissions have serious limitations to their effectiveness. Firstly, their attempts to bring the “truth” to light are problematic. This endeavor operates under the assumption that there is one objective truth (Lerche). In such complex and emotionally charged conflicts, each

side will have their own version of the truth, and even personal testimonies will be entirely subjective accounts (Lerche). Truth commissions also fail to bring closure (Booth 788). They don't have the ability to apportion blame and they rarely offer satisfactory reparations to victims (Lerche). Their effectiveness is further diminished by the fact that these commissions have no institutional life after the publication of their report (Oglesby and Ross 30). These setbacks can be illuminated by Guatemala's example.

Guatemala's Commission for Historical Clarification exemplifies the shortcomings inherent in the truth commission model. The CEH consisted of only three people, two Guatemalans and one foreigner who acted as chair (Tomuschat 237). This lack of manpower limited the commission's efficiency. In addition, the team was allocated a period of only six months to complete its broad and all-encompassing mandate (238-39). The commission was further constrained by insufficient funds and did not have the power to search, seize, or subpoena individuals (Ross 74). It was prohibited from publishing names, thus lacking the ability to individualize responsibility (Tomuschat 243). The commission was granted "neither judicial purposes nor judicial effects," meaning that it operated independently of legal repercussions and could not promise reparations to victims (Tomuschat 245, Ross 74). Further, many victims were afraid to come forward, fearing repercussions from perpetrators that still held positions of power in their society (Ross 78). The government constrained the commission's power and on one occasion even threatened the foreign coordinator (Tomuschat 239). Fortunately, the CEH was supplemented through the efforts of other institutions.

The Catholic Church instituted the Project for the Recuperation of Historical Memory (REMHI), which published a volume entitled *Guatemala Nunca Más* (Steinberg and Taylor 454). This publication detailed accounts of the atrocities committed, collected personal

testimonies, and promoted widespread healing and discussion about the violence (Ross 74, Steinberg and Taylor 454). Most victims will never have access to the official and impersonal court documents produced by the truth commission, including the *Memoria del Silencio* (Steinberg and Taylor 454). But this publication offers victims an easily accessible and more personal record of their sufferings (Steinberg and Taylor 454). In this way, REMHI complemented Guatemala's truth commission, especially in areas that it was deficient. However, it simultaneously highlighted the inefficiency and ineffectiveness of the commission.

Despite their setbacks, truth commissions have their own benefits and represent a practical compromise. For victims, commissions represent the hope of discovering the fate of a missing loved, locating remains, and healing through a proper burial (Ross 70). It is also believed that these commissions prevent similar occurrences from happening in the future (71). Commissions can also prompt acknowledgement and apologies from perpetrators (73). But perhaps the greatest rationale for employing a truth commission over a criminal trial is that fact that commissions aid a society's transition to democracy (71). Commissions prevent the societal division and conflict that comes with apportioning blame to individuals (71). Truth commissions are also employed for a very straightforward purpose: transitional democracies rarely have the ability to enact justice (Lerche). In the words of Lerche, "the long term constructive influence of truth commissions is their role as a bridge from a past where justice was denied and a present where it is not yet practically and politically possible, to a future where it can, in all its dimensions, become an integral part of the social order." Thus, although truth commissions cannot enact full justice, they do represent a "negotiated resolution to conflict" (Ross 70).

The efficacy of a truth commission largely depends on the type of political climate in which it is emerging (Lerche). Unfortunately, most commissions are in societies that do not

facilitate such efforts. As discussed earlier, in many of these societies, the formerly oppressive regime was never defeated and members of the former elite still retain significant political power. These circumstances can be known as transitions from above (Lerche). In these situations it is common for the elites to retain their own interests over the interests of true democracy, leading to restricted democracy (Lerche). In contrast, transitions from below occur when masses of common people gain power, enacting a true regime change (Lerche). Though this facilitates true democracy, such transitions are rare. In both circumstances, reconciliation is difficult to achieve, especially when the society is attempting to make a rapid transition to democracy (Lerche).

Truth commissions alone are not sufficient in cases where genocide is charged. Their methods do not facilitate their idealistic aims and for societies still in the wake of genocide, their successful implementation is unrealistic. One way that these difficulties can be partially overcome is to supplement truth commissions with other means, as seen with the REMHI in Guatemala. In this manner national reconciliation becomes a collective process, rather than an arduous task that is shunted to a single entity with limited capabilities.

Criminal Courts

Following World War II, there was little tolerance for human rights abuses (de Greiff 80). The trials at Nuremberg, military tribunals held to prosecute the leadership of Nazi Germany, set a precedent for trial and punishment when dealing with such matters that endured until 1979 (80). In comparison to the methods of amnesty and truth commissions, criminal trials are considered to bring a greater degree of justice to a society (Booth 780). However, courts also have numerous limitations.

Criminal courts have many drawbacks with regards to persecuting genocide and other human rights abuses. They can divide society regarding the matter of how far the government should press charges (de Grieff 81). This is due to the fact that most recent abusers are part of regimes that retain power in societies (81). Choosing whom to prosecute also has moral implications, what de Grieff terms “prosecutorial selectivity” (81). Ackerman and Malamud Goti both raise the issue of ambiguity between perpetrator and victim and contemplate where a trial and punishment policy should draw the line between the innocent and guilty (81). Anyone who isn’t prosecuted is considered innocent, leading to a very narrow sense of responsibility (81). Given the narrow investigative focus on the individual, no blame is carried over to those that supported or benefited indirectly from the regime (81). Rather, abuses become the sole responsibility of the military or of the convicted individual, what de Grieff terms “adjudicative parsimony” (82). War crimes tribunals also move slowly and lack the ability to ensure that many known war criminals stand trial (Lerche).

The individualistic nature of criminal courts also runs certain risks in societies transitioning from an authoritarian to a democratic regime. This approach serves to maintain the division and bitterness of a post-war society (Booth 785). Trust, civility, and tolerance in the society and especially on both sides of the conflict can be threatened by too severe of a prosecution (785). Courts also fail to recognize complex and diverse factors that lead to the abuses, missing the collective nature of the crimes they are convicting (de Grieff 93). De Grieff states that “an effective transition to democracy after a period of deeply entrenched institutionalized violence requires, practically and morally, a transformation of personal attitudes, cultural practices, and social institutions that is not likely to follow from the trial and conviction of particular individuals, even if their trials were fair legally and morally” (82). It is

commonly felt that if trial and punishment will impede the development of democracy in a society, then democracy should be chosen over justice (82).

The case of Guatemala exemplifies the practical difficulties of implementing criminal trials. Since the same military regime retained power in Guatemala, it was very difficult to prosecute perpetrators (Oglesby and Ross 32). Numerous cases have been brought to the Guatemalan courts, but have been thwarted by obstacles ranging from legal maneuvers to actual violent threats (32). Of those cases that did make it to court, the military initially refused to accept any responsibility (32). By 2000, they accepted limited responsibility and agreed to implement the court's decisions regarding reparations for victims, but it has been argued that this was done only to improve Guatemala's international image (32).

In light of these difficulties, some Guatemalans have pursued court cases abroad (Oglesby and Ross 32). This action operates under the premise that some crimes are so heinous that they automatically become matters of international concern, and thus can be investigated in courts far from the site of the crime (33). Yet removing a trial from the site of the crime brings its own set of implications (33). Prosecuting a case at home lays precedent for future judicial proceedings and prevents similar crimes from occurring in the future (34). Exporting a trial abroad removes this pressure from the judicial system (34). Fortunately, human rights tribunals offer the benefits of an international trial on home soil.

International human rights tribunals are frequently employed to address widespread human rights abuses. They are generally met with much enthusiasm on behalf of the international community (de Grieff 85). This enthusiasm is merited as such tribunals combine talents from across the globe. They are generally more consistent than domestic courts and also remove the problem of prosecutorial discretion (85). However, these tribunals still carry with

them many limitations. They can clash with national sovereignty and generally do not diminish the costs of legal punishment (84-85). They historically struggle with prosecutorial selectivity (86). For example, the Allied Powers tried less than 5,000 people out of the tens of thousands that directly participated in the Nazi genocidal regime (86). As with other courts, international human rights tribunals can also impede democracy (85). This individualistic approach to condemning acts of collective violence is deeply problematic (87). Their scope is much too narrow and does not cover all that are guilty (88). Their true contribution to national reconciliation is also nebulous (88). It is doubtful that convicting a few individuals will do anything to mend relations between warring communities (88). Cambodia's example illuminates the positive and negative aspects of this approach.

Cambodia implemented an international human rights tribunal to convict former Khmer Rouge leaders. This trial combines international talent on Cambodian soil to lay precedent for justice and to contextualize future cases. For Cambodia, this option proved superior to the models of amnesty and truth commissions. A policy of amnesty would have outraged victims that have been clamoring for justice against well-known perpetrators. Truth commissions would have also proven problematic, as leading Khmer Rouge cadres are notorious for hiding and denying their crimes. In addition, millions of direct victims perished under the regime and thus are unable to extend forgiveness to perpetrators. However, as stated above, there are also limitations that come with this approach. The scope of those that are prosecuted is extremely narrow. Thus, accused parties will inevitably carry most of the blame for collective crimes. The tribunal also reminds victims of their suffering and can serve to exacerbate anger, rage, and hatred against the accused. Thus, the tribunal's ability to enact national reconciliation

is dubious. However, it is unfair to expect a criminal trial, even an international tribunal, to serve as a cure-all.

It is beyond the scope and ability of courts of any kind to transform war-torn societies, especially those transitioning toward democracy. Trials merely form one part of this transition, though they are often expected to accomplish societal change. Attitudinal, cultural, and institutional reforms are also needed (de Grief 94). When all are combined in tandem, efforts at reconciliation and renewal following mass human rights abuses will be much better served.

Genocide, Memory, and Justice

Justice following genocide is impossible. The three commonly employed methods discussed above have their particular benefits, but each falls very short of the idealized notion of true justice. Memory plays a pivotal role in enacting justice, what Booth terms “memory-justice,” though this too comes with a price (777).

Memory serves as a link to the past and the victims it has claimed. Booth states that, “memory seizes the crime, keeps it among the unforgotten, and insists on retribution” (779). In this sense memory is moral (Booth 780). Remembrance also fulfills a duty to the victims and serves to bring them back into the present day, in a sense a type of reincarnation (788). Community monuments and memorials serve this function (778). Equally as important, remembrance can deter similar abuses from occurring in the future. Without active remembrance, a society runs the risk of forgetting that an event occurred (782).

Although remembrance is just, its morality comes with a heavy price. Through active remembrance, violence is preserved in the memory and held in the present day (Oglesby and Ross 35). Remembrance also keeps the attention on the past, on what is dead and irreversible (Booth 783). This maintains bitterness and resentment and can serve to further divide an already

war-torn society (783). These emotions can prove so traumatic that daily functioning is impeded, both on an individual and communal level. For these reasons, many victims actively choose to forget. Jorge Semprun, a survivor of Buchenwald concentration camp, wrote, “I chose forgetting. I put in place, without too much concern for the good of my own identity... the strategy of voluntary amnesia, crucially systematic” (783). Another victim writes, “My memory is my downfall. It is a sealed well that doesn’t lose a drop... Were it not for my memory, my life would be different—better, I assume” (777). Active forgetting exists on the level of societies as well, both in the form of collective amnesia and judicial mandates. The Athenian reconciliation agreement of 403-40 BC mandated that individuals forget crimes of the past for the sake of the future (784). In these ways, active remembrance can prove to be so traumatic as to impede future progress, tipping the scales in favor of forgetting as a coping mechanism.

There are varying degrees of memory justice inherent in each of the three methods of reconciliation. These three methods operate under the assumption that there is a trade-off between memory and justice and forgetting for the sake of progress. A criminal trial enacts the greatest degree of memory-justice. This institutionalized form of remembrance acknowledges one’s duty to remember the dead and asserts that memory is a pre-condition to reconciliation (Booth 778). Truth commissions take a moderate approach to memory-justice. They are more focused on the future than on the past and assert that remembrance is not fruitless or necessarily destructive (777). Commissions acknowledge the dignity of the dead, but prioritize the future over the past (780). Amnesty foregoes the preservation of memory along with true justice, adopting the view that “the price of our future is that we allow the poisonous memory of the past,

of its victims and perpetrators, to pass into oblivion” (777). Amnesty then is essentially a forgetting of both the crimes committed and the victims they claimed.

It is clear that criminal trials enact the greatest degree of justice and they serve as the most moral approach with regards to remembrance following genocide. However, complications and debilitating side effects, both on a national and individual scale, oftentimes render this method unfavorable. Moreover, even criminal trials fall far short of complete reconciliation. The legal system will never be able to ameliorate the past. This is due to several shortcomings. The three current methods fail to recognize the widespread responsibility of a genocidal regime, which extends across communities and generations (Booth 788). Second, due to the heinous nature of human rights abuses, conviction isn't enough condemnation for perpetrators (788). Finally, justice forms the core of a community's identity, and this identity endures through time and even tragedy (788).

The Khmer Rouge Tribunal has solidified the Khmer Rouge regime in Cambodian and international history. So while millions of victims are memorialized, so are the crimes of the regime and the identities of convicted perpetrators, ingraining painful memories and possibly bitter sentiments in the minds of many Cambodians. This may have a profoundly detrimental effect on the process of national reconciliation. Though some will actively chose to forget, whether for the sake of the nation or for personal reasons, the entire nation won't chose to do so. Therefore, it appears that a trade off between justice and national reconciliation exists in these circumstances.

It is clear that existing models of truth and reconciliation need to be heavily revised. No model will be able to truly ameliorate past abuses. However, efforts at improvement are worthwhile, even if they bring a model only one step closer toward enacting full reconciliation.

Through the Eyes of a Victim

There is much theoretical debate surrounding truth and reconciliation and the appropriate methodology to implement after mass human rights offenses. However, little credence is given to the needs and desires of the most important population in this issue: the victims. Oftentimes their desires are assumed or simply discarded for the sake of the nation's progress. But when actually assessed, the expressed desires of surviving victims and their families and communities are surprising.

War-torn societies are often in a desperate state of affairs. A majority of the population may be operating below or near the poverty line. For these populations, justice is oftentimes a luxury, one that does not occupy the forefront of their minds. For the majority of Guatemalans, justice and the peace process are not a priority. In 1996, the Myrna Mack Foundation sponsored a poll in Guatemala asking what their top concern was (Ross 76). Nearly half of respondents claimed "insecurity" as their primary concern, whereas less than 1% cited war settlement to be a priority (76). Guatemala is ravaged by poverty, a high crime rate, and the global economic crisis (76). In the midst of this calamity, many simply cannot afford to keep justice as a priority. Guatemala's truth commission further exemplifies this point. The majority of victims that came forward during the commission did so for merely two simple reasons: to collect information about missing loved ones and their remains or for assistance with their dire living conditions (80).

Other victims merely seek recognition. The Guatemalan truth commission struggled to find victims that were willing to share their testimonies. Ross claims that this is due to the fact that Guatemalans didn't just want to share their stories; "they wanted their words to matter" (80). Victims didn't share their testimonies because they failed to see the point-- they didn't feel that

they were being listened to. The South African Truth and Reconciliation Commission also proved unsatisfactory to victims. Thabo Mbeki expressed that he didn't want to be identified as a victim, but rather as a "liberation hero" (Borer 1094). He merely sought appropriate recognition for his contribution to fighting apartheid. De Grief also expresses that family members of victims commonly express interest not in revenge, but in recognition for their sufferings (93).

Methods of reconciliation rarely consider the needs and desires of victims. In this way, past trials and truth commissions have failed victims (Ross 80). Pardons of amnesty unanimously fail victims, as they refuse to even acknowledge their existence. If these methods seek true societal reconciliation, more attention should be paid to the needs of victims.

§

In this chapter I have explored the concept of national reconciliation, traced the theory and methodology of genocide, truth and reconciliation, justice- memory, and explored the desires of victims in the wake of genocide. There is no perfect model to facilitate the process of national reconciliation in the wake of genocide. Each existing approach is associated with positive and negative aspects. The Khmer Rouge Tribunal emerges in this context. It has been demonstrated that there is no way that the Khmer Rouge Tribunal will be able to enact full national reconciliation. But this does not mean that the tribunal is not useful, that I should not happen, or that it does not contribute in some ways to reconciliation. In the following chapters I will examine the impact of the tribunal on the process of national reconciliation and assess Duch's role in this process. But first I will present a short summary of Cambodia's history, contextualizing the circumstances under which the crimes of the Khmer Rouge were committed.

2 History of Cambodia

This chapter presents a short summary of the history of Cambodia. Cambodia's history can be described as perpetually tumultuous, as evidenced by the nation's historic struggles with neighboring civilizations, oppression during the Angkorian era, exploitation at the hands of colonialism, corrupt and oppressive governments, including the genocidal regime of Democratic Kampuchea, and present-day attempts to rise above these past struggles to form a peaceful and just nation. This section presents the specific historical circumstances that precipitated one of the century's most brutal regimes, focuses on the ideologies and brutalities of the regime itself, and finally discusses the nation's attempt to recover in the wake of genocide.

Khmer Origins- Kingdoms of Fu-nan and Chen-la: 1st c. AD- 8th c. AD

Khmer origins trace back to the Fu-nan kingdom, founded in the first century AD near the Mekong Delta (Whitaker et al 21, 23). Rivalry over this rich land between the Khmers, the Vietnamese, and the Siamese, present day Thais, incited a rivalry that has persisted throughout the centuries (21). The Fu-nan state flourished through water transportation, fishing, maritime trade, and rice cultivation (23). It was heavily influenced by Indian art, culture, architecture, philosophy, and religion (21). Indian influence also brought Buddhism and the cult of the *devaraja* or god-king (22). By the 6th century, hostile neighbors, civil war, and dynastic troubles threatened the stability of the kingdom (24).

Fu-nan was overthrown by one of its subject kingdoms, Chen-la, by the end of the 6th century (Whitaker et al 24). This strong empire extended Khmer territory while maintaining Funanese religion, government, and social structures (25). In the 8th century, fights within the royal family led to the split of the empire into North or Land Chen-la and South or Water Chen-la (25).

Lower Chen-la was weakened by piracy of Indonesians and soon became a vassal to the Sailendra dynasty of Java (25). In 802 Jayavarman II came to the throne and reunited the two Chen-las, launching Cambodia into its most glorious period of history (25).

Kambuja or Angkor Period: 802-1432

The *Kambuja* or Angkor Period from 802-1432 is upheld as the height of Cambodian accomplishment (Whitaker et al 22). Known as the Classical Era, this period is marked by a peak in the arts and architecture and the height of its territorial domain (22, 26). Cambodia also continued contact with India, which led to a flourishing Sanskrit literary culture (26). The capital was established at Hariharalaya, near where Angkor Wat would soon be built, and ruled by an imperial theocracy and an opulent deified monarchy (26).

The great temple complex of Angkor Wat was built during the reign of Suryavarman II (Whitaker et al 26). Angkor Wat is “the largest religious edifice in the world and considered to be the greatest single architectural work in Southeast Asia” (26). Suryavarman II also oversaw the construction of extensive roads and a significant irrigation and reservoir system (26). Jayavarman VII built Angkor Thom, the capital city complex, and the temple of Bayon (27). But upon the death of Jayavarman VII, Khmer power deteriorated and the empire rapidly disintegrated (27).

Although this period of time is idolized as Cambodia’s finest, it is marred by brutality. Internal strife as well as external pressures threatened the kingdom’s stability and precipitated Angkor’s decline (Whitaker et al 22). These magnificent temples and Cambodia’s territorial expansion were financed by heavy taxes on the Cambodian peasants (27). The citizens also suffered from a system of forced labor bordering on enslavement (27). By the mid 12th century, many peasants began to revolt against this oppression (27). Simultaneously Thai power and

influence grew, and the Siamese began to challenge Khmer domination (27). In 1353 they captured and looted Angkor (27). The Siamese delivered their fatal blow to the Khmer empire in 1431 when they captured Angkor Thom (27). The Khmers then abandoned their capital, officially bringing the Angkor period to a close (27).

Struggle for Survival: 1432- 1864

Cambodia struggled to remain in existence for 400 years (Whitaker et al 21). Their continued resistance to the Siamese and Vietnamese coupled with internal strife exhausted the state (28). For most of this period Cambodia served as a vassal to neighboring Vietnam and Siam (21). However, Ang Chen's reign proved to be an early highlight of this period. He moved the capital from Phnom Penh to Lovek and repeatedly attacked and resisted Siamese forces for fifty years (28). But in 1594 the Siamese again took control over the capital, and established a Siamese governor over Lovek (28). This was the first time that Cambodia would experience foreign political control, but certainly not the last (28).

Cambodia was extremely susceptible to foreign exploitation at this time. After withdrawal from Angkor and its agriculture-based economy, Khmers had come to rely upon trade, a task that they were not well equipped for (Whitaker et al 28). The Chinese quickly noticed this vulnerability and immigrated to Phnom Penh, taking control over the trade industry (28). The Spanish and the Dutch both had a brief presence in Phnom Penh, but lack of European interest in commerce with Cambodia ensured that their stays were brief (29).

Siam and Vietnam relentlessly pursued control over Cambodia from the early 1600's until the start of the French Protectorate (Whitaker et al 29). Cambodia continually lost territory to these powers, and by the early 1800's fell under joint suzerainty of both Siam and Vietnam (30). Cambodian ruler Ang Duong was terrified that Cambodia would eventually be split

between these two powers (31). He appealed to Napoleon III of France for help, but was unsuccessful (31). His son Norodom again appealed for assistance from the French in the midst of increased Siamese aggression (31). In 1863 the French offered a protectorate over Cambodia and blocked the Siamese from an attack on the royal palace (31). This agreement was formalized in the Protectorate Treaty of 1863, which charged the French with the responsibility to protect Cambodia from external attack and internal disorder (31). In exchange, the French were allowed to settle in Cambodia, exploit the land, import goods free of duty, establish separate courts for foreigners, and had exclusive control over foreign affairs (31). But this partnership would soon deteriorate and Cambodia would transform into a French commodity.

French Protectorate

It is important to note that Cambodia's clamors for the French protectorate arose out of the nation's desperate state of affairs, while French motives for assuming the protectorate were certainly not altruistic. France's main impetus was due to Cambodia's strategic location next to Vietnam, France's new valued possession (Whitaker et al 32). The French saw the potential for Cambodia to serve as a buffer between Vietnam and rival powers such as Siam (32). Later, the French would use this agreement for egregiously exploitative purposes. This ninety-year protectorate would leave a dramatic and enduring mark upon Cambodia (21).

Immediately France wielded its powerful hand over Cambodian affairs, euphemizing the term "protectorate." A French governor general was placed in Phnom Penh and his widespread powers essentially granted him jurisdiction over the country (Whitaker et al 31). French control was tightened even further when King Norodom began to assert his own independence and later threatened Cambodian relations with Annam and Cochin China over the refusal to sign a customs treaty (32). After enacting damage control, the French forced Norodom to sign an even

more stringent treaty that made Cambodia a *de facto* colony of France (32). Local French governors were dispersed throughout the state and the king was demoted to a mere figurehead whose actions had to first be approved by the governor general (32). Similarly, the Cambodian administration was powerless, as the French had little faith in their abilities (32). Though most traditional Cambodian social and cultural customs were maintained, the French launched an extensive program of economic and developmental reform (32). They also inserted their hand in dynastic affairs. The French placed Sisowath on the throne following Norodom's death (32). Two generations later, they handpicked Prince Norodom Sihanouk for the throne out of hopes that he could be easily controlled (33).

The French incited mass cultural, societal, and ideological upheaval. For these reasons, many Khmer scholars consider the colonial period to be one of “non-history, an act of exile,” as it is not considered an authentic period in Cambodian history (Edwards 8-9). French culture, language, and values were favored under colonial rule, ostracizing Cambodians within their own country (9). This period also witnessed the severe decline in education and intellectual institutions (9). But imposed ideological constructs would prove enduringly influential. Modern Cambodian nationalism emerged as a direct result of French rule (7). A significant part of this nationalism was the notion that modern Cambodia is in a state of decay when compared with its glorious past and that modern Cambodians were the “detritus of Angkor's builders” (7-11). This was coupled with the fear that the nation, as well as the Khmer people, would soon disappear (7-11). The French highlighted past Khmer glory by formulating the cultural identity of the “Original Khmer” through scholarship and antiquarianism, an identity that many Khmers would try to emulate (10-11). This identity was later politicized and disseminated through avenues including banknotes, art, literature, and architecture (7-11). Terrifyingly, this contrived identity

would later be employed by the murderous Saloth Sar, who would assume the name of the “Original Khmer” as a claim of political legitimacy (15).

After the Vichy government was instilled, the Japanese took over Vietnam and removed the French (Whitaker et al 33). Border disputes ensued and in 1941 a Thai force invaded Cambodia (33). The Vichy French defeated the Thai forces, but the Japanese then intervened and convinced the French to sign a treaty ceding the disputed provinces of Battambang and Siemreap to Thailand (33). Later that year the Japanese invaded and took control of Cambodia, but allowed the Vichy French to continue nominal control for a while (33). But in 1945 the Japanese expelled the French administration and urged Cambodia, in addition to Laos and Vietnam, to declare independence within the Japanese sponsored Greater East Asia Co-Prosperity Sphere (33). On March 12, 1945 King Sihanouk declared Cambodian independence (33).

Following Sihanouk’s declaration of independence, the nationalist leader Son Ngoc Thanh was appointed foreign minister (Whitaker et al). Yet, he assumed the position of prime minister and set up an anti-French government in August of 1945 (33). Soon an allied force occupying Cambodia arrested and exiled him for collaboration with the Japanese (33). Some of his supporters fled to northwestern Cambodia, under Thai control at the time, and formed the Free Khmer or Khmer Issarak, later known as the Khmer Serei (33). In 1946, negotiations in Saigon regarding Cambodia’s relations with France determined that Cambodia would be an autonomous state within the French Union (33). However, this still left the French with a great deal of authority over Cambodia. The nation would endure its most painful tribulations before enjoying true autonomy (34).

Independence

Cambodia's declaration of independence was immediately threatened. The Viet Minh, Vietnamese troops backed by Ho Chi Minh, invaded in April 1954 (Whitaker et al 37). Fortunately the Geneva Conference, held the same month to restore peace to Indochina, ordered the withdrawal of Viet Minh troops as well as the demobilization of Cambodian troops (37-38). The conference agreement also called for a national election in Cambodia and ensured Cambodia's neutrality in the midst of the Cold War (Tully 127). Despite this call for democratic measures, a royal despot would rule Cambodia's political sphere.

Throughout the 1950's and 60's, King Sihanouk was extremely influential, authoritarian, and his power almost absolute (Tully 123). He cleverly manipulated and orchestrated the political sphere for decades to increase his own power and glory, morphing Cambodia into a near totalitarian state (132). In 1955, he gave up the throne in favor of his father, Prince Suramarit, in order to pursue politics (128-129). He formed his own party, Sangkum, which merged various existing parties for national unity and enhanced his own power (129). Sangkum won 83% of the popular vote in the 1955 elections and Sihanouk became Prime Minister (Whitaker et al 38). However, Sangkum proved unstable due to its heterogeneous nature (39). Thanks to Sihanouk's manipulation, Sangkum again swept the 1958 elections (Tully 132). Following his father's death in April 1960, Sihanouk became head of state, branding himself as the "indispensable father of the nation" (137). Today his corrupt and authoritarian policies are referred to by the term 'Sihanoukism' (141).

Meanwhile, the regime suffered from instability and souring foreign relations. Cambodia blamed the United States and South Vietnam for spurring on an attack by the former Khmer Issarak in 1959 (Whitaker et al 40). In retaliation, Cambodia severed relations with both nations (40). Meanwhile, border disputes continued with both South Vietnam and Thailand (39).

Existing animosities were only exacerbated in 1956 when Cambodia signed a treaty of friendship with Maoist China (38). Allied powers fumed in response, using Cambodia's treaty to rationalize later assaults on the nation.

In 1959, Vietnamese communists attacked Saigon and the dispute spilled onto Cambodian territory (Tully 142). The United States began to drop bombs on Cambodian territory in what would become one of the heaviest aerial attacks in history (142). Meanwhile, Cambodian communists were growing in number, as was support for the nation's budding future rulers, including Saloth Sar (142). Sihanouk termed the communists the Khmer Rouge, or Red Khmers, and in 1962 purged them from the government and charged them with treason (142-43). Cambodian communists fled to escape prosecution, joining the Vietnamese communists in the Cambodian jungles (143). In response to Cambodia's deteriorating situation, Sihanouk dramatically changed his political tactics.

Strangely, Sihanouk's policies became increasingly liberal after 1963 (Tully 143). He nationalized banks and foreign trade, signed another treaty of friendship with the Chinese, broke off relations with Saigon, and cut off US aid (143). These new quasi-socialist policies led to economic crisis and riots (145). But in light of internal communist uprisings against the government, Sihanouk persisted (145). He accepted weapons from the USSR and China, cut diplomatic relations with the US, and paid diplomatic visits to both North Korea and China (146). But Sihanouk's leftward swing would not ameliorate the damage done.

Sihanouk was rapidly losing both the support of his people and control over his country. In 1967, on Sihanouk's orders, Prime Minister Lon Nol viciously repressed a peasant uprising at Samlout in Battambang province, murdering an estimated 10,000 peasants and inciting further uprisings elsewhere (Tully 147). Meanwhile, the Khmer Rouge were growing in strength, and

by 1970 had control over 20% of the countryside (148). The United States had launched the secret search and destroy mission, Operation Daniel Boone, causing massive casualties and widespread destruction (146, 149). Sihanouk had lost the respect of world powers, his own people, and even his inner circle. Lon Nol and Sihanouk's cousin Sirik Matak publicly humiliated Sihanouk, inciting him to take 'personal' time in France (148). Meanwhile, riots raged within the city caused by outrage at the presence of Vietnamese troops on Cambodian soil (150). It became clear that war was now inevitable (150). On March 17, 1970, Sirik Matak broke into Lon Nol's house and forced him to assent to the parliamentary coup that would remove Sihanouk from power and precipitate the nation's demise (151).

Emergence of the Modern State

Urbanites celebrated the fact that Sihanouk had been removed from power (Tully 152). However, most peasants, who comprise the vast majority of Cambodia's population, were outraged (155). Sihanouk was also irate and thirsty for revenge (156). With the support of both the USSR and China, he formed the National United Front of Kampuchea, a party that conjoined royalist supporters and the Khmer Rouge in ambitions to overthrow the Republican government (156). The bulwark of both Sihanouk and Khmer Rouge supporters came from the Cambodian peasantry (155).

Meanwhile, the republican government prepared for war (Tully 153). The new anti-communist government headed by Cheng Heng aspired to expel both the Vietnamese communists and the Khmer Rouge (153). General Lon Nol also remained in power, despite his incompetence, corruption, and wild racism (158-59). Battles between the Viet Cong and Lon Nol's troops raged on the borders, while pro-Sihanouk riots littered the countryside (156). Lon Nol claimed that the Vietnamese incited these riots, and in turn the government sponsored

bloody pogroms (156-57). Vietnamese refugees were arrested, detained, and murdered for supposedly being communist (157). The death toll skyrocketed to the tens of thousands (157). Meanwhile, the Khmer Rouge was gaining strength and the inept Cambodian military was rapidly losing ground (159-60). The Republic was in a state of economic crisis and complete disarray characterized by hunger, unemployment, and reliance on US food aid (164). In October 1971, Lon Nol declared a State of Emergency, banning all political meetings and opposition demonstrations and dissolving civil rights (164). The Republic was collapsing (158).

Cambodia's demise is also linked to the actions of the United States during this period. The military operation US-ARVN permitted US troops to pursue the Viet Cong into Cambodia, driving the foreign battle even deeper into Cambodian territory (Tully 160). In 1973 the Paris Peace Accords ended bombing in Vietnam, inciting the US to instead turn their bombs on Cambodia (167). This bombing was exacerbated in 1969 (160). When it became clear that the United States could not win the war in Vietnam, President Nixon ordered the staggered withdrawal of troops (160). This made remaining troops vulnerable, so Nixon decided to instead attack the Viet Cong from within Cambodia (160). He launched Operation Shoemaker, a full scale ground assault to obliterate enemy mobile headquarters in Cambodia (160-61). Nixon touted the operation as a success (162). However, the US didn't announce the devastating toll the mission had on Cambodia (162). Carpet-bombing destroyed the Cambodian landscape and environment and killed many civilians (162). The use of phosphorous, napalm, and Agent Orange destroyed forests, farmlands, and maimed civilians (162). Between 1970 and 1973, the US dropped 540,000 tons of bombs on Cambodia (166-167). In comparison, they dropped 160,000 tons of bombs on Japan during all of WWII (166-167). Even today hundreds of Khmer peasants are killed and maimed by remnant shrapnel and land mines, some of it from unexploded

US ordnance (168). Many Cambodian peasants fled to join the communist guerillas to escape US aggression (162). The effect was that “Cambodia had been dragged into the war just as the US was leaving it” (162). To top it off, in June 1974 the US stopped supplying the republic with war materials (168).

The Peace Accords of 1973 mandated that Vietnamese troops withdraw from Cambodia (Tully 168). This rendered the conflict in Cambodia a raging civil war (168). The Khmer Rouge quickly gained strength and territory and began to infringe on the outskirts of Phnom Penh. Lon Nol was failing to gain ground in the struggle (162-63). By April 1972, all of Cambodia east of the Mekong, with the exception of a few regional capitals, was in the hands of the Khmer Rouge (163). The situation in the capital was also rapidly deteriorating, and by 1975 Phnom Penh was isolated from the rest of the world apart from a few US supply flights (169). Disease, starvation, a lack of sanitation, and fire from the impending Khmer Rouge were rampant throughout the capital (169). The US Embassy was evacuated on April 4th as the Khmer Rouge was surrounding the city (169). On April 17, 1975, the Khmer Rouge entered Phnom Penh as Lon Nol and other high-ranking officials fled for safety overseas (169).

Pol Pot's Savage Democratic Kampuchea: 1975-1978

Phnom Penh residents were vigilant and apprehensive as the gaunt and black-clad Khmer Rouge entered Phnom Penh. Most civilians hung white sheets on their balconies to signify surrender (Ly 68). When the soldiers drew near, most were shocked to see that they were young children and adolescents from the countryside (Tully 174). Yet the faces of these young boys and girls were bitter and hardened with rage (Ly 68).

The first mandate of the new regime of Democratic Kampuchea was to evacuate all cities. Khmer Rouge soldiers entered homes and ordered everyone to evacuate immediately and

return to their home villages (Ly 69). The soldiers claimed that the US was going to bomb the capital (Tully 175). Those that questioned orders were answered with pre-meditated slogans, such as “the wheel of history is turning... If you use your hands to try to stop the wheel, they will be caught in the spokes” (175). No exceptions were made for the evacuation of Phnom Penh and also Battambang (175). Hospital patients were pushed on their beds by relatives, IV drips still attached (175). Official documents from the regime admit that between two and three thousand civilians died in this evacuation alone (176). Surely the true number is much higher (176).

This urban evacuation was only the first mandate made by clandestine leader Pol Pot, upon “liberation” (Tully 178). At the Special Assembly for Cabinet Ministers and all Zone and Region Secretaries, Pol Pot demanded the following:

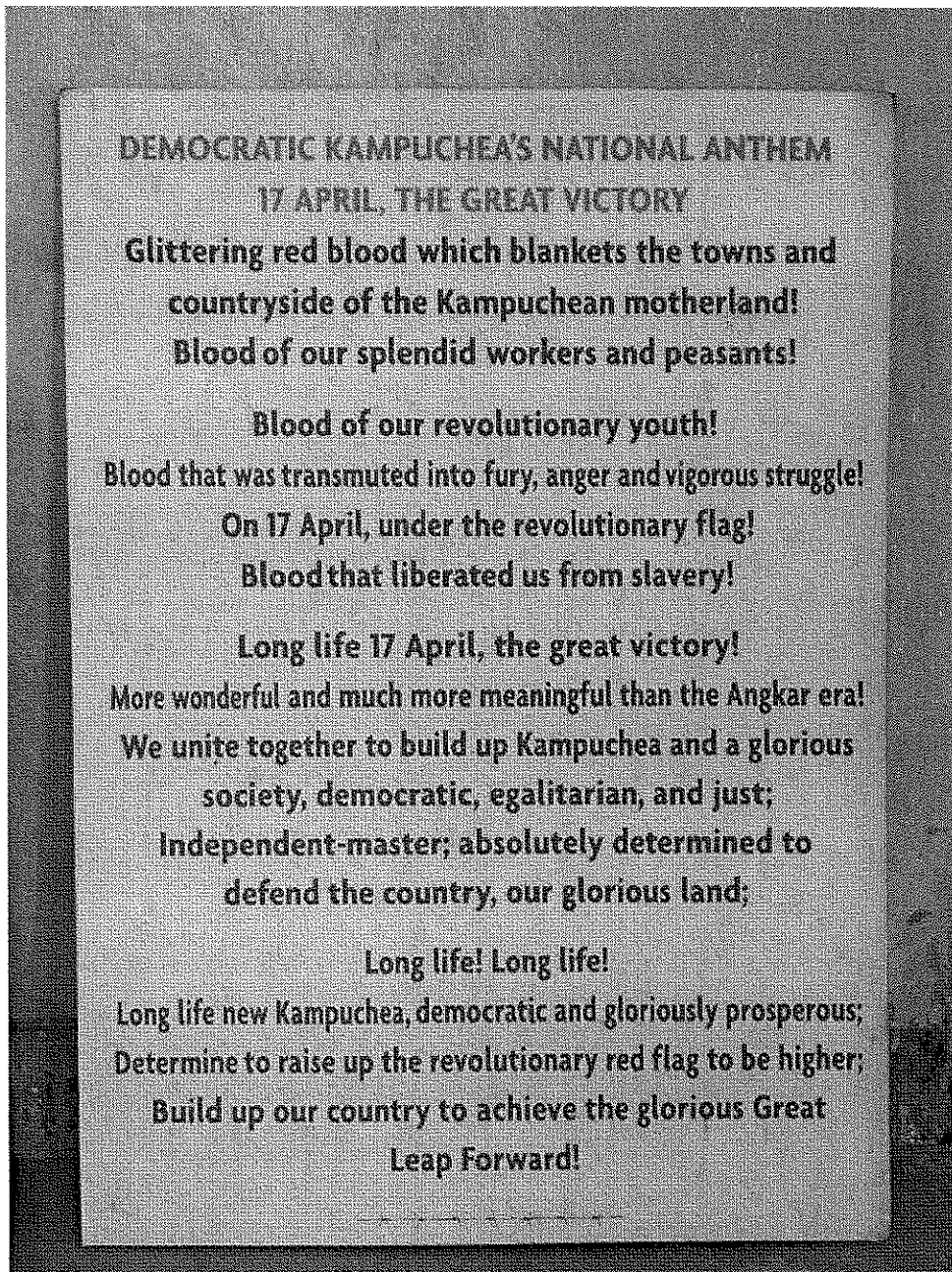
- Evacuate people from all towns
- Abolish all markets
- Abolish Lon Nol regime currency, and withhold the revolutionary currency that had been printed
- Defrock all Buddhist monks, and put them to work growing rice
- Execute all leaders of the Lon Nol regime beginning with the top leaders
- Establish high-level cooperatives throughout the country with communal eating
- Expel the entire Vietnamese minority population
- Dispatch troops to the borders, particularly the Vietnamese border (178).

The Khmer Rouge immediately banned religion, abolished currency, closed schools and banks, prohibited pre-DK songs, criminalized tradition, superstition, and expressions of ethnic difference, essentially enacting social deconstruction (Clayton 2, Edwards 1). The Khmer Rouge

also attempted to restart time, claiming the 17th of April 1975 to be the first day of “Year Zero” (Clayton 1). The DK immediately cut Cambodia off from the rest of the world (Clayton 1). However, no name or face was linked with these mandates, and the name Pol Pot would only emerge in the public sphere years later. The regime was shrouded in mystery and anonymity, and citizens and soldiers would know their leadership only as “Agkaa” or “the “organization” (Edwards 1). These radical mandates stemmed from an ideology with a convoluted dream.

Democratic Kampuchea was based on Pol Pot’s notion of a utopian society (Ly 67). Though he would claim to be developing a society without a past model, Pol Pot drew from Stalin’s Russia, Maoist China, and Kim Il Sung’s *luche* dogma (Tully 180). This dream was “based on a romanticization of the primitive communism of the hill peoples among whom Pol Pot and his comrades had lived” (Tully 179). It was also inspired by the notion of the “Original Khmer,” calling for a rejection of modernity in favor of a return to the past, with hopes of rebuilding toward a glorious future (Edwards 1). Like colonials before, this ideology held Khmers in stark contrast with their ancestors (2). The first objective of the KR was to eradicate former social, political, cultural, and economic structures so that they could never be rebuilt and to form a new agrarian society in its wake (Ly 72, Clayton 3). This new society was to also be ethnically homogenous (Edwards 1). DK Leaders developed the Four Year Plan of 1976, an economic plan that foresaw the rapid development of light industry followed by a transition to heavy industry (Tully 179). Cambodia would then be able to rise above the capitalist western world through an act of sheer willpower, thus propelling Cambodia back to its former glory and allowing Khmers to merit their status as the descendants of Angkor (Tully 179). The subject of the past and public memory were essentially banned from public discourse as they were considered polluting in light of these ambitions (Edwards 2). Cities were also considered

corrupt. Thus, according to the vision of the KR, the entire population of Cambodia was expelled to the countryside to become peasants (Clayton 1). This convoluted ideology can be demonstrated by the regime's anthem, displayed below. This vision of a future was seen as justifying the sufferings of the people, and suffer they did (Tully 179).



"Democratic Kampuchea's National Anthem" at Tuol Sleng Genocide Museum, Phnom Penh, Cambodia. July 2010. Personal photograph by author.

Democratic Kampuchea was one of the most brutal regimes in history. Death tolls range from 750,000 to over 3.3 million from 1975-79 (Clayton 2). David Chandler estimates that 200,000 were directly murdered by the KR, essentially 3% of the total population (Tully 183). First Lon Nol soldiers were executed, followed by intellectuals, doctors, professionals, and even skilled laborers (183-84). High-ranking politicians that dissented or merely disagreed were also “smashed” (187). Knowledge of a second language and wearing glasses was often enough to qualify one for execution (Clayton 2, Tully 184). DK leaders had great contempt for education and knowledge, illustrated by the words of a KR soldier:

Under our new system, we don't need to send our young people to school. Our school is the farm. The land is our paper. The plow is our pen. We will 'write' by plowing. We don't need to give exams or award certificates. Knowing how to farm and knowing how to dig canals—those are our certificates... We don't need doctors anymore. They are not necessary. If someone needs to have their intestines removed, I will do it (Tully 184).

But outright execution would prove more humane than attempts at life under the KR. Overwork, malnutrition, disease, and lack of medical care threatened death constantly (180). Families were often separated or forced to relocate, and the KR frequently forced marriages (Clayton 2). There was also absolutely no freedom of speech under the KR, illustrated by the common phrase, “If you want to live, then grow a *koh* tree in front of your house” (Ly 72). *Koh* means mute in Khmer, and this phrase is essentially a menacing play on words that threatens one to stay silent, mute, and blind (72). If one didn't follow Angkaa's orders, he would soon disappear, never to be heard from again.

Civilians that “disappeared” were taken to prison camps across the country. The most infamous of these camps is Tuol Sleng in Tuol Svay Prey district of Phnom Penh (Dunlop 19). Tuol Svay Prey roughly translates to ‘The Hill of the Poison Fruit Tree’ (Dunlop 19). This secret prison, code name S-21 or Security Office 21, “was the most secret organ of the KR regime” (Chhnag). Originally a high school, the KR turned it into a “reeducation camp” in 1975 (Ly 69). Classrooms were converted into prison cells and surrounding houses were converted into rooms for torture and interrogation (Chhnang). Sub units within the prison housed children from ages ten to fifteen and trained them to become cruel cadres and prison guards (Chhang). Important prisoners were taken to individual cells, where they were shackled to the floor with chains (Chhang). But most prisoners were taken to mass cells, where up to thirty prisoners were shackled to the floor with a single iron bar, lying side by side (Chhang). A staff of 1,720 was needed to run this prison (Chhang).

Prisoners were treated worse than animals. “Baths” consisted of piling dozens of prisoners into a room where they were sprayed with a hose, sometimes only once a week (Chhang). Unhygienic conditions incited disease (Chhang). But sick prisoners were not allowed treatment (Chhang). Only prisoners that had been badly tortured were allowed medical treatment, and this was usually administered by untrained children (Chhang). Prisoners were required to abide by a list of regulations and ask permission to do anything, even move (Chhang). The following regulations were posted in each prison cell:

1. You must answer accordingly to my questions. Do not turn them away.
2. Do not try to hide the facts by making pretexts of this and that. You are strictly prohibited to contest me.

3. Do not be a fool for you are a chap who dares to thwart the revolution.
4. You must immediately answer my questions without wasting time to reflect.
5. Do not tell me either about your immoralities or the revolution.
6. While getting lashes or electrification you must not cry at all.
7. Do nothing. Sit still and wait for my orders.

If there are no orders, keep quiet. When I ask you to do something. You must do it right away without protesting.

8. Do not make pretexts about Kampuchea Krom in order to hide your jaw of traitor.
9. If you don't follow all the above rules, you shall get many lashes of electric wire.
10. If you disobey any point of my regulations you shall get either ten lashes or five shocks of electric discharge (Chhang).

This site claimed at least 16,000 victims, each of which underwent interrogation, severe torture to extract so-called "confessions," and ultimately execution at the killing fields of Choeung Ek on the outskirts of the city (Edwards 3, Ly 70, 74). The entire families of prisoners were arrested, including new-born babies, to be executed (Chhang). Only eight prisoners have ever escaped Tuol Sleng, three of them adults (Tully 188-189). S-21 was run by head interrogator and former school teacher, Kaing Guek Eav, alias Duch. Duch is infamous for keeping meticulous records and extensive secret files, which decades later helped lead to his indictment (Edwards 4). Nic Dunlop, author of The Lost Executioner, describes one such record. a document was found in which a guard asks Duch what to do with nine children that were accused of being traitors (Dunlop 6). Across the document Duch wrote "kill every last one"

(6). He was the “principle link between Khmer Rouge strategy and the actual mechanics of mass murder. He was Pol Pot’s chief executioner” (Dunlop 2).

Democratic Kampuchea’s dreams of grandeur would collapse after less than four harrowing years. DK’s development plans failed miserably and Cambodia obtained only a brief period of self-reliance at the price of mass starvation (Clayton 5). Cambodia’s total population was reduced by 25% and those that remained were desperately clinging to life (Tully 182). As the reign of the DK came to a close, the regime’s paranoia led to a surge of executions (188). Many KR officials began to flee to Vietnam, and those that the regime suspected of deserting were executed (192). In 1978, a border dispute with the Vietnamese deteriorated into an all out battle (193). KR troops brutalized Vietnamese civilians, claiming that it was essential to annihilate the Vietnamese (193). After Pol Pot refused to negotiate with Hanoi, a force of 100,000 Vietnamese invaded on Christmas day, 1978 (193). DK leaders fled, and Cambodia was liberated by its traditional enemies (193). Pol Pot’s reign of terror had finally come to a close. However, the repercussions would endure for years.

Reconstruction After Democratic Kampuchea

When the Vietnamese entered Cambodia in 1978, the nation of Cambodia and its people were on the brink of extinction (Tully 199). The landscape was littered with bomb craters and the cities were still virtually empty (199). There was essentially no infrastructure, no phones, telegraphs, postal system, clean water, school, hospitals, and almost no electricity (200). Only 15% of the country’s intellectuals remained, and 10% of its doctors (200). The people were gaunt and diseased, families broken apart and relationships destroyed (201). There were many more females than males and most children were illiterate (201). Agriculture had also collapsed and KR troops destroyed farms as they retreated (201). This chaos incited a national famine, and

one year after the Vietnamese liberation, between 325,000 and 625,000 people died, many of starvation (201). The Vietnamese were charged with the responsibility of recreating a nation from scratch (203).

The Vietnamese helped Cambodia to declare the People's Republic of Kampuchea (PRK) (Chandler 277). This rigid Marxist-Leninist regime was modeled on the Vietnamese party (Tully 209). The government was headed by Cambodians, including former DK officials (Chandler 277). Hun Sen was one such leader (277). He gained significant power on his own, and in 1985 became the Prime Minister (277). His regime promised to respect human rights, but its socialist agenda and Treaty of Friendship failed to win the support of the Cambodian people (277-78). Cambodia's now diminutive educated population mistrusted this new government, and thousands fled to refugee camps in Thailand (281).

As the new regime attempted healing in the wake of DK, the international community thwarted these efforts. Pol Pot and Ieng Sary were tried in absentia in August 1979 in Phnom Penh (Chandler 208). Though valuable evidence came to light and the two were condemned to death, this trial was essentially a farce (208). The Vietnamese turned Tuol Sleng into a genocidal museum and the PRK held "days of hate" in 1982 for victims to share their stories (Tully 208, Chandler 282). The PRK was slowly becoming a more responsible and functional government (Chandler 283). Meanwhile, the Khmer Rouge in exile were gaining strength (Tully 281). They still held the favor of powers such as the United States, China, Singapore, and Thailand, who continued to support the DK out of anger and frustration with Vietnam (281). The DK still held Cambodia's seat at the United Nations (281). But the KR's time was limited.

In 1981 Sihanouk met with Khieu Samphan and Son Sen to discuss a coalition government (Chandler 283). The following year the three factions announced the Coalition

Government of Democratic Kampuchea (283). The DK attempted to improve its image by announcing that they had changed as a party and now embraced capitalism (283). From 1983 to 1985, the Vietnamese and the PRK drove the DK coalition into Thailand and laid mines to block their advances back into Cambodia (284). However, the DK still managed to capture Pailin (284). The DK would prove to be a threat in the northwest and southwest of the country, as they repeatedly raided villages and littered the countryside with landmines (284).

Following the end of the Cold War, there was a thaw in international relations (Tully 213). At this point international powers dropped their support for Pol Pot out of self-interest and instead embraced Hun Sen (213). The Vietnamese withdrew their troops in September of 1989 and Hun Sen's power was consolidated (Chandler 285). At an international conference in Paris in October 1991, a temporary Cambodian government was established and called for UN supervised elections (Tully 214-15, Chandler 286). The four existing Cambodian factions joined together to form the Supreme National Council, which was presided over by Prince Sihanouk (Chandler 287). From this point on Pol Pot would be a nuisance, but not a real contender for power (Tully 215). The United Nations Transitional Authority in Cambodia arrived in 1992 (UNTAC). This protectorate proved to be ineffectual as it was assigned with numerous tasks and its funding was not well spent (Tully 219). UNTAC sponsored Cambodia's elections in 1993, which essentially just reinstated Hun Sen (221-22). By 1994, the restoration of the corrupt government, anarchy, and KR threats in the countryside made the nation unstable and sometimes unsafe (224-225).

International outcry against the Khmer Rouge leaders was aroused in 1986 when Australian Foreign Minister Bill Hayden publicly called for an international tribunal to try KR leaders (Tully 213). In 1996 Ieng Sary received a royal pardon and was allowed to live in Pailin

under Pol Pot and Son Sen with their supporters (Tully 225, Chandler 289). In addition, many Khmer Rouge soldiers were integrated into the national army (Chandler 289). Pressures for a trial against the former KR came to nothing (289). Meanwhile, the Khmer Rouge party began to fragment (290). This was exacerbated when Pol Pot ordered the assassination of Son Sen and his family and was put on trial by KR and ordered to life imprisonment (290). In 1997 Hun Sen launched a coup and took over the government, becoming dictator (Tully 225-27). One year later Pol Pot died peacefully in his home (227). Hun Sen has been a significant impediment to the nation's recovery. For years he refused to take action against former Khmer Rouge leaders and these cadres lived comfortably under the protection of the government (228). In May 2005, the UN and the Cambodian government came to an agreement that a tribunal would occur to try former KR cadres (227). However, it would take years before this tribunal came to fruition.

The first former Khmer Rouge cadre to be arrested and tried was Duch, former head of Tuol Sleng prison. In 2001, the Cambodian National Assembly passed a law creating a court to try the Khmer Rouge leaders, called the Extraordinary Chambers in the Courts of Cambodia or ECCC ("Case 001"). This international tribunal was to be held in Cambodia with both Cambodian and foreign personnel ("Case 001"). In August 2008, co-investigating judges indicted Duch on charges of crimes against humanity and grave breaches of the Geneva Convention of 1949 ("Case 001"). After ten years in prison, Duch went on trial beginning in February 2009 ("Case 001"). The controversial verdict was announced on July 26, 2010, sending an uproar throughout the nation (www.eccc.gov). The full repercussions of this trial remain to be seen. Case 001 is a prominent hallmark in Cambodian history and will likely have great bearing over the nation's recovery, progression, and struggle to establish national reconciliation.

Today Cambodia struggles to come to terms with its past. For Cambodians, the magnificent Angkorian temples stand as an indication of what the civilization is capable of. Meanwhile, the repercussions of genocide abound, serving as persistent reminders of the nation's atrocious recent history. This juxtaposition of glory and depravity prompts one to wonder where Cambodia's future lies on this gradient. Case 001 may be able to answer that question, while prompting another. Can the proceedings and judgment of Case 001 help Cambodia come to terms with its violent past in order to progress toward a brighter future? Chapters three and four strive to answer.

3 Duch on Trial

This chapter focuses on Duch and his actions and statements while on trial. We begin with a brief biography on Duch to illuminate his early life, his decision to join the revolutionary movement, and his life after the fall of the regime up until his arrest. Subsequent sections present a comprehensive overview of the proceedings of Case 001, offering both vivid descriptions and analysis. These sections present factual information about the regime as uncovered by the tribunal, illustrate Duch's role in the Khmer Rouge regime, and illuminate Duch's character throughout this process. The chapter concludes with my personal observations at the ECCC on the day of the verdict. This information will prove instrumental in assessing the role of this trial in the process of national reconciliation.

The name of this section is derived from its most frequently cited source, *Duch on Trial*, a weekly program produced by Khmer Mekong Films that presented summaries and analysis on the first trial. Sok Sam Oeun, a renowned lawyer and Executive Director of Cambodia Defenders Project, frequently visited the program to offer his expert analysis on the proceedings. Many of his comments can be found here. Observations of the trial, apart from the section entitled "Personal Observations" or unless otherwise cited, are derived from this source.

Biography of Duch

Duch was born as Kaing Guek Eav on November 17, 1942 in Chaoyot Village in Kampong Thom province (Strangio and Titthara, "Duch's Biography: The Lost Executioner"). He was the only son of a family of five (Dunlop 29). He was born into a poor family of Khmer-Chinese origin and had five siblings (Strangio and Titthara, "Duch's Biography: The Lost Executioner"). Nicknamed "Kiev," he grew up in a "small concrete home shaded by bamboo

groves and mango trees” (Strangio and Titthara). Kaing is remembered to be kind, generous, and an exceptional student (Strangio and Titthara). He lived a quiet life in Chaoyot until the age of 14, when he passed the exam to attend junior high school (Strangio and Titthara). He completed his first round of secondary education in 1961 in Kampong Thom (Strangio and Titthara). Kaing’s academic success next brought him to the nation’s capital.

Kaing moved to Phnom Penh in 1962 to further pursue academics. He won a place at the prestigious Sisowath College where he received a baccalaureate in math (Strangio and Titthara). Three years later he graduated from the Institut de Pedagogie, a teacher trainer college then headed by Son Sen (Strangio and Titthara). Sen would later become the Khmer Rouge Minister of National Security and Defense and Kaing’s mentor and superior (Strangio and Titthara). It was here that Kaing was exposed to the ideology of the revolution, a philosophy that he quickly adopted (“Duch’s Biography: The Lost Executioner”). Upon graduation, Kaing began his career as a teacher.

Kaing’s first post was at a high school in Kampong Cham province (Strangio and Titthara). He was a popular mathematics teacher, described by his pupils as humble and hardworking, “patient and gentle” (“Duch’s Biography: The Lost Executioner”). He never punished his students, but generously provided them with food and accommodation (“Duch’s Biography: The Lost Executioner”). But he also voiced his leftist leanings (Strangio and Titthara). He cultivated radical ideas and reportedly carried around Mao Tse-Tung’s “Little Red Book,” openly supporting the communist movement (Strangio and Titthara). In 1967, three of his students were arrested by Sihanouk’s secret police (“Duch’s Biography: The Lost Executioner”). In response, Kaing fled to the jungle of Chamkar Leu district, a Khmer Rouge stronghold at the time, where he became a full and loyal member of the Communist Party of

Kampuchea (Strangio and Titthara). He then selected the revolutionary name “Duch” to emulate an obedient schoolboy in a children’s book (Mydans). Duch explains his famed loyalty to the party: “I made my decision to enter the revolutionary movement. I knew at the time through my teacher of culture that joining a revolutionary movement was like a spear. Once a spear hits you, you cannot remove it. I knew that once I entered the movement there was no way I could return” (*Duch on Trial*, Week 18). Shortly after, Kaing was arrested and sent to Preysor Prison, where he was imprisoned for two years without a trial (“Duch’s Biography: The Lost Executioner”). Following Lon Nol’s coup d’état in 1970, all political prisoners were released (“Duch’s Biography: The Lost Executioner”). Kaing then fled to a Khmer Rouge zone in the Cardamom Mountains to resume his activities (“Duch’s Biography: The Lost Executioner”).

Khmer Rouge officials recognized Kaing’s continuing loyalty. He was appointed to be a commander of security by high ranking cadre Vorn Vet, who would later be tortured and executed in S-21 (“Duch’s Biography: The Lost Executioner”). The party asked Kaing to establish two prisons: M-13 in the Orm Laing region and M-99 at the base of the Oral Mountain (“Duch’s Biography: The Lost Executioner”). It is estimated that 20,000 prisoners were executed in these two prisons (“Duch’s Biography: The Lost Executioner”). It is also suspected that these prisons allowed Duch to experiment with methods of torture and develop the techniques that he would later employ at S-21 (“Duch’s Biography: The Lost Executioner”). Duch worked at M-13 for five years (Suon). Francois Bizot, author of The Gate, was imprisoned here. He describes Duch as “an intelligent but rigid thinker, one who was open to fireside political debates but unyielding in his views” (Strangio and Titthara). At M-13 Duch found the trusted inner circle of cadres that would soon form his staff at S-21 (Strangio and Titthara).

After the Khmer Rouge came to power in 1975, Duch marched to Phnom Penh (Sebastian and Strangio). He wanted to work in commerce, but was refused (Suon). Instead, he was appointed as the head of S-21 due to his experience at M-13 (Suon). Here Duch was known as “brother east” (*Duch on Trial*, Week 14). His staff was terrified of him and dared not call the prison chief by any other name (*Duch on Trial*, Week 14). Duch worked at S-21 until the fall of the regime in 1979, escaping to refugee camps across national boundaries (Dunlop 198).

Following the Paris Peace Agreements of 1991, Duch returned to Cambodia (Dunlop 217). He adopted the alias Hang Pin and worked as a high school teacher in Samlot, Battambang province (Vannarin and Wallace). Here he converted to Christianity, was baptized, and even began working for a Christian NGO (Vannarin and Wallace, Strangio and Titthara). Irish journalist Nic Dunlop discovered him in 1999 (O’Toole and Sokha). Dunlop explains that he made a series of trips to the Cambodian countryside to track down the former cadre (Strangio and Titthara). Dunlop explains that his quest to establish a deeper understanding of the Khmer Rouge perpetrators lured him to Cambodia (Dunlop 4). After several encounters, Dunlop and Nate Thayer confronted Duch about his identity (Strangio and Titthara). He initially deflected their questions, but eventually stated, “it is God’s will that you are here. Now my future is in God’s hands” (Strangio and Titthara). Duch gave Dunlop an “extraordinary confession,” admitting to mass murder and expressed what appeared to be genuine remorse (Strangio and Titthara). Dunlop describes his encounter with Duch, stating that he “never looked at myself or Nate in the eye, or very rarely, because he was aware of his audience—he was very much the teacher giving the lesson about Khmer Rouge history and his role in it” (Strangio and Titthara). Duch was subsequently arrested and held by a military court to await trial until he was handed over to the ECCC in 2007 (O’Toole and Sokha).

Background on Case 001

The Khmer Rouge Tribunal is a unique hybrid court. This joint UN/Cambodian court applies both international and Cambodian law (*Duch on Trial*, Week 1). Therefore, defendants may be liable to acts in violation of the 1956 Cambodian penal code as well as actions in violation of international law at the time the crimes were committed (Sokha and O'Toole). Unlike other courts, the ECCC can prosecute only senior Khmer Rouge leaders and those that are determined to be most responsible for the crimes being tried (*Duch on Trial*, Week 2). Suspects cannot be tried for crimes that were committed outside of the time period that the Khmer Rouge was in power (*Duch on Trial*, Week 2). This tribunal is also extraordinary in the sense that it is the first international war crimes case to incorporate the direct participation of victims (O'Toole). Case 001 emerged in this unique context.

Duch was arrested under the court's second category, "those most responsible for serious crimes" (*Duch on Trial*, Week 1). His charges included crimes against humanity, war crimes, murder, and torture (*Duch on Trial*, Week 1). For Case 001 against Duch, the court successfully blended Cambodian and international staff. The prosecution team consisted of two co-prosecutors, one Cambodian and one international (Sokha and O'Toole). They presented possible sites of investigation and suspects to the co-investigating judges, also one Cambodian and one international (Sokha and O'Toole). These judges interviewed witnesses, investigated crime sites, and made decisions regarding indictments (Sokha and O'Toole). Civil parties, those that claimed to have suffered from the crimes being tried, actively participated in court (Sokha and O'Toole). The Trial Chamber was composed of five judges, three Cambodian and two international (Sokha and O'Toole). Appeals are to be handled by a Supreme Court Chamber consisting of four Cambodian judges and three international (Sokha and O'Toole).

After years of doubt that this trial would ever come to fruition, Case 001 began in February 2009 (Sokha and O'Toole). In over six months of hearings, a total of fifty-five witnesses testified before the court, including seventeen fact witnesses, nine expert witnesses, seven character witnesses, and twenty-two civil parties (Sokha and O'Toole). These participants included survivors of Tuol Sleng, former staff members, and family members of prisoners (Sokha and O'Toole). Many of these witnesses testified about the inner workings of Tuol Sleng, contributing significantly to knowledge about the prison (Sokha and O'Toole). This emotional and sometimes unpredictable case unsettled the nation for almost a year and a half.

Duch's Plea

Duch admitted his guilt before the inception of the tribunal. He admitted to being the head of S-21 and entered the trial with a plea of "guilty" (*Duch on Trial*, Week 1). Despite this plea and the fact that Duch would admit to many crimes throughout the course of the trial, there is no provision in place at the ECCC to accept this plea (Saliba and Nims). Therefore, the court was charged with the task of proving Duch's guilt on the alleged crimes (Saliba and Nims). On the second day of the trial, he was given the opportunity to address the court and the Cambodian people through live TV. His lengthy prepared speech admitted to his limited responsibility, expressed words of remorse, and pleaded for forgiveness:

As a Communist Party member, I acknowledge that I have mental responsibility for the Cambodian Communist Party's crimes. I wish to express my remorse for the deep suffering and my profound regret for every crime of the Cambodian Communist Party... I know that my killing human beings, particularly women and children, is a very grave crime that cannot be forgiven. Now I request this: please, I ask you to keep the door for

forgiveness open. I am always shocked when I remember my actions and the orders I gave to others – to kill many innocent people, including women and children. Although I was under order from Angkar, I am truly responsible for these crimes. I believe that people now regard me as a coward and an inhuman person. I accept this with honesty and respect. While at S-21, I regarded my life and the lives of my family members as more important than the lives of those people detained at S-21. At the time, I never dared to oppose orders from a superior, even orders to murder. It was a problem of life and death for myself and my family. As chief of S-21, I dared not think about any possibility beyond following a superior's orders, although I knew that enforcing the orders would lead to the deaths of thousands of people. Today, I have very deep regret, remorse, and shame. I know myself to be guilty to the nation and to all Cambodians and to my family, which also lost some members (*Duch on Trial*, Week 1).

Duch's opening statements are vague when closely examined. For example, the term "mental responsibility" is undefined. He also averts most of the responsibility to other entities such as the Cambodian Communist Party, Angkar, or his superiors. Dr. Meas Bora, a Cambodian professor of international law, claimed immediately to see through what he described as Duch's schemes (*Duch on Trial*, Week 1). Following the first week of the trial, Bora stated that he believed Duch's intent with his admissions and cooperation with the court to be ploys to request a light sentence (*Duch on Trial*, Week 1). Many would come to believe that that the tactics of the defense team were merely clever stratagems.

The Defense

Duch's two lawyers, Francois Roux and Kar Savuth, devised a defense strategy in which their client was well versed. The team would maintain this firm stance until the very end of the trial. The defense asserted that as head of S-21, Duch was merely carrying out orders and had no choice but to do so, as his own life and the safety of his family were at risk ("Duch Sentenced to 30 Years"). The defense also stressed that Duch was the only former Khmer Rouge cadre to confess to his crimes, accept responsibility, and express remorse ("Duch Sentenced to 30 Years"). In fact, the centerpieces of the defense's arguments throughout the trial were that Duch cooperated with the court and felt genuine remorse (Gillison and Bopha). The team also stressed that Duch was not among one of the fourteen most responsible leaders of the Khmer Rouge (*Duch on Trial*, Week 1). Savuth argued that Duch was being used as a scapegoat as none of the chiefs of the other 195 former prison camps had been indicted (*Duch on Trial*, Week 1). He argued that this decision contradicts Cambodia's Constitution and that Duch is being unfairly treated (*Duch on Trial*, Week 1). Their strategy was to prove that Duch was not the most responsible person, likely with the distant hope of Duch's acquittal, yet simultaneously emphasized mitigating factors including Duch's cooperation and remorse to secure a reduced sentence.

The Prosecution

The strategy of the prosecution team was straightforward. As Duch had already admitted to committing crimes at S-21, the team, composed of Chea Leang and Robert Petit, was tasked with proving that he was the person most responsible for these offenses. The prosecution also sought to determine the number and nature of the crimes he committed. Leang and Petit argued that Duch guided crimes at S-21 and also had a large role in defining the execution campaign in the regime as a whole, and thus was clearly the most responsible party for these crimes ("Duch

Sentenced to 30 Years”). They demanded a prison sentence of forty years (“Day of Reckoning”).

M-13

Duch was first questioned about M-13, the prison he ran before the Khmer Rouge took power in 1975 (*Duch on Trial*, Week 2). Since the court cannot prosecute crimes committed outside of the Khmer Rouge era, this information was gathered for use as a background to examine Tuol Sleng and to assess Duch’s character (*Duch on Trial*, Week 3).

Valuable background information was in fact gathered from these proceedings, and the source of many S-21 practices was unearthed. Duch admitted that here prisoners were interrogated and tortured; in fact M-13 was a place where “humanity was smashed” or killed (*Duch on Trial*, Week 3). Interrogators worked in groups which were termed cold, chewing, and hot, indicating various levels of torture (*Duch on Trial*, Week 3). Circumstances at M-13 were brutal, laying precedent for similar conditions at S-21.

Attempts to assess Duch’s character unearthed bone-chilling testimonies followed by Duch’s responses. One witness claimed that Duch enjoyed torture, that following these acts he would feel happy enough to laugh out loud (*Duch on Trial*, Week 3). Duch was feared at M-13 and no one dared to contradict him (*Duch on Trial*, Week 3). Witnesses described him as “meticulous” and that “he was strict and a workaholic. He meant business. Whatever he said he did, so everyone was scared of him” (*Duch on Trial*, Week 3). Duch then described how he tortured people, including tying prisoners to poles for days on end (*Duch on Trial*, Week 2). He admitted that prisoners from Lon Nol’s territory were deemed spies, although he knew this to be generally untrue (*Duch on Trial*, Week 2). He stated, “They were poor people who could not escape” (*Duch on Trial*, Week 2). However, the prosecution’s assertions and Duch’s responses

did not always line up. Duch fervently denied comparably minor details and dismissed witnesses whose testimonies he deemed “mixed up” (*Duch on Trial*, Week 3). He also justified his actions at M-13 by stating, “I did not ever believe that in order to survive I had any other choice other than following their orders. I have never contemplated any other means to avoid this. I knew my tasks were criminal, but I had to follow the orders I was given” (*Duch on Trial*, Week 2). Sam Oeun suggests that Duch’s denials endeavored to demonstrate that he did not have authority in his position at M-13, whereas the prosecution attempted to use these proceedings as an opportunity to prove that Duch was in fact allowed to make decisions in this post (*Duch on Trial*, Week 2). One character witness in particular was immensely helpful in illuminating Duch’s character at M-13.

Francois Bizot, a French anthropologist imprisoned in M-13, was brought to testify (*Duch on Trial*, Week 2). In his memoir *The Gate*, Bizot described Duch as “a man of principle,” as “one of those pure, fervent idealists who yearned above all for truth” (93, 85). Despite his supposed moral rectitude, Bizot also described Duch as a somewhat cruel man with a “morbid sense of humor” (92). Bizot explained his strange bond with the prison chief to the court, an understanding that likely saved his life (*Duch on Trial*, Week 2). He asserted that Duch was a person like any other person and not a monster (*Duch on Trial*, Week 2). He also explained the necessity of accepting Duch as a human being and not casting him off as an alien creature distinct from humanity (*Duch on Trial*, Week 2). Bizot stated:

To fully measure, appreciate the depth of horror one can only do this by fully understanding the humanity in a person. If we turn these people into monsters, a category apart from human beings with which we have no identification... then I think

there is no way we can have any kind of grasp of what they've perpetrated (*Duch on Trial*, Week 2).

He followed this with the statement that he certainly did not condone Duch's actions and that there was no place for forgiveness (*Duch on Trial*, Week 2). Duch dismissed Bizot's testimony in his response. He refused to acknowledge his former prisoner, explaining that these events happened long ago and that he could no longer remember (*Duch on Trial*, Week 2).

S-21

This trial provided much knowledge about S-21 that otherwise would probably never have been known. A list of over 300 facts relating to the charges was read aloud, 238 of which Duch either agreed to or did not dispute (*Duch on Trial*, Week 5). Although Duch helped confirm factual information, he continued to accept only limited responsibility.

Founding S-21

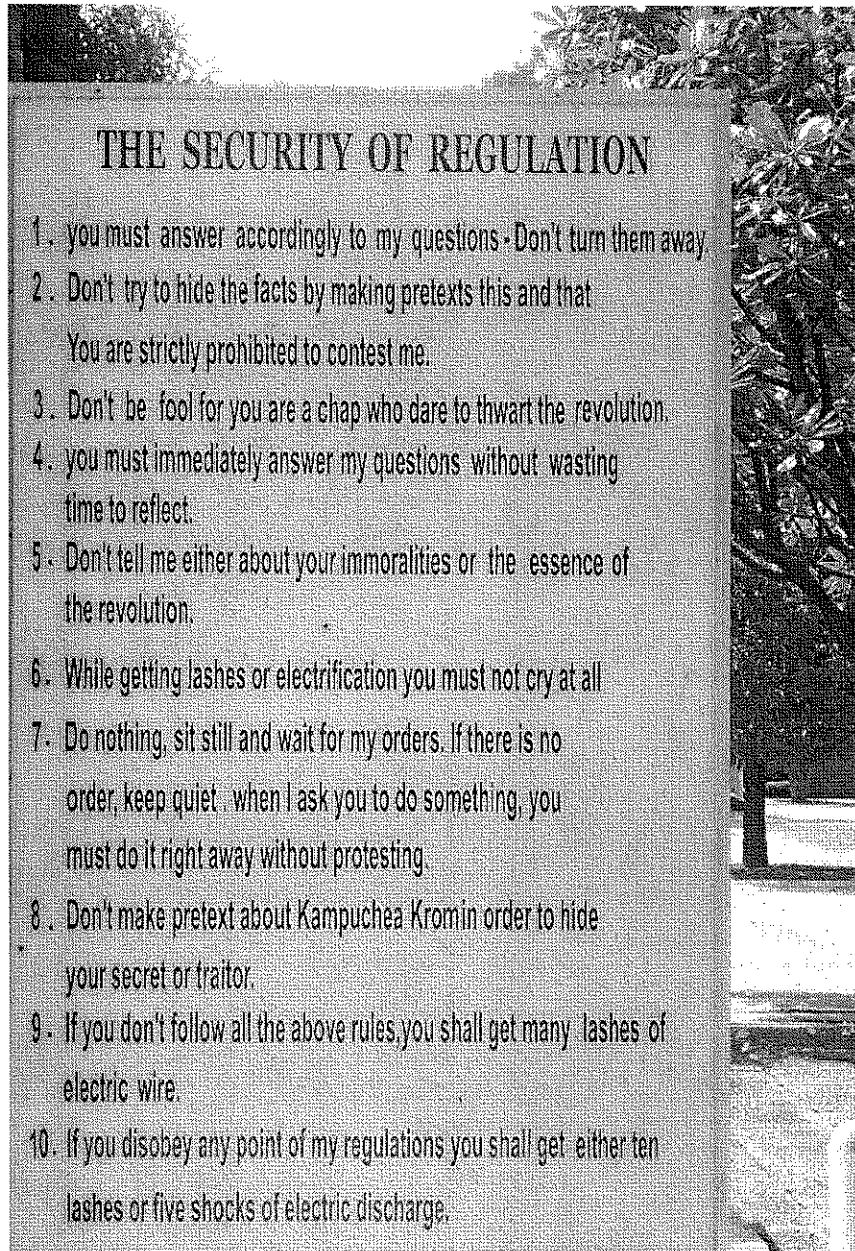
Son Sen, Duch's superior and head of the army of the communist party, initiated the start of S-21 along with Nuon Chea and Pol Pot (*Duch on Trial*, Week 3). Duch explained that Son Sen and Nuon Chea had to exclusively follow Pol Pot's orders in this matter (*Duch on Trial*, Week 3). Duch rejected having any role in forming the prison (*Duch on Trial*, Week 3). Sam Oeun believed this denial was a single example of Duch's larger defense strategy (*Duch on Trial*, Week 3). He described Duch's actions on trial as, "complete denials of responsibility, shifting blame from one to another, to people either not charged, or onto the dead" (*Duch on Trial*, Week 3). Unable to link Duch to the founding of S-21, the court moved on to discuss his position at the prison.

Duch was appointed prison head of S-21. He claimed that he did not want this job and asked to be transferred to the industrial section (*Duch on Trial*, Week 4). However, Son Sen refused him (*Duch on Trial*, Week 4). Duch explained that he had no choice in the matter, stating, “I had to find my own way of staying alive” (*Duch on Trial*, Week 4). In other words, Duch had to figure out how to beat the system in order to preserve his own life. Duch was undoubtedly granted this position due to the fact that he was very loyal to the party and therefore was very much trusted by the party leaders (*Duch on Trial*, Week 4). He admitted that he was proud of his position, power, and loyalty (*Duch on Trial*, Week 9).

Prison Policy

S-21 was unique among the Khmer Rouge prison camps. It was the only prison with the authority to torture and execute prisoners from anywhere in the nation (*Duch on Trial*, Week 6). The camp killed those that were “at the center of the DK and CPK apparatus,” high profile or important prisoners, especially Khmer Rouge soldiers accused of betraying the regime (*Duch on Trial*, Week 6). S-21 was a location to dig out these “maggots” in the “flesh” of Democratic Kampuchea (*Duch on Trial*, Week 6). One was delivered a death sentence upon arrest, even in the case of a mistaken apprehension (*Duch on Trial*, Week 4). No prisoner was allowed to leave S-21 alive (*Duch on Trial*, Week 1). Duch explained that S-21 activities were aimed at suppressing the oppressor class in a class struggle: those that supported the regime versus those that dissented (*Duch on Trial*, Week 5). Prisoners were viewed as enemies and thus were called “worms” or “microbes” (*Duch on Trial*, Week 7). Duch stated, “I did not consider them as human. They were the enemies and we were friends” (*Duch on Trial*, Week 7). Even the relatives of prisoners were classified as enemies (*Duch on Trial*, Week 7). All activities at S-21 were strategic methods to get prisoners to confess to their crimes against the state (*Duch on*

Trial, Week 8). The “Security of Regulation” sign that today hangs at S-21 demonstrates the terror of the prison’s policies in this attempt.



“The Security of Regulation” at Tuol Sleng Genocide Museum, Phnom Penh, Cambodia. July 2010. Personal photograph by author.

Duch's Role at S-21

It was imperative to determine Duch's precise role at S-21. His degree of authority and ability to make decisions would determine whether or not he could be found guilty. Duch was charged with "command" or "superior responsibility" at S-21 (*Duch on Trial*, Week 9). If Duch knew about crimes being committed by his subordinates and failed to stop these crimes or punish the perpetrators and if it can be shown that Duch had the power to allow people to live or die at S-21, then it can be shown that he was most responsible for the crimes at S-21 (*Duch on Trial*, Week 9).

Duch and his defense denied that he was more than just a manager at the prison and that he delegated all torture and executions to others (*Duch on Trial*, Week 9). He declared that he did what he needed to do in order to ensure the survival of himself and his family (*Duch on Trial*, Week 9). Duch admitted that the labor camp S-24 was under his control and that many of these prisoners were later delegated to either S-21 or Cheung Ek (*Duch on Trial*, Week 9). But he refused to acknowledge that he wrote the rules hanging at S-21, claiming that the Vietnamese placed this sign at the prison following the fall of the regime (*Duch on Trial*, Week 4). These statements and denials were never delivered directly, but always read from a prepared script (*Duch on Trial*, Week 9).

Experts and witnesses contended that Duch did in fact have superior responsibility at S-21. These parties argued that Duch developed and enforced the methodology used to search for enemies (*Duch on Trial*, Week 6). Dr. Etcheson, an expert on the Khmer Rouge, explained that the actions of individual Khmer Rouge cadres at lower levels, such as Duch's, greatly exacerbated the severity of the disaster (*Duch on Trial*, Week 6). While the leaders played a large role, Duch's creativity, inventiveness and zeal contributed to the magnitude (*Duch on Trial*, Week 6). In the words of an unknown author, "Duch's meticulous and rigid hand evolved into

an efficient killing machine” (“Duch Sentenced to 30 Years”). These assertions refuted Duch’s claims that he was not the most responsible and may proven detrimental to the defense.

Training

Duch explained that he first learned to torture during the Lon Nol regime and from the French (*Duch on Trial*, Week 4). He claimed that he was first an observer and later devised “proper interrogation methods” with help from Mao Tse Tung’s writings (*Duch on Trial*, Week 4). He used these theories to create his own experiments and applied their teachings to help him detach from situations (*Duch on Trial*, Week 4). For example, he utilized communist ideologies to help him view the S-21 facility as just an ordinary building (*Duch on Trial*, Week 4). Duch admitted that he took credulous youngsters and turned them into hardened torturers and guards, changing their entire nature and indoctrinating them with anger (*Duch on Trial*, Week 4). He explained that he viewed these youngsters as blank sheets of paper upon which he could write whatever he liked (*Duch on Trial*, Week 4). For example, he taught them to view prisoners as enemies (*Duch on Trial*, Week 7). However, Duch claimed only to have indoctrinated his staff. He contended that he did not need to teach his subordinates how to torture because they already knew these techniques (*Duch on Trial*, Week 8). But he refused to accept full responsibility for indoctrinating his staff, asserting that he too was indoctrinated at the time and that this is a common tactic of politicians (*Duch on Trial*, Week 4).

Arrest

One’s arrest was in effect a death sentence under the Khmer Rouge. Many people had no idea why they were arrested (*Duch on Trial*, Week 5). Some prisoners were apprehended for psychological crimes, such as mental disloyalty to the state or mental opposition to the regime (*Duch on Trial*, Week 5). Other crimes meriting execution included failing to work

enthusiastically for twelve to fourteen hours a day, seven days a week (*Duch on Trial*, Week 5). Entire families were arrested for the crimes of a single member (“Duch Sentenced to 30 Years”). Duch stated that he had no authority to order arrests or allow releases and did not understand the reasons behind anyone’s arrest (*Duch on Trial*, Week 7). He merely had to implement the decisions of his superiors (*Duch on Trial*, Week 7). He stated how he was even ordered to arrest, interrogate, and execute his own brother in law (*Duch on Trial*, Week 20).

Interrogation

Forced confessions were a key facet of S-21. Most prisoners were confused about what crimes they were expected to admit to (*Duch on Trial*, Week 5). But when arrests were ordered, confessions were generally desired in a certain direction (*Duch on Trial*, Week 5). Duch explained that interrogators wanted prisoners to confess that they were enemies of the state and to implicate others in their statements (*Duch on Trial*, Week 5). He quoted a phrase used by Ho Chi Minh, saying, “If one cuts the bamboo, one must trim the thorns,” to implicate that mass political arrests and forced implications were justified in this context of the regime (*Duch on Trial*, Week 5).

Duch next explained his role in the interrogations. He asserted that the confessions were related to a power struggle between Ta Mok and Pol Pot (*Duch on Trial*, Week 5). He merely took notes on the confessions and then sent them to Son Sen, who in turn decided whom to kill (*Duch on Trial*, Week 4). Duch admitted that his reports did have influence over the decisions of his superiors, and that members of his own staff, “cadres whose stares had waned,” were ordered to be smashed due to his reports (*Duch on Trial*, Week 4,6). He confessed that neither he nor his superiors believed most of these confessions (*Duch on Trial*, Week 8). However, he claimed that he had no choice in the matter because if he did not follow through or if he objected, then he

would be killed as well (*Duch on Trial*, Week 4). At this point in the trial, Duch abandoned his deferent demeanor, becoming irascible. He yelled at someone that interrupted him and laughed at what he assumed was a lawyer's ignorance (*Duch on Trial*, Week 4). The judge chastised his lack of propriety (*Duch on Trial*, Week 4). This spectacle may have altered Cambodian perceptions of Duch.

Torture

Torture was used to extract confessions. The process at S-21 was most likely more elaborate and abusive than at any other center under the Khmer Rouge (*Duch on Trial*, Week 6). The prison practiced a huge range of torture techniques, including beatings, whippings, suffocation, electrocution, burning, pulling out finger and toe nails, pouring salt on wounds, inflicting bites from poisonous insect, water torture, dislocating shoulders, draining prisoners of blood, forcing prisoners to eat their own excrement, and the use of live prisoners for surgical experiments and experimental drugs (*Duch on Trial*, Week 6,8). Duch claimed that he only allowed four types of torture and that his subordinates utilized additional forms against his will (*Duch on Trial*, Week 7). Duch then explained the three different degrees of torture. The "cold" group received no torture (*Duch on Trial*, Week 8). "Hot" prisoners were beaten immediately if no confession was extracted (*Duch on Trial*, Week 8). The "chewing" group needed more time to interrogate and thus was given long-term torture (*Duch on Trial*, Week 8). Duch ordered even more torture on those that weren't responding (*Duch on Trial*, Week 8).

Conditions at S-21

Conditions for prisoners at S-21 were brutal. When prisoners arrived they were immediately stripped to their underwear (*Duch on Trial*, Week 8). Then they were lined up in rows and shackled to the floor in the same place where they slept and relieved themselves (*Duch*

on Trial, Week 8). Prisoners received medical attention only so that they could survive long enough to confess to their supposed crimes (*Duch on Trial*, Week 8). “Showers” consisted of guards spraying the prisoners with a water hose (*Duch on Trial*, Week 8). Duch summarized by stating, “we treated them as if they were already dead” (*Duch on Trial*, Week 8).

Duch explained that he avoided getting close to the detainees (*Duch on Trial*, Week 8). He claimed that he never met them personally and did not visit S-21 so that he could hide his face, which was full of horror (*Duch on Trial*, Week 8). “I closed my eyes, closed my ears. I did not want to see the real situation,” he declared (*Duch on Trial*, Week 8). At this point Duch’s comportment changed. It appeared that he was tearing up while glancing around the room to gauge reactions (*Duch on Trial*, Week 8). However, he abruptly ended this emotional display (*Duch on Trial*, Week 8).

Execution

Death sentences were delivered casually at S-21 (*Duch on Trial*, Week 5). Duch claimed that he never killed anyone directly and did not make the decisions about whom to execute (*Duch on Trial*, Week 9). He received letters from his superiors with these orders (*Duch on Trial*, Week 6). Prisoners were occasionally retained for their skills (*Duch on Trial*, Week 1). However, they too were eventually executed (*Duch on Trial*, Week 1). Prisoners were transferred to Cheung Ek, a site that Duch admitted to selecting, where they were executed (*Duch on Trial*, Week 1,4). Many of these victims were children and infants (*Duch on Trial*, Week 1). An entire KR military division lost hundreds in S-21 (*Duch on Trial*, Week 6). Photographs had to be taken of each prisoner to prove he or she was dead and that their throat had been slit (*Duch on Trial*, Week 8). The true number of victims claimed by S-21 will never be known due to the nature of these systematic mass killings (*Duch on Trial*, Week 1).

Infant and child murders were a common occurrence at S-21. Duch confessed that he ordered children that were brought in with their parents to be killed to prevent their later revenge (*Duch on Trial*, Week 7). He ordered the execution of 160 children in a single day in 1977 (“Duch Sentenced to 30 Years”). It was reported that babies were “smashed” against trees and thrown from the second story of the building (*Duch on Trial*, Week 7). Duch claimed that he did not know that this occurred and that his subordinates must be responsible (*Duch on Trial*, Week 7). He contested the assertion that babies were thrown from the second floor, claiming that his staff dared not kill someone and let the other prisoners see it (*Duch on Trial*, Week 7). Duch stated that he acknowledged and accepted full responsibility for killing children (*Duch on Trial*, Week 7). However, he indicated that others were responsible for these crimes as well (*Duch on Trial*, Week 7).

Systematic mass slaughters of the Vietnamese were also commonplace at S-21. On one occasion, 345 Vietnamese soldiers were detained, forced to confess that they were spies, tell lies about their own country, forced to pay homage to Cambodia, and then slaughtered (*Duch on Trial*, Week 7). Duch denied that he was aware that the Khmer Rouge perceived the extermination of the Vietnamese as a solution to the war (*Duch on Trial*, Week 7).

Duch was apologetic in response to the facts that came to light in this part of the trial. He declared, “I will not just let my remorse fade away. I will always remember it. I always say that the wrong decision made in one minute will lead to sorrow and remorse for one’s entire life” (*Duch on Trial*, Week 7). Duch acknowledged that sending prisoners to Cheung Ek was wrong and stated, “I still ask for forgiveness from my parents, from my teachers, from the victims of my crimes” (*Duch on Trial*, Week 9). Sam Oeun believed that this was another strategy to deceive the judges (*Duch on Trial*, Week 7). Later Duch made an interesting and candid remark. He

stated, “I cannot use a bucket to hide a dead elephant,” to indicate that there is no point in contesting well-established facts (*Duch on Trial*, Week 7). This assertion that may lend support to Sam Oeun’s theory

Revisiting S-21

Duch revisited Tuol Sleng in 2008, nearly thirty years after the fall of Democratic Kampuchea (*Duch on Trial*, Week 9). He broke down into tears during the visit (*Duch on Trial*, Week 9). During the trial he recounted this emotional experience. He explained, “I was so shocked and moved. And I stood before the victims being moved by what happened. I made a speech for the souls of those who died. This is something I can never forget” (*Duch on Trial*, Week 9). Further information about Duch’s position, crimes, and character was illuminated through testimonies.

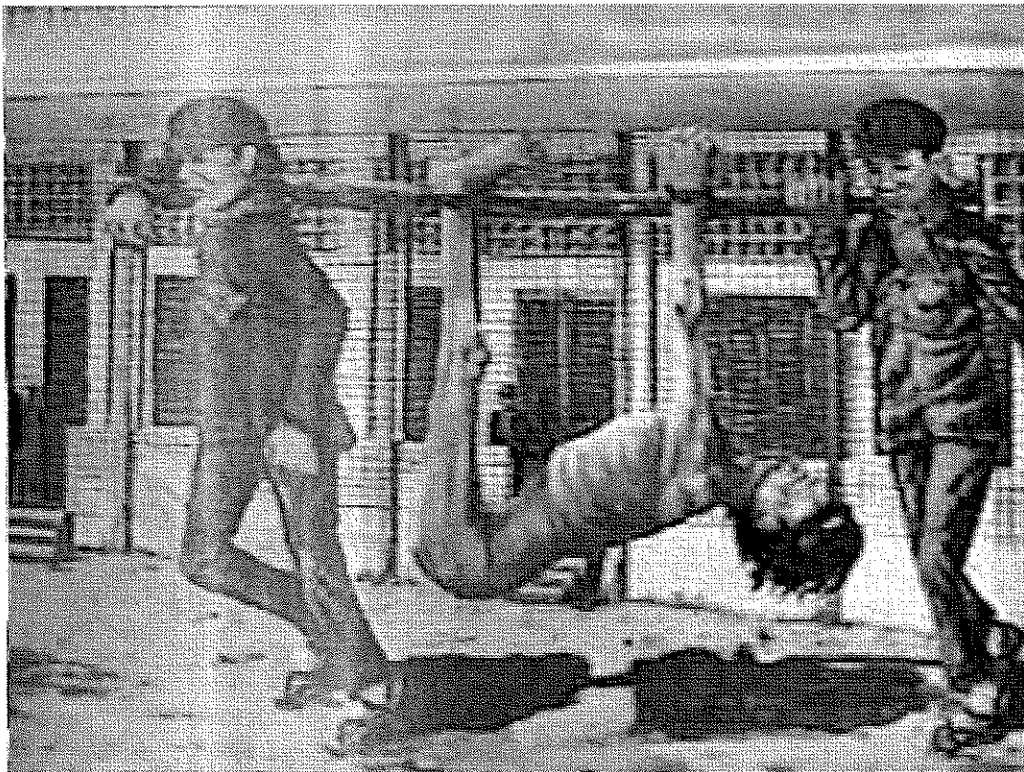
Testimonies

One of the most intriguing and revealing aspects of the trial was the testimonies. These included nine expert witnesses, seventeen fact witnesses, seven character witnesses, and twenty-two civil parties (*Duch on Trial*, Week 20). Testimonies were proffered by S-21 survivors, former S-21 staff, direct and indirect victims or civil parties, expert witnesses, and character witnesses. These testimonies unearthed information on Duch, his character and personality, and the impact that his prison has inflicted on the lives of survivors, all factors that would impact the judgment.

S-21 Survivors

Four S-21 survivors first took the stand, bravely sharing their harrowing stories. Vann Nath survived S-21 due to his ability to paint portraits of Pol Pot while monitored by Duch (*Duch on Trial*, Week 10). After his escape he continued to paint, but instead employed his craft

to depict brutalities under the regime. In his court testimony he explained the context of one of his most disconcerting paintings. While imprisoned at S-21, Vann watched as a prisoner who was too weak to walk was strung up to a pole by his hands and feet and carried outside by teenage soldiers (*Duch on Trial*, Week 10). Vann assumed that this prisoner was already dead until he turned his head and spoke aloud (*Duch on Trial*, Week 10). The painting today hangs at Tuol Sleng Genocide Museum as a constant visual reminder of the site's past atrocities. Vann is still haunted by his experiences and explained what he desired from the court: "What I want is something intangible, that is justice for those who already died; justice yet to be done...I hope that at the end, justice will be tangible, and that it can be seen by everybody" (*Duch on Trial*, Week 10). As he spoke, his composed yet sullen countenance bore traces of the horrors that he experienced decades ago.



Nath, Vann. Untitled. Tuol Sleng Genocide Museum, Phnom Penh, Cambodia. "Vann Nath!" *Penetrating Insights*. 7 Sept. 2008. Web. 9 April 2011.

S-21 survivor Chum Mey next came to the stand. He explained how he was brutally tortured twice a day for twelve straight days (*Duch on Trial*, Week 10). He was electrocuted and his toenails were pried out (*Duch on Trial*, Week 10). Visibly upset, Chum stated that he was happy and relieved when offered the opportunity to share his testimony in front of the court (*Duch on Trial*, Week 10). He directly addressed Duch, asking why he was accused of being part of the CIA. Duch explained that in those times being part of the CIA merely meant being opposed to the regime (*Duch on Trial*, Week 10).

The third survivor, Bou Meng, also survived S-21 due to his artistic talents. He painted portraits of Pol Pot under Duch's watchful eye ("Day of Reckoning"). He asserted that Duch directly ordered him and another prisoner to beat each other (*Duch on Trial*, Week 10). Today he continues to suffer from health problems incurred by these beatings, as well as from the loss of his wife under the regime (*Duch on Trial*, Week 10). In response to Bou, Duch stated, "Please accept the highest assurance of my regard and respect toward the soul of your wife" (*Duch on Trial*, Week 10). He then claimed that he was "emotionally responsible for all of these crimes" (*Duch on Trial*, Week 10). And finally:

I beg the court to judge me on my actions as head of S-21. I don't want the blame to fall on my subordinates. I have already prayed for the souls of the dead people to rest in peace. I'm not saying this to evade the responsibility for my crimes. But I want to reveal my frankness (*Duch on Trial*, Week 10).

Finally, Nong Chan Phal took the stand. Nong stated that he was nine years old when he was imprisoned in Tuol Sleng (*Duch on Trial*, Week 10). However, Duch vehemently denied that this was possible and refused to acknowledge Nong as an S-21 survivor (*Duch on Trial*,

Week 10). Sam Oeun explained why Duch may have reacted in this manner. He may have felt that Nong's testimony would affect his case, and therefore he denied that Nong was ever imprisoned at S-21 (*Duch on Trial*, Week 10). In an interesting turn of events, documentation was found verifying that Nong was in fact imprisoned in S-21 (*Duch on Trial*, Week 11). Duch in turn apologized and asked for his forgiveness (*Duch on Trial*, Week 11). However, Nong was only the first of several witnesses to be refused by Duch.

The nature of the witness and testimony process creates a climate that can be utilized by the defense. Witnesses must first tell their stories to the judges, who then determine if their stories are relevant to the charges (*Duch on Trial*, Week 3). Selected witnesses then recount these stories in front of the court (*Duch on Trial*, Week 3). This is problematic because witnesses are remembering events from more than 30 years ago, and memories distort with time (*Duch on Trial*, Week 3). This is exacerbated by the fact that these witnesses are oftentimes uneducated (*Duch on Trial*, Week 3). Inconsistent or dubious testimonies can be claimed as unreliable sources by the defense (*Duch on Trial*, Week 3).

Former S-21 Staff

Former staff members at S-21 next took the stand. The first of these was Mam Nay, a former guard at the prison (*Duch on Trial*, Week 12). Mam calmly claimed that he knew of no torture at S-21 and that the prisoners were kept in good condition (*Duch on Trial*, Week 12). But Mam's denials provoked an unexpected response from Duch. He stood to angrily chastise his former employee, imploring, "Please don't be afraid to die, please tell the truth. So there you go. Don't even try to do this. I believe that I am ready to accept and to be accountable for all the crimes I committed. I want you to do likewise" (*Duch on Trial*, Week 12). As Duch delivered his tirade, Mam cowered in his seat, averting his eyes from his former boss, and began to tear up

(*Duch on Trial*, Week 12). He then tearfully apologized and expressed his remorse (*Duch on Trial*, Week 12). Sam Oeun explained that Duch's unexpected tirade may have been an attempt to persuade the judges of his trustworthiness (*Duch on Trial*, Week 12). It is also possible that Duch knew that Mam had no information to further incriminate him, so he was free to speak out (*Duch on Trial*, Week 12). Regardless of his motives, Duch's fierce authority and ability to invoke fear in others was readily apparent.

Other former staff members brought incriminating evidence against Duch. A second former guard claimed to have seen Duch at Cheung Ek on two occasions (*Duch on Trial*, Week 12). He claimed that Duch would stay at the killing fields until all had been executed (*Duch on Trial*, Week 12). This statement contradicted Duch's prior assertions that he was not involved in the executions in any way (*Duch on Trial*, Week 12). Former guard Prak Khan claimed that Duch himself taught him torture techniques and that no one was allowed to participate in torture until instructed by Duch (*Duch on Trial*, Week 13). But Duch was quick to retaliate against Prak, poking holes in his testimony as the witness cowered and averted his eyes (*Duch on Trial*, Week 13). It was apparent that Duch intimidates many even today. But witnesses rose above their fear to demonstrate that Duch did in fact have significant power and the authority to make decisions at S-21 (*Duch on Trial*, Week 13).

Duch's responses to these incriminating testimonies were remarkably varied. He fervidly denied that several witnesses ever worked at S-21 and also denied that certain reported events ever happened (*Duch on Trial*, Week 14). One witness reported that four westerners were imprisoned in S-21 and that one was burnt alive (*Duch on Trial*, Week 15). Duch rejected this assertion, stating that this could not have happened as it directly contradicted his orders (*Duch on Trial*, Week 15). Yet he commended other witnesses, even lauded the honesty of one (*Duch on*

Trial, Week 14). Sam Oeun offered his opinion on Duch's seemingly erratic behavior. He explained that Duch could not refute every witness, as he would lose credibility in front of the judges (*Duch on Trial*, Week 14). He did not pick fights over dead evidence, as there was no point in this (14). But he did contest live evidence (*Duch on Trial*, Week 14). He also berated certain witnesses with confused testimonies to demonstrate that the prosecution lacked quality (*Duch on Trial*, Week 14). Yet he praised lucid witnesses, likely to gain favor in the eyes of the judges (*Duch on Trial*, Week 14).

The testimonies by the former S-21 undermined Duch's defense (*Duch on Trial*, Week 16). It became apparent that Duch was not merely following orders at S-21, but did in fact have the authority to make decisions at the prison (*Duch on Trial*, Week 16). Yet Duch adhered to his original defense, accepting limited responsibility for 'mental' crimes such as political indoctrination (*Duch on Trial*, Week 16).

These testimonies prompted a controversial turn of events at the trial. In response to these incriminating statements, the defense attempted to cut back on victim participation (*Duch on Trial*, Week 18). Duch's lawyers claimed that many witnesses did not have enough evidence to prove that they were direct victims of S-21 (*Duch on Trial*, Week 18). As a result, the court decided that character witnesses would no longer be allowed to question the accused (*Duch on Trial*, Week 19). Therefore, civil parties were banned from responding or questioning testimonies given by character witnesses (*Duch on Trial*, Week 19). In response, twenty-eight civil parties, including Bou Meng and Chum Mey, boycotted a week of hearings (*Duch on Trial*, Week 19). These two S-21 survivors expressed that they felt that their rights were being violated and that they were being victimized by the court (*Duch on Trial*, Week 19). Despite this hiccup, the trial proceeded.

Civil Parties

Wrenching testimonies ensued and civil parties directly confronted Duch. One witness asked the accused if his acceptance of emotional responsibility can heal the wounds of victims (*Duch on Trial*, Week 17). Duch responded by saying “I will exhaust my capacity to be responsible for all the dead souls who perished at S-21” (*Duch on Trial*, Week 17). Despairing witness Robert Hamill of New Zealand lost his brother to S-21 and his family disintegrated in the wake of the loss (*Duch on Trial*, Week 17). While on the stand Hamill told Duch, “to me, what you did removes you from the ranks of being human” (*Duch on Trial*, Week 17). Duch replied by stating that Hamill’s suffering is a symbol of the suffering of Cambodians (*Duch on Trial*, Week 17). According to Sam Oeun, this retort essentially served to undermine and minimize the witness’s suffering (*Duch on Trial*, Week 17). However, Duch’s responses to grieving witnesses varied.

Duch’s reply to the witness Bou Thon was markedly different. Bou was imprisoned along with her husband and children in the labor camp S-24, also under Duch’s control. The accused responded to her statements:

The testimony of Bou Thon is a result of her bravery in speaking the truth. It is also derived from the many years of pain and suffering inflicted upon her. Amongst the millions of Cambodians who lost husbands and wives during the regime, I accept their regret their sorrow, and their suffering. The tears that are now flowing from my eyes are tears for the innocent. I respect the stance, the suffering of those people. I want to be close to the Cambodian people. I do not resent them. They may condemn me with any kind of punishment of the highest possible level. If there is an ancient Cambodian tradition or if they want to stone me to death, as they did when Christ was with us, the

Cambodian people can do so and I will accept it. My life, just one life, cannot compare with the lives that were lost during that period. I accept all the mistakes, all the offences before the chamber and before the witness (*Duch on Trial*, Week 16).

Judge Nil Nonn, President of the Trial Chamber, warned Duch that by lauding Bou he was only heightening her suffering (Gillison and Bopha). According to Sam Oeun, this occurrence demonstrates that Duch seems to have realized that his participation may play a role in individual and national reconciliation (*Duch on Trial*, Week 16). However, he delivered these professedly emotional words with a stoic expression. This speech starkly contrasted with Duch's next exchange.

Duch offered a surprising reaction to the testimonies of the Phung family. Professor Phung Ton was a university law dean under the Lon Nol regime, a former teacher to both Duch and Mam Nay, and a victim of S-21 (*Duch on Trial*, Week 17). Both his wife and daughter, Sunthary, shared their testimonies with the court. Duch did not intimidate confident Sunthary and her fury was apparent as she addressed the accused directly (*Duch on Trial*, Week 17). Duch's response to Sunthary stands apart. He addressed her in a low, unrehearsed voice, and uncharacteristically fidgeted as he spoke (*Duch on Trial*, Week 17). However, he still averted responsibility, swearing that he did not know that his former mentor was ever in S-21 (*Duch on Trial*, Week 17). Duch's responses were further contextualized by subsequent witnesses.

Expert Witnesses

Two psychologists took the stand to testify on Duch's psychological state. They spent more than forty hours interviewing and assessing Duch before the trial (*Duch on Trial*, Week 19). These psychologists concluded that Duch did not have a psychological disorder, but did show a marked absence of guilt for his crimes (*Duch on Trial*, Week 19). They identified three

different events in his life that oriented him toward Marxism: the theft of his bicycle, which prevented him from attending classes, the arrest of ten close friends, and a romantic let down (*Duch on Trial*, Week 19). They also identified several of his personality traits, including the need to be recognized by his superiors and the need to belong to a group (*Duch on Trial*, Week 19). Duch responded by stating, "I want to be an ordinary person" (*Duch on Trial*, Week 19).

Character Witnesses

A highlight of the trial was the testimony offered by character witness and renowned scholar, David Chandler. Chandler spent years studying S-21 and shared the interesting conclusions and poignant insight gleaned from his studies. He stated that S-21 was established after it became evident that there were traitors within the regime, necessitating facilities to produce clear information for the leadership (*Duch on Trial*, Week 15). Chandler claimed that Duch was enthusiastic and proud in his position (Nhean and Cryder). He was a perfectionist in everything he pursued and he applied this same zeal to his position as head of S-21 (Nhean and Cryder). Duch developed a system of prison management and constantly strove to improve upon this system at S-21 (Nhean and Cryder). When questioned about the assertion that Duch was essentially a hostage of the regime, Chandler noted that Duch's regret only emerged in the last six months of his term as head of S-21, and this regret did not prompt him to desert the regime until after the 1980's (Nhean and Cryder). These statements poked serious holes in Duch's claims, demonstrating that Duch had significant power and influence at S-21, that he had the power to make decisions, and that he was responsible for his own work (*Duch on Trial*, Week 15). Despite his blow to the defense, Chandler praised Duch. He stated, "I was extremely moved and impressed by his admission of responsibility. This seems to me pretty close to unique for surviving members of that administration" (*Duch on Trial*, Week 15). He also

condemned vilification of the accused, stating that, “our capacity to commit evil is greater than our capacity to commit good” (*Duch on Trial*, Week 15). He compared the crimes committed at S-21 to those committed during the Holocaust, claiming that the most terrifying aspect of these tragedies is that we as human beings can enact these crimes on others (Nhean and Cryder). His strategic use of the word “we” lumps Duch with rest of humanity, an inclusion that others have rejected in their quests to demonize Duch.

Several witnesses that knew Duch through academia offered dramatically different testimonies regarding his character. Sou Sath, Duch’s former classmate, said that he “was a person of good character- loyal, kind, and generous,” that he was an excellent student and was respectful toward his teachers, a “humble and docile person” (*Duch on Trial*, Week 19). Several of Duch’s former students also took the stand, expressing similar sentiments. He was lauded as an excellent and popular teacher, a simple and respectful person who urged his students to be kind and helpful to one another, and that he even taught poor students for free (*Duch on Trial*, Week 19). Two of Duch’s superiors from Svat Chek high school echoed these comments (*Duch on Trial*, Week 19). They described him as generous, gentle, quiet, kind, friendly, that he had an excellence performance record and good relations with both students and staff (*Duch on Trial*, Week 19). He was adored by students, who called him “grandfather” out of veneration (*Duch on Trial*, Week 19). These witnesses expressed that were shocked when they learned of Duch’s former position at S-21 (*Duch on Trial*, Week 19).

Finally, Duch was called to testify on his own character (*Duch on Trial*, Week 19). He claimed that he used his “perfect” teachings skills for negative means at S-21 where he indoctrinated guards (*Duch on Trial*, Week 19). He explained that he converted to Christianity because the religion promotes equality and camaraderie (*Duch on Trial*, Week 19). He also

converted so that his children could have a safe home within the Christian church (*Duch on Trial*, Week 19). But Duch's current religious affiliations would prove irrelevant.

Duch's mood and character appear to have changed throughout his lifetime, an oscillation that is reflected in the varying statements by character witnesses (*Duch on Trial*, Week 19). But only Duch's motives and intentions while head of S-21 will be taken into account in the sentence (*Duch on Trial*, Week 19). Sam Oeun believes that Khmer Rouge training profoundly impacted Duch, essentially brain washing him (*Duch on Trial*, Week 19). But Duch has expressed that he was fully aware of what he was doing as head of S-21 and that he craved acceptance (*Duch on Trial*, Week 19). This likely undermined his defense and impacted his sentencing (*Duch on Trial*, Week 19).

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The final testimony in effect marked the completion of the hearing. Both the prosecution and defense made their closing statements to the court. Roux's statement was especially bizarre. He asked Duch in front of the court if he would allow victims to visit him in prison (*Duch on Trial*, Week 20). After a bit of prompting by Roux, Duch responded "as long as you are a victim, my door is always open to you" (*Duch on Trial*, Week 20). Sam Oeun explained this odd exchange. He stated that there are two reasons for victims to visit Duch in prison: to hear his apology directly or to express their anger to his face (*Duch on Trial*, Week 20). He expressed doubt that this offer would be accepted because it was prompted by Roux and did not originate with Duch (*Duch on Trial*, Week 20). However, if the judges believed that Duch was sincere in this statement, they may have adjusted his sentence accordingly (*Duch on Trial*, Week 20). Only the verdict would tell.

Leading up to the verdict

Closing Arguments

After seventy-two days of evidence, the court retired for two months to allow for preparation of closing statements (*Duch on Trial*, Week 21). These closing arguments were expected to be predictable and merely a formality. But when the court resumed in November, the defense delivered a truly shocking demand.

The prosecution's statements were again straightforward. The team maintained that Duch was most responsible for crimes committed at S-21 and asserted that he "was totally indifferent to the sufferings of victims, the perfect candidate to run S-21" (*Duch on Trial*, Week 21). Leang and Petit stressed that nothing short of a lengthy prison sentence would be appropriate (*Duch on Trial*, Week 21). They acknowledged that Duch should receive a reduced sentence due to mitigating factors and thus should have a life sentence converted to a fixed term of forty-five years (*Duch on Trial*, Week 21). Five more years were then subtracted to account for his cooperation with the court, expressions of remorse, and to allow for the possibility of national reconciliation (*Duch on Trial*, Week 21).

The defense's closing statements began as anyone could predict. Duch spent the majority of his time delivering a dry speech about Khmer Rouge politics, culminating with a reiterated statement of his remorse (*Duch on Trial*, Week 21). (*Duch on Trial*, Week 21). Then Kar Savuth took the stand. In an impassioned display of anger and emotion, Savuth again asserted that Duch was not a senior Khmer Rouge leader, that he was a scapegoat, and that he did not have the authority to make decisions at S-21, transferring the blame to the vague entity of "the party" (*Duch on Trial*, Week 21). Finally, Savuth demanded that Duch be acquitted, stating that the ECCC should not have the power to place Duch on trial (*Duch on Trial*, Week 21). This mandate stupefied the audience. It was then Roux's turn to deliver his statement. As he began to

speak, it was evident that the defense team was not united in its stance (*Duch on Trial*, Week 21). He directly contradicted both Duch and Savuth, stating that one cannot plead guilty and then seek an acquittal, which would mean that the defendant is not guilty (*Duch on Trial*, Week 21). Yet Roux upheld that Duch was being treated as a scapegoat, chastising the court by saying “As long as you focus on this man as a scapegoat, you will not advance so much as a millimeter the development of humanity” (*Duch on Trial*, Week 21). Duch himself then demanded to be released, citing his prior detainment and cooperation with the court as his reasoning (*Duch on Trial*, Week 21). The defense as a whole maintained that Duch was not most responsible for the crimes committed at S-21 (*Duch on Trial*, Week 21).

Nic Dunlop, the photojournalist that discovered Duch in the 1990’s, offered his reactions to this surprise. He stated, “It was completely inconsistent, so I began to wonder about the degree to which [Duch] understood the world around him and what was going on... He looked absurd, and everyone was left sort of a bit speechless” (Strangio and Titthara). Dunlop also suggested the likelihood of direct political interference (Strangio and Titthara). But the true rationale behind Duch’s unexpected change of stance will likely remain a mystery.

Duch was clearly committed to his new position. On July 9th 2010 the court announced that Duch had dismissed his international lawyer Francois Roux (Sokha and O’Toole). Duch stated that he dismissed his French lawyer because he had lost confidence in his ability to represent him, asserting that Kar Savuth spoke for him (Gillison). This decision clearly hinted at a plan to appeal (Sokha and O’Toole). Then, just one week before the verdict was to be announced, Kar Savuth appeared on television to announce the following: “if they sentence my client, not just to twenty or thirty years, but even to a day, I will appeal” (Gillison and Bopha). Given Duch’s initial guilty plea and the vast amount of evidence against him, it has been largely

assumed that he would be charged as guilty. Thus, this statement was essentially a commitment to appeal.

Buddhist Ceremony

On July 25th 2010, on the eve of the verdict, a Buddhist ceremony was held to commemorate the victims of S-21 (Gillison and Bopha). Civil parties and families gathered in the courtyard of S-21 to light incense and lay lotus flower in honor of those lost (Saliba and Nims). Orange-clad monks then led group prayers to be relayed to the souls of the victims (Saliba and Nims). These ceremonies are traditionally held in the homes of the deceased or at their burial sites (Saliba and Nims). Unfortunately, the bodies of many of the victims have never been recovered (Saliba and Nims). Attendees expressed their anger, but also expressed hope that the following day would bring justice (Saliba and Nims).

Verdict

Thousands turned out for the reading of the verdict against Duch. Those that didn't fit inside the public gallery surrounded the courthouse and watched the judgment on viewing screens. Proceedings lasted only 70 minutes, and all the while Duch casually reposed in his chair, sipping from a glass of water (Wallace and Naren). As the judgment was read aloud, Duch stood, wearing a blank and emotionless expression (Wallace and Naren). Following the sentencing, Duch briefly bowed to the judges and then left the courtroom to again be sequestered in the detention center (Sokha and O'Toole).

Duch was found guilty on July 26, 2010 ("Duch Sentenced to 30 Years"). This decision was unanimous (Wallace and Naren). He was found guilty of crimes against humanity, of persecution on political grounds, murder, torture, enslavement, one instance of rape, inhumane treatment, willfully causing great suffering and injury, depriving civilians and prisoners of war of

the right to a fair trial, and the unlawful confinement of civilians (Saliba and Nims). This verdict is monumental and historic as it marks the first time that a former Khmer Rouge cadre has been held to account for his crimes in an internationally backed court (“Duch Sentenced to 30 Years”).

It is not surprising that Duch was found guilty. However, the sentence proved extremely controversial. Duch faced a minimum of five years in prison and a maximum of life in prison, as the death penalty was abolished after the fall of the Khmer Rouge (Sokha and O’Toole). Tuol Sleng survivors Bou Meng and Chum Mey, amongst many others, hoped for a life sentence (Sokha). Prosecutors demanded a reduced sentence of 40 years, which would still essentially be a life sentence for sixty-seven year old Duch (“Day of Reckoning”). However, these pleas would be dismissed. Duch was sentenced to 35 years in prison (“Duch Sentenced to 30 Years”). But this sentence was immediately reduced by five years due to unlawful detainment following his 1999 arrest (“Duch Sentenced to 30 Years”). Eleven more years were then taken off due to his time held before the trial (“Duch Sentenced to 30 Years”). In effect, Duch has been sentenced to 19 years in prison (“Duch Sentenced to 30 Years”). It is likely that his last-minute change of plea, which undermined his defense, cost him a few extra years (O’Toole and Sokha). However, this sentence may be shortened still. Under Cambodian law, prisoners are eligible for parole after two-thirds of their sentence has been served (Wallace and Naren). Although the fact of whether or not Duch will be eligible for parole has not been definitively decided, there is a possibility that in twelve years Duch will walk away a free man (Wallace and Naren).

Needless to say, this sentence is immensely controversial. The sentence for one murder in Cambodia is fifteen to twenty years (Wallace and Naren). Recently, a schoolteacher that tortured an eleven year old was sentenced to twenty years in prison (McGilligan and Sokhorng). A woman found in possession of heroin was also sentenced to twenty years (McGilligan and

Sokhorng). In comparison, Duch has been found responsible for the torture of at least 14,000 victims and in one day ordered the deaths of 160 children (McGilligan and Sokhorng).

Prosecutors asked for a sentence of forty years, which would put Duch in prison for 1.04 days for each of his estimated 14,000 victims (Gillison and Bopha). But with a sentence of just nineteen years, Duch will spend merely eleven hours in prison for each of his victims (Saliba and Nims).

In the words of Gillison and Bopha, “What value does spending a day in jail [or mere hours] for a murder put on human dignity?” Anne Heindel, a legal advisor to the Documentation Center of Cambodia, comments on the verdict: “Considering the number of people involved and his high level of responsibility, the fact that this was the long-term, methodical execution of over 13,000 people, it does seem low. At this point he gets what he wants, which is to walk free when he’s around 80” (Wallace and Naren). She states that this sentence is a victory for Duch and his defense (Wallace and Naren).

Many were outraged by what they perceived to be an unjust sentence. But when the restrictions and obligations of the court are taken into account, the sentence makes more sense and may help to alleviate a bit of anger. Although there was quite a bit of evidence against Duch, the court was limited in what it could definitively prove. For example, there was not enough evidence to rule that Duch personally committed torture (Wallace and Naren). The judges were also limited by the fact that they could not reach a consensus about whether or not the statutes of the 1956 Cambodian penal code had expired or not (Saliba and Nims). Thus, they could not prosecute crimes that fell under this code (Saliba and Nims). Although Duch admitted to many of these crimes, the ECCC does not have provisions in place to prosecute based on a plea of guilt (Saliba and Nims). Mitigating factors had a huge role in effecting the reduction of the sentence (Sokha and O’Toole). These factors included Duch’s cooperation with the court,

his admission of responsibility, his potential for rehabilitation, his limited expressions of remorse, and the coercive environment that existed under the Khmer Rouge (Sokha and O'Toole). It is actually quite common for judges in international criminal courts to reduce sentences for such attenuating circumstances (Gillison and Bopha). Richard Rogers, head of the Defense Support Section at the Khmer Rouge Tribunal explains why judges have good reason to be more lenient. Such crimes are generally committed by many people and oftentimes involve state machinery so that "the culpability of each individual act is seen to be less" (Gillison and Bopha). In addition, judges are obligated to accept other factors, such as the fact that Duch was unlawfully detained for eleven years (Gillison and Bopha). Despite these limitations, the court's judgment was not ineffectual.

The court reached several powerful conclusions. Despite the fact that the court could not find Duch guilty of personally committing torture, it was ruled that he still bore criminal responsibility for these crimes due to the legal doctrine of joint criminal enterprise (Wallace and Naren). The court also acknowledged that Duch had played an instrumental role in creating and developing a prison system that propagated torture and other inhuman acts, and thus he was deemed responsible (Wallace and Naren). Saliba and Nims phrase this allegation well: "Duch had zealously worked within and presided over a system of terror with the intent to further the criminal purpose of the enterprise." Duch was found to have superior liability for crimes committed at S-21 (Saliba and Nims). The court dismissed his claim that he was merely following orders, as this is not a valid assertion when international crimes are committed, a precedent set by previous war crimes tribunals (Scheffer). The court also rejected Duch's argument that he committed crimes under duress, as evidence shows that Duch willingly and enthusiastically completed his term as head of S-21 (Scheffer). In addition, the completion of

the trial itself marks success. Deputy co-prosecutor William Smith stressed the importance of the fact that this long-awaited trial, which many doubted would ever actually happen, had finally come to a close and that it met international standards of justice (Wallace and Naren). However, the judgment's ruling on reparations incited criticism.

Reparations

Victims were not only waiting to hear the verdict and sentence against Duch on July 26th, they were also awaiting the ruling regarding reparations for civil parties (O'Toole). The reparations requests made by civil parties were varied and numerous and ranged from monetary reparations, free health care for life, a national commemoration day for victims, the construction of memorials, a request for civil party names to be included in the final judgment, and the compilation and publication of Duch's apologies (Wallace and Naren, O' Toole). But the court granted only the last two requests (O' Toole). This is due to the fact that Duch must bear the cost of the reparations, and he is destitute (O'Toole). Civil party lawyer Karim Khan states that these reparations are "really the most minimal, most conservative, and perhaps it's fair to say unimaginative that could have been ordered" (O'Toole). In addition, twenty-four civil parties were denied reparations entirely, despite the fact that they had been involved in the court proceedings throughout the trial (O'Toole). The court stated that these civil parties were rejected due to the fact that they could not prove their ties to people that suffered in S-21 (O' Toole). Civil parties, including many villagers, filed the application forms, travelled to Phnom Penh, endured nine months of trials, and only then discovered that they were not recognized as civil parties by the court (Gillison). Karim Khan states, "It's as if the court late in the day is rejecting their loss and their tragedy" (Gillison). Many were immensely displeased by both the exclusion of civil parties and the reparations themselves (Wallace and Naren). Fortunately it has been

determined that in future cases civil party validity will be determined before the start of the trial (O'Toole).

Appeal

Both the prosecution and defense have filed for an appeal (Montgomery). The Co-Prosecutors stated in their appeal that the Trial Chamber committed “a discernible error in the exercise of their discretion” by not giving enough weight to the gravity of Duch’s crimes and giving undue weight to mitigating circumstances (Cambodia. ECCC). In addition, the appeal declared that the chamber did not consider international sentencing law and therefore the sentence is “arbitrary and manifestly inadequate” (Cambodia. ECCC). The prosecution also lamented the fact that the court did not convict Duch separately for each of his crimes (Cambodia. ECCC). The defense also has grievances with the ruling.

The defense is contesting the judgment on the grounds that the chamber has committed procedural errors in his conviction (Goetz). In its appeal, the defense also asserted that Duch was neither a senior leader nor the most responsible for the crimes at S-21, and therefore his conviction was out of the scope of the ECCC (Goetz). Duch has appointed a new lawyer to replace Francois Roux, Kang Ritheary (Montgomery). The appeal hearing will be held March 28-31, 2011 (Goetz).¹ It will consist of four different sections that will address the issues of personal jurisdiction, crimes against humanity, sentencing, and civil parties’ appeals (Goetz). The ruling of this appeal will undoubtedly prove significant and will require further investigation.

Personal Observations

Hundreds of spectators journeyed to the ECCC courthouse on July 26th to witness

¹ The appeal had not yet occurred at the time of writing. This particular study does not take the proceedings or the ruling of the appeal into consideration.

firsthand the verdict against Duch. Those that could not fit inside the public viewing area were sequestered around the courthouse to watch the proceedings on outdoor screens. I was among them. The crowds hustled to secure a viewing spot along with a headset in one's language of choice. Though the crowds were attentive throughout the proceedings, tension and silence descended like a thick fog as the judge asked Duch to stand to receive his verdict and sentence. In that moment, I felt humbled to be a witness to this significant decision in Cambodia's history, a moment that would have great bearing over the nation's future.

Duch stood emotionless and unmoving as the judge read out his fate. His thoughts and emotions were completely nebulous to viewers. His seeming ambivalence stood in stark contrast to his recent demands to be acquitted. As the judgment was delivered, the crowd was silent, undoubtedly contemplating the fact that the former head of a genocidal slaughter camp was in effect sentenced to nineteen years in prison. I was astounded, disgusted, and searched the crowd for other manifestations of disappointment. Moments later the stillness was pierced as a woman staggered out of the hall shaking, wailing in a despair that skirted the limits of human emotion. Journalists and photographers swarmed to their news story, shoving cameras in her furrowed face. I was sickened by this display of shameless exploitation. Have victims not been abused enough already? Regardless of whether or not the verdict can be considered legally fair or just, my thoughts were with the victims and their families on that day.

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The true impact of Case 001 upon national reconciliation in Cambodia will become more apparent with the assessment of direct responses from Cambodians and with observations over the passage of time. However, several objective observations and predictions can be made based on the proceedings. As discussed earlier, the trial does not have the ability to enact complete

national reconciliation. But the proceedings are not futile. As illuminated by this chapter, Case 001 will have a positive but limited impact on national reconciliation.

This case has several positive points with regard to its potential to ameliorate. The existence of the tribunal itself is significant for Cambodia. This marks the end of a thirty-year reign of impunity. It is also significant that Duch has entered the case with a guilty plea, confessed to many of his alleged crimes, expressed remorse, accepted some level of responsibility, and asked for forgiveness. This marks the first time that a high-ranking Khmer Rouge cadre has admitted to what happened during the regime and acknowledged that there are victims and that they have been wronged. This in itself is a large step forward in the process of the nation's healing.

Duch's active and continual participation in the proceedings greatly contributed to the positive accomplishments of the trial. He shared a great deal of factual information on the Communist Party of Kampuchea and the inner workings of S-21. In this way, the trial has helped illuminated some degree of "truth." For families of victims, this information may heal pains that stem from uncertainties about the fate of loved ones. Victim participation is another highlight. The fact that this case acknowledges civil parties as victims and allows them to confront Duch, ask questions, and share their testimonies is important. Oftentimes victims want only to be acknowledged and listened to. However, this positive impact is limited for several reasons.

There are a number of factors particular to this case that severely limit the trial's potential to positively impact the process of national reconciliation. First, the scope of this case is extremely narrow. Duch ran only one out of at least 195 prison camps under the regime. For those victims that are unaffiliated with S-21, the ability of this particular case to heal is

extremely limited. Second, the reparations offered to civil parties in the judgment are insufficient. Oftentimes, reparations are what victims most desire as they are a means to publicly acknowledge their suffering and serve as the only tangible means of compensation. But twenty-eight civil parties were excluded from the judgment entirely and the reparations offered to the remaining parties were extremely minimal. Third, Duch's last minute change to a plea of not guilty and his subsequent appeal are confusing and make him lose credibility. Responses to this changed stance will be further assessed in the next chapter.

Although the sincerity of Duch's apology and expressions of remorse are questionable, this is a subjective matter. The following chapter will discuss how Cambodians perceive Duch's statements and actions on trial. Ultimately, Cambodian responses to Duch's actions on trial will determine the degree to which the tribunal affects national reconciliation.

4 Reactions to Duch, the Trial, and the Judgment

This chapter is devoted to reactions to Duch, his actions on trial, and to the judgment of the tribunal. These responses are largely gathered from my eleven ethnographic interviews, which were conducted over a period of approximately three weeks in Phnom Penh, Cambodia. My interviewees include eight Cambodians and three foreign experts from a variety of backgrounds, education levels, and from a large age range. I questioned my interviewees on three aspects of Case 001: Duch as a person, Duch on trial, and the impact of the trial. Their responses will prove instrumental in determining the impact of this case on the process of national reconciliation in Cambodia.

DUCH AS A PERSON

I first assessed my interviewees' opinions and perceptions of Duch as a person. I hoped to reach a greater understanding of Duch's character and his role within the regime of Democratic Kampuchea. I investigated this matter in four areas: Duch as a victim of the regime, Duch a demonized figure, Duch's changed character over time, and his conversion to Christianity.

A Victim?

A key feature of the defense team was the assertion that Duch was a victim in his post at S-21. Duch claimed that he was forced to carry out his job, otherwise he and his family would be killed. The majority of my interviewees rejected this notion entirely. Hong Kim Suon, 53, a civil party lawyer for the tribunal, believes that Duch cannot be considered a victim because he had an opportunity to escape from the regime, yet didn't. Nou Va, 31, of Youth for Peace, mirrors Hong's sentiments, stating that Duch volunteered to join the regime before it rose to

power. The term “victim” would be appropriate only if he were forced to join the Khmer Rouge (Va). Sunthary Phung, 54, a retired professor and the daughter of one of Duch’s victims, states that Duch constantly strove to become a high-ranking official in the party, so she does not believe that he was a victim in any way. He did not stand up to the regime like others did (Phung). Rather, he was in a close circle of leaders and regarded as an important and trusted person within the regime (Phung). Chum Sarath lost four close relatives in S-21. He argues that one always has a choice in such matters, including taking one’s own life (Sarath). If one chooses to obey, then he must be held responsible for his actions (Sarath). Although Duch paints himself as a victim in the trial, he was happy with his work at S-21 (Sarath). Sarath is furious with assertions that Duch was victimized by the regime, demanding to know “How can anybody think for one second that he’s a victim?” However, some Cambodians do.

Two Cambodian interviewees acknowledged that Duch was in some ways a victim of the regime. Neth Pheaktra, a managing editor for *Phnom Penh Post* and a host of *Duch on Trial*, believes that while Duch is not a victim in the same sense as those that lost their lives, he is a victim of Communist ideology. However, “he is just the victim among perpetrators” (Pheaktra). Sopheap Chea, 26, of the Bophana Center, acknowledges this same sentiment. It is evident that my interviewees do not perceive Duch as an outright victim of the regime.

A Demon?

I observed during my time in Cambodia that many Cambodians and foreigners consider Duch to be a monster or demon, effectively removing him from the ranks of humanity. I asked foreign experts for their opinion on this matter and whether they thought Duch deserved such a designation. Matthew Robinson, producer of Khmer Mekong Films and the program *Duch on Trial*, agrees that “yes he’s a demon and yes he should be demonized and that’s his punishment.”

He also explains that direct victims likely view him as a literal demon, as “he stands as a very obvious symbol of the horrors of the regime” (Robinson). Raoul-Marc Jennar, 64, served as a consultant for the defense team during the tribunal. He agrees that Duch is demonized by victims and relatives of victims (Jennar). However, he argues this is not the case for many Cambodians that still support or have ties to the Khmer Rouge, as evidenced by large turnouts to the funerals of former leaders Ta Mok and Khieu Ponnary (Jennar). Journalist Thierry Cruvellier explains that some Cambodians have a need to demonize Duch, and that he understands this need. However, others adopt a more rational point of view (Cruvellier). He speculates that many Cambodians don’t consider Duch to be non-human just because he was a criminal at one point in his life (Cruvellier). However, those that hold this unpopular opinion tend to not speak out (Cruvellier). Cruvellier explains he is infuriated by foreigners that demonize Duch (Cruvellier). Since they weren’t victims, “they have the benefit of being able to think about what Duch is” (Cruvellier). But although they have this advantage, many adopt the easy “‘Duch is a monster’ kind of speech, which is to me a total lack of intelligence” (Cruvellier). He argues that this “shows a very limited way of understanding... why Duch is important” (Cruvellier). He also explains that all of us could become Duch if put in those same circumstances (Cruvellier). Clearly this subjective issue is contentious and will likely remain so.

Duch’s Changed Character

The tribunal unearthed the discovery that Duch was considered a kind, gentle person before joining the Khmer Rouge and was again deemed respectable by his peers after the fall of the regime. He converted to Christianity in the 1990’s and has expressed a desire to be rehabilitated. However, most would agree that Duch’s character during the regime bore no traces of these good qualities. Ostensibly, this denotes a complete change of character. I hoped

to reach a greater understanding of this through my investigations. I also assessed whether the public felt that Duch's character should be taken into account during the trial. My responses were quite varied.

Kou Dalin, 20, an artist and university student, believes that Duch's good character before the Khmer Rouge regime should be taken into account in the trial. Chea is also sympathetic to Duch. He explains that Duch really wanted to be recruited to the Khmer Rouge and thus was very loyal to the party (Chea). This loyalty in turn incited him to commit his crimes (Chea). But today he wants to rectify this situation and be forgiven (Chea). Chea states, "what he wants today we should give him, because as we are humans and he also wants to be human, so we should give him." However, most interviewees are not so quick to trust the convicted.

Suon and Va are wary of Duch's supposed change. Va is unsure whether Duch really wants to be rehabilitated or not (Va). Suon acknowledges that Duch was a respectable and well-educated person before the regime, but states that "he should not have used his knowledge to destroy Cambodia" (Suon). He believes that once Duch was recruited to the regime, he permanently retained his loyalty (Suon). Suon does not believe that Duch wants to be rehabilitated (Suon). Several interviewees hold much more negative opinions on this matter.

Many interviewees are unsympathetic to Duch and reject the fact that his character has ever fluctuated, asserting that he has always been iniquitous. Kim An, 21, a university student, states that his desires to be rehabilitated are excuses and that now it is just too late (An). Phung does not believe that Duch's character has changed at all (Phung). She argues that he has always been opportunistic, explaining that he waited for the Lon Nol regime to fall before he jumped on the bandwagon of Democratic Kampuchea, where he attempted to rise in the ranks (Phung).

Recently, he used his international Lawyer Francois Roux until he had no further use for him and then abruptly dismissed him (Phung). Phung asserts that these actions, all focused on gaining power, are characteristic of the Khmer Rouge (Phung). But Duch has always been calculating and looking out for his own profit, even before joining the Khmer Rouge (Phung). Phung does not believe that Duch wants to be rehabilitated, but is still a Khmer Rouge and continues to regard himself as reputable in the regime (Phung). She argues that his plea to be acquitted further demonstrates these assertions (Phung). Pheaktra also believes that there has been no true change in Duch and that he is still devoted to Communism (Pheaktra). He quotes a Cambodian proverb, “A curly-tailed dog is still a curly-tailed dog”, to indicate that he believes a bad person is still a bad person (Pheaktra). Similarly, Sarath does not believe that Duch has reformed at all and that he is still a Khmer Rouge (Sarath). Robinson doesn’t see any hope for rehabilitation, as he doesn’t believe that Duch has a normal range of empathy or humanity and that not even a prison sentence will help him feel true remorse (Robinson). Rather, Robinson just wants him locked up and away from society so that he can’t cause any more damage (Robinson). It is important to note that those who are most familiar with the Duch case oppose the notion that Duch’s character has ever fluctuated.

Conversion to Christianity

Another enigma surrounding Duch is his abrupt and mysterious conversion to Christianity in the 1990s. Such a conversion is unexpected in a predominantly Buddhist nation. I looked to my interviewees and other sources for insight into this matter and for opinions on whether Duch’s conversion may have affected his actions on trial. A common theme emerged through my investigations.

The majority of my interviewees express the same opinion regarding Duch's religious conversion. An, Pheaktra, Jennar, and Sarath all indicate that Duch essentially converted to Christianity to escape responsibility for his crimes. Buddhism adopts the theory of karma, which essentially holds one accountable for the crimes he commits. Good deeds will be rewarded, but bad deeds will be punished. Therefore, Buddhism cannot extend Duch forgiveness or absolution for his crimes. In contrast, Christianity offers one the opportunity to be forgiven and absolved of sins on the condition of confession and remorse. Christianity can offer Duch a calm mind and an escape from his crimes, whereas Buddhism cannot promise him this. Others hold differing opinions.

Several interviewees express that they believe Duch adopted Christianity merely to help him win his case. Suon states, "For a real communist like Duch, I don't think he believes in any religion." Rather, he used Christianity as a guise, leading the court and the public to believe that his cooperation stemmed from his religion (Suon). He argues that Duch knew that the court would have international prosecutors, who would likely be Christian, so he adopted Christianity in order to appeal to their sentiments (Suon). Chea seconds this opinion, stating that Duch wanted to be protected by the Christian Church (Chea). He highlights that it is a western religion tied to western power (Chea). Robinson does not believe that Duch's conversion to Christianity is genuine, but is just a guise to aid his defense (Robinson). He states that Duch "didn't strike me as being a particularly religious man or somebody in communication with a higher power at all" (Robinson). Phung agrees. She argues that Duch has really converted to Christianity, as he has "lied to his Jesus." Pastor San Timothy, Duch's instructor in the doctrine of Christianity, expresses similar sentiments (Vannarin and Wallace). He states that Duch's turn to a plea to be released prompted him to doubt that Duch's faith was ever genuine (Vannarin and Wallace).

“Duch told everyone that he believed in Jesus, but to change like this means that he was just using Jesus’ name. So that’s double guilt” (Vannarin and Wallace). However, a couple interviewees are not so quick to condemn Duch’s motives.

Jennar explains that he discussed this issue with Duch himself. As reported by Jennar, Duch stated that he used to believe in communism, but it failed (Jennar). So he needed to adopt a new ideology and landed upon Christianity (Jennar). Cruvellier accepts Duch’s reasoning and dismisses those that reject this explanation (Cruvellier). He believes that it is inevitable that people will respond to Duch’s explanation regarding his conversion by saying that it is his game to escape (Cruvellier). Although there are elements of his conversion that are disturbing, Duch’s conversion was useful for him to deal with his past (Cruvellier). Cruvellier explains, “Duch needs a religion. He had one with communism, which definitely amounted to a religion. And once he lost that one, he had to find another one...he needs that... absolute faith” (Cruvellier). He continues by stating, “once you lose your political ideology or once it becomes irrelevant, then it’s very likely that you’re going to switch to traditional religion” (Cruvellier). Despite certain discrepancies, the interviewees agree that Duch’s conversion to Christianity was not incited by a strong conviction for Christian beliefs, but served as a coping mechanism of some sort or another.

DUCH ON TRIAL

I questioned my interviewees regarding their perceptions of Duch’s actions on trial and also about the final judgment. Duch’s cooperation with the court, responses to the fact that Duch was the first and only former Khmer Rouge cadre to accept responsibility, apologize, and express remorse, and the final verdict, are all closely intertwined.

Duch’s Cooperation with the Court

While in Cambodia, I observed that Duch was rather cooperative with the court. I was surprised and fascinated by his involvement in the proceedings, as no other apprehended former Khmer Rouge leader has exhibited such cooperation. I hoped to reach a greater understanding of the motives behind Duch's decision to assist the court. Deeper investigation into this issue was necessary.

My first discovery was that there are varying degrees of concurrence with the assertion that Duch was cooperative with the tribunal. Surely no one that has closely followed the proceedings can state that Duch was entirely cooperative or open. Pheaktra explains that Duch was only eager to cooperate with the court in ways that would not incriminate him (Pheaktra). For example, he has helped explain the meanings of words and assisted the proceedings to move smoothly (Pheaktra). Phung agrees with Pheaktra, stating, "his actions externally showed that he was open and cooperative, but he cooperated with the court only on cases that didn't put a burden on him." She supported her argument by highlighting the fact that he exploited and rejected witnesses that did not have lawyers (Phung). Suon also argues that Duch did not honestly comply with the court and Chea asserts that Duch's openness has been limited (Suon, Chea). Robinson believes that Duch followed his lawyers' guidance regarding cooperation and summarizes this popularly opinion by stating that "[Duch] cooperated on his terms."

I was curious to uncover the reasons that prompted Duch's limited compliance with the court. Several interviewees voice that Duch had no choice but to cooperate given the vast amount of evidence against him. It was impossible for him to refute documented proof of his crimes. As Cruvellier points out, the archives of S-21 are enormous, essentially eradicating the possibility of denial (Cruvellier). It is also a commonly held opinion that Duch cooperated in order to support his defense. Jennar states, "if he was cooperative according to international

law“ he could receive a decreased sentence. Pheaktra thinks that Duch cooperated in an attempt to demonstrate that he was not a senior Khmer Rouge leader or the most responsible person at S-21 (Pheaktra). In other words, “he just cooperated in order to bring the case under his control” (Pheaktra). Va believes that Duch’s cooperation is a way for him to fight in court (Va). It is not honest cooperation, but is a tactic to win his case or receive a mitigated sentence (Va). Sarath also deems Duch’s cooperation a tactic of deceit (Sarath). He explains that Duch admitted to crimes only when there was undeniable proof (Sarath). Sarath cites the example of the child survivor of S-21, Nong Chan Phal, whom Duch rejected as a victim until documentation was brought forward (Sarath). However, a couple foreign interviewees express sentiments in support of Duch’s motives.

Jennar and Cruvellier offered unique explanations for Duch’s motives. Jennar argues that Duch “wanted to explain.. not only what he did... he wanted to explain the regime” and also about S-21. Duch offered very precise details and even drew a map of Phnom Penh indicating the locations of all the leaders (Jennar). This stemmed from “a will to show that he was not stupid, he was not like an ordinary Khmer Rouge killer, an educated man that is able to explain a system” (Jennar). Jennar explains that in Cambodia the status of an intellectual is extremely valued (Jennar). Cruvellier also defends Duch’s cooperation as genuine. He believes that Duch’s cooperation is a reflection of his quest for personal redemption and desire to come to terms with his past (Cruvellier). The only tool he has to seek this redemption is to disclose information (Cruvellier). It is clear that there are aspects and details that Duch does not want to disclose or remember, and this led many to mistrust Duch or feel that he was manipulating the court (Cruvellier). Regardless of motives, Duch’s limited compliance had a positive impact on the proceedings.

Although it is clear that Duch's cooperation was limited and to some insincere, this cooperation is by no means futile. Cruvellier expresses that had Duch not been cooperative, the tribunal would not have accomplished much (Cruvellier). Chea even thanks Duch for assisting the court (Chea). It is true that Duch's statements did unearth much information about Tuol Sleng and Democratic Kampuchea that otherwise would have been lost.

The Only Former Cadre to accept responsibility, apologize, and express remorse

Duch is exceptional in the sense that he is the first and only former Khmer Rouge cadre to accept responsibility, apologize, and express remorse for his crimes under the regime. This matter is closely tied to his cooperation with the court. I was interested in discovering how people received Duch's statements and whether they accepted them as sincere, as this matter will have a large bearing over the impact of the tribunal upon Cambodian society in terms of national reconciliation. I again hope to contextualize this matter by tracking perceptions and responses to Duch on trial in general and in the three more focused areas regarding his statements of responsibility, apology, and remorse.

General Perceptions and Reactions to Duch

Perceptions of Duch and reactions to his statements on trial were markedly varied, and for good reason. I believe Dalin expresses the opinions of many with both her rhetoric and her artistry. She states, "I think Duch is a person who is difficult to understand," a sentiment that she also illustrates in her sketch below (Dalin). Despite this variance, responses remain overwhelmingly negative.



Dalin, Kou. "You and Your Clan Have Bound Our Freedoms." n.d. Bophana Center, Phnom Penh, Cambodia.

With regards to this case I am perpetually interested in the question "why." Why is Duch the first and only former Khmer Rouge cadre to accept responsibility, apologize, and express remorse for the crimes committed during the regime? Although at first glance an explanation may appear nebulous, Cruvellier explains that Duch's statements are actually quite logical. As explained previously, the massive amount of evidence against Duch makes denial essentially impossible (Cruvellier). There is not nearly as much incriminating evidence against other apprehended members, and thus they have little impetus to admit to their crimes (Cruvellier).

These other members also have very little at stake, unlike Duch (Cruvellier). He is the youngest member to be arrested and he may have a future beyond his prison cell (Cruvellier). However, these other members are old enough that it is unlikely that they will outlive what will presumably be lengthy prison sentences (Cruvellier).

Duch's statements were occasionally accompanied by conspicuous and perplexing emotional displays. At times he would sulk and even break down into tears. This matter illustrates a cleavage between foreign and Cambodian reactions. While foreign interviewees are likely to empathize with Duch, in general my Cambodian interviewees do not accept his tears as genuine, but as "crocodile tears" (Pheaktra). Dalin highlights exactly what Duch's displays of emotion may have been attempting. She states that when she sees someone cry, she is often sympathetic and feels pity on him or her (Dalin). However, Duch's tears prove to be an exception to her emotions, indicating that she did not feel pity for the convicted (Dalin). Phung believes that Duch's tears stem from his opportunistic, "cruel and tricky" character (Phung). She states, "it is hard to find a person like him who is able to act as crying, sobbing, and weeping as a professional drama performer or actor" (Phung). She suggests that he is "programming his sentiment," supported by the observation that his character changed between trial time and break time (Phung). In contrast, Cruvellier finds Duch's emotional breakdowns sincere and even incredible (Cruvellier). He believes that Duch is struggling to come to terms with his past (Cruvellier). Cruvellier explains that Duch has learned to control his emotions extremely well (Cruvellier). The moments that he breaks down are moments that he agrees to delve a bit further into his past (Cruvellier). It is impossible for him to entirely come to terms with the gravity of what he has done, because otherwise he would destroy himself (Cruvellier). Therefore, these

emotional displays are very powerful moments that portray a self-controlled man struggling with the question of how much he can admit before he goes too far and can't face reality (Cruvellier).

Of key import to the trial is the matter of whether Cambodians believe Duch's statements and trust that he is telling the truth. Many are slow to believe his admissions while others reject them entirely, condemning his underlying motives. Many believe that Duch's plea for acquittal illustrates his insincerity. For others, this matter is irrelevant.

Many are slow to trust and believe Duch. An says that although she does accept some of his statements as true, she does not trust him or believe him entirely (An). Suon trusts Duch very little and even hints that he is still a Khmer Rouge (Suon). Dalin cites a Cambodian proverb which says: "We can only see a person's appearance, but not his heart," suggesting that Duch's statements may be deceiving and may not match his true thoughts (Dalin).

Others outright reject his sincerity. Chum Mey says that Duch is tangling himself in his own web of lies (Gillison and Bopha). Phung does not trust Duch, stating that he has continuously lied and that his actions have all been to secure a lighter sentence (Phung). His plea for an acquittal also refutes his earlier actions that otherwise could have been praised (Phung). Robinson says, "Don't trust him at all-- that's my personal opinion. I think he's a slippery character. I think he would say anything to suit himself...I wouldn't trust him further than I can throw him" (Robinson). He believes that Duch's statements were crafted around what he believed sounded pleasing to the judges (Robinson). Thus, Duch was attempting to evade the consequences of his actions and make the best of his bad situation (Robinson). Duch denied things that couldn't be proven and also things that would serve as a "black mark" against him (Robinson). He was smart in this regard, accepting only "truths that suited him" (Robinson). It

appears that many older Cambodians share this same attitude about Duch's statements, whereas younger generations have adopted an entirely different stance.

There appears to be a general pattern based on age regarding attitudes to Duch's statements on trial. Robinson explains that some younger Cambodians shunt the issue of whether Duch's statements are genuine or not (Robinson). They accept his statements regardless of their sincerity so that the nation can move forward (Robinson). In contrast, older members oftentimes refuse to accept his remorse or apology and mandate that he needs to be punished severely along with other Khmer Rouge leaders, believing that in this way Cambodia will move on (Robinson). Of course, there are exceptions to this generalization. Dalin states that her mother's opinion is based on the tenets of Buddhism, which states that the issue lies in the past, and thus should be forgotten (Dalin).

Several foreigners bring interesting perspectives to this issue. Nic Dunlop states that Duch is consistent from now and when the two first spoke (Strangio and Titthara). He explains, "He's had what's been about 10 years since that time in which he's been able to prepare and think about what he's going to do. Broadly speaking it remains consistent, but the meaning behind it still remains elusive" (Strangio and Titthara). Dunlop questions Duch's sincerity regarding his last-minute changed stance and wonders whether this trial was just a show for the indicted (Strangio and Titthara). Cruvellier explains the issue at stake is not what Duch confessed, but what he omitted (Cruvellier). For example, Duch denied his personal involvement in interrogation and torture at S-21 (Cruvellier). He also explains that Cambodians are ready to disbelieve (Cruvellier). They've endured so many lies from corrupt governments, instilling a deeply-entrenched sense of distrust whenever an authority speaks, and rightly so

given their past and what they've gone through (Cruvellier). This matter is contested and there is not sufficient evidence to convincingly argue for or against Duch's sincerity.

Responsibility

Duch is the only former Khmer Rouge cadre to accept any level of responsibility for crimes committed under the regime. In response to Duch's unique admissions, Jennar states, "Yes... he is the only one and I think he will remain the only one." He explains that it is typical of mass murders to uphold the excuse that they were forced to follow orders and channel blame to the party leader (Jennar). This has been seen in Tokyo, Nuremberg, former Yugoslavia and Rwanda, to name a few (Jennar). Jennar believes that "from that point of view, Duch is an exception." But what exactly Duch has taken responsibility for and to what degree is hotly contested. Robinson argues that Duch only sometimes accepted things as his own responsibility and at other times pushed the responsibility off on to others (Robinson). Sarath and Robinson explain that one must remember that Duch is an intelligent math professor and each of his words has a meaning (Sarath, Robinson). While his statements sound pleasing to the untrained ear, in reality they are just "weasel words" (Robinson). He accepts responsibility as a member of the Communist Party of Kampuchea (Sarath). Say there were a million members in the CPK (Sarath). Duch is effectively accepting one millionth of the responsibility (Sarath). This shows that in his mind he believes that he hasn't committed any crimes (Sarath). Most interviewees, including Va, express that this dishonest acceptance of responsibility is a way to obtain a mitigated sentence (Va). But while interviewees question Duch's authenticity regarding his limited acceptance of responsibility, they express much stronger sentiments concerning his apologies.

Apology

There are very negative reactions to Duch's apologies. The overwhelming opinion is that Duch's acts of contrition are insincere, unacceptable, and merely ploys to secure a mitigated sentence. For these reasons, few interviewees accept his apology.

Many of my interviewees perceive Duch's apology as disingenuous. An states, "I think he's like a thief. Before he is captured, he doesn't say anything. But after the police capture him and show some evidence, he thinks that he will be found guilty so he has to admit, express his regret, etc. These are the excuses. I can't accept his apology." Phung agrees, arguing that if Duch had been sincere, he would have "apologized frankly without acting as sobbing." She also believes that he could not avoid an apology (Phung). Suon cannot accept his apology as sincere because he feels that Duch offered it only to avoid being held responsible for the deaths of prisoners (Suon). Although Duch apologized to tortured prisoners, he ultimately refused accountability for this torture (Suon). Rather, he reverted ultimate responsibility onto the Khmer Rouge regime (Suon). Robinson echoes these sentiments (Robinson). He explains that he is a man in TV and production, so he believes that he can tell when people are being sincere (Robinson). He asserts that Duch's demeanor, tone, and expression reflect that he's just trying to get himself into the best position possible and secure a shortened sentence (Robinson). Robinson states, "his apologies were... so bizarre to the Cambodian people." He believes that Duch is arrogant and that "the man is a theatrical, dramatic, expert" (Robinson). Va explains that if Duch's admissions were from his heart, this would show responsibility and that he would admire this (Va). But he doesn't believe that Duch was sincere, so he does not accept his confessions (Va). He also asserts that Duch's plea for acquittal nullifies and contradicts his prior apology and statements (Va). Although it is better than no apology or confession at all, it isn't sincere (Va). Pheaktra concurs. He explains that he initially found Duch's apology to be heartfelt

(Pheaktra). But when Duch later asked to be acquitted, this nullified his apology, rendering it useless (Pheaktra). Pheaktra believes that Duch's apology is "just a ploy for defending his case." It is not sincere, but an attempt to achieve a mitigated sentence (Pheaktra). He explains: "even if we believe in Buddhism or in Karma and not in revenge, it still does not work at all... I cannot, as a Cambodian, accept his apology" (Pheaktra). Nic Dunlop, the journalist that discovered Duch, agrees.

Dunlop criticizes Duch's apologies and doubts the authenticity of his remorse due to the delivery of his statements. He writes:

The other thing that was really strange about Duch in court was he would read his apologies, these prepared statements from pieces of paper. He was saying all the right things, but it bore no relation to what he was apologizing for and there was no expression of-or if there were, they were very fleeting indicators- of genuine remorse (Strangio and Titthara).

But while Dunlop and others express that they are hesitant to believe Duch's statements, others sidetrack the issue entirely.

Several interviewees feel that Duch's apology was irrelevant given the circumstances. Sarath states, "Why would I care about apology? What I care about is the truth- what happened to my relatives... apology doesn't mean a peanut for me." Robinson does not accept Duch's apology. He explains, "What is an apology in those circumstances?... It doesn't mean anything in terms of the original crime" (Robinson). He clarifies that if Hitler apologized for the Holocaust, "Would we even listen to that?" (Robinson). But some in fact do.

Cruvellier accepts Duch's apology. He believes his apology is sincere because upon arrest he recognized his crimes and expressed both a sense of guilt and offered an apology (Cruvellier). He does not believe that at the time Duch could have prepared himself for this (Cruvellier). Perhaps more controversial than Duch's apologies is the matter of the authenticity of his remorse.

Remorse

I hoped to gauge responses to Duch's expressions of remorse and determine whether Cambodians and others accept these statements as authentic. Sam Oeun explains that the trial hasn't been very successful in tackling questions of genuine remorse (*Duch on Trial*, Week 20). Nonetheless, my interviewees express strong opinions on the matter.

Many interviewees do not believe that Duch feels genuine remorse. Suon rejects Duch's penitence, claims that it is not genuine, and does not feel that it will ease the suffering of victims (Suon). Sarath agrees. Phung explains that she does not believe that Duch feels any remorse at all because he continually shows off his ability and repute in the regime (Phung). She believes that all of his actions are aimed at improving his condition (Phung). Robinson believes that Duch has never felt remorse for his crimes, not today nor during the regime (Robinson). He explains that Duch didn't seem to feel any remorse when he was head of S-21 and that he lived life normally despite his crimes (Robinson). He states, "It makes you think that this is not a normal human being that one recognizes as a human being. I'm not saying he's a monster, but it means that parts of his brains can't be functioning as ordinary human beings can" (Robinson). Robinson believes that if the regime never fell Duch would still be the head of S-21 (Robinson). Others are unsure of how to gauge Duch's supposed contrition.

Dalin is conflicted on the issue. She states, "As a human being, no matter how bad he is, he must more or less have truth, regret, or remorse inside his heart" (Dalin). However, his tears and remorse cannot bring the dead back to life (Dalin). Despite this assertion, Dalin explains that if Duch were truly penitent, he would accept any punishment that was imposed upon him (Dalin). She doubts the authenticity of his remorse, saying that these statements are usually prepared in court (Dalin). Dalin believes that most of Duch's statements were to help him appear less guilty (Dalin). Others acknowledge that Duch feels limited contrition.

Three interviewees believe that Duch feels some level of genuine remorse. Pheaktra states, "He felt guilty, but he tried to state that he should not be convicted" (Pheaktra). He believes that this remorse and sense of guilt are results of Duch's age (Pheaktra). As he grows older, he becomes more responsible and is coming to terms with his guilt (Pheaktra). But Pheaktra believes that Duch is still tied to communism and that his remorse is just a ploy (Pheaktra). Chea believes that Duch feels guilt, remorse, and recognizes that he did something wrong, and admits that Duch's admissions alter his perception of the accused. Chea declares, "I think he is a human like us" (Chea). Cruvellier agrees stating, "Yes I think there is something that is sincere." He explains that with regards to the remorse and guilty plea, people were expecting something absolute, pure, complete, and that that never really exists (Cruvellier). The remorse that is expressed by a perpetrator is generally accompanied by a need to justify himself (Cruvellier). Many people view this as a contradiction, but Cruvellier disagrees and believes that the two go together in these situations, stating, "I have no reason to doubt him." He explains that sometimes Duch doesn't look credible, but our perception of him is generally wrong (Cruvellier). Cruvellier does not perceive Duch's changed plea as a contradiction either. He argues that it was too difficult for Duch to stand by his original stance, so he switched back to a

defiant, radical position in his plea for release (Cruvellier). This is confusing because it seems erratic (Cruvellier). But Cruvellier in fact does find it consistent, stating that Duch went through a phase attempting to approach the situation in a certain way, and later he realized that he couldn't uphold this position (Cruvellier). Cruvellier explanation offers an interesting perspective on the issue.

Some express that Duch's statements lost all validity after he requested to be acquitted (Sokha and O'Toole). Jennar believes that Duch's apologies and expressions of remorse likely changed Cambodians' perception of Duch up until the last day (Jennar). He argues that Duch destroyed himself at this time (Jennar). Cruvellier agrees and believes that when Duch reversed his defense, it incited widespread confusion, thus destroying the benefit of previous statements (Cruvellier). Again, some assert that this matter is irrelevant.

Nic Dunlop offers an interesting opinion regarding the issue of Duch's remorse. He doesn't believe that Duch's expressions of remorse are important (Strangio and Titthara). The verity of his statements remains most significant, and whether his victims accept his statements as true (Strangio and Titthara). But many of his victims don't believe Duch (Strangio and Titthara). Rather, they believe that his loyalty still lies with the Khmer Rouge (Strangio and Titthara). I next questioned my interviewees on several topics regarding legal matters.

Legal Matters

Guilt

Few that would argue that Duch does not deserve to be found guilty. However, this matter is complicated as one must contemplate the appropriate level or degree of guilt, as Duch oversaw many crimes at S-21. I assessed my interviewees' opinions in this regard. Dalin expresses that even though she is not familiar with law, Duch should still be punished in order to

ease the suffering of victims (Dalin). She believes that Duch's various tactics, including stating that he merely oversaw crimes, were tactics to make himself appear less guilty (Dalin). Phung argues that Duch is guilty for the crimes that he did not directly commit, but oversaw (Phung). Pheaktra agrees. However, he acknowledges that "we can lessen his guilty when he acts as the order receiver" (Pheaktra). In other words, he is guilty to a lesser degree of those crimes that were ordered by his superiors. He continues, "Duch's guilt is overwhelming, but he is not responsible for his society and nation." But even still, "his bad deeds overshadow his good deeds" (Pheaktra). Mitigating factors further complicated the judgment against Duch.

Mitigating Factors

As discussed earlier, it is quite common for judges to reduce sentences due to mitigating factors in international tribunals (Gillison and Bopha). Mitigating factors, including Duch's cooperation with the court, his admission of responsibility, his limited expressions of remorse, and the coercive environment that existed under the Khmer Rouge, largely factored into his reduced sentence (Sokha and O'Toole). I gathered responses from my interviewees on this topic.

None of my interviewees express satisfaction with the fact that attenuating circumstances factored so heavily into Duch's reduced sentence. Both Dalin and Robinson contend that Duch's sentence should not have been reduced for mitigating factors, such as remorse and cooperation with the court, as these are not excuses for escaping punishment (Dalin, Robinson). An also does not think that Duch should have received a shortened sentence, as his crimes were committed intentionally (An). For Chea, the issue is a matter of sincerity and honesty (Chea). If the court could have proven that Duch had been insincere or concealed important information, then his sentence should not have been reduced (Chea). Suon expresses that the prosecution's plea for a 40-year sentence was more than sufficient to take into account mitigating factors, as

Duch's crimes far exceed this sentence (Suon). Phung opposes a shortened sentence for Duch, stating "his crimes have taken all values and humanity from his prisoners" (Phung). Pheaktra agrees. He explains that the Khmer Rouge Tribunal is a model court, one that was instated to "eliminate a culture of impunity... It should be used as evidence as well as a lesson to the next generation, that even if you kill a lot of people at one time, you cannot be acquitted over time" (Pheaktra). He explains, "we cannot use his cooperation, remorse, and tears to wash away his crimes" (Pheaktra). Pheaktra warns of the dangers of taking mitigating factors into account too heavily: "sometimes, the victims might become victims for a second time when the judgment or trial is not fair to them." These responses foreshadow my interviewees' reactions to the final judgment, which took mitigating factors into account.

Most Responsible

A primary issue surrounding the case was whether or not Duch could be proven to be most responsible for the crimes committed at S-21, as the hybrid court can only prosecute those with this designation. Duch claimed that he was not most responsible at the prison, but that he merely carried out orders from his superiors and thus had no control over S-21. The prosecution rejected this. So did my interviewees.

Responses were unanimous that Duch was most responsible for the crimes committed at S-21. An recognizes Duch as a top leader and the person most responsible; his assertion that he was forced to carry out these orders was just an excuse (An). Suon agrees. He explains that only low-level cadres were forced to massacre (Suon). Duch did not massacre (Suon). As a high-ranking cadre and "one of the most reliable communist activists or party members during the Khmer Rouge regime," he likely gave input to his superiors about whom to kill (Suon). He also explains that those that survived S-21 were spared by Duch for their utility, highlighting his

ability to make decisions at S-21 (Suon). Phung finds Duch to be self-incriminating on this matter, as he has openly bragged about his power, influence, and prestige in the regime (Phung). For example, he explained that he could divide prison cells to detain prisoners without the consent of Son Sen and even opposed Nuon Chea's desire to relocate the killing fields (Phung). She also states that he was well informed regarding the plans of the party, illustrating his important and powerful position (Phung). Phung claims that it was of his own accord that "he turned himself to be a killing tool of the Communist Party of Kampuchea" (Phung). Pheaktra concurs. He explains that Duch was the one that gave orders to interrogators regarding torture and execution and that he could order varying degrees of this treatment (Pheaktra). Chea explains that during the regime Duch tried to climb the ranks and acquire more status and prestige (Chea). He does not believe that he was forced to carry out any crime at all (Chea). Rather, he did anything to make himself known by the authorities (Chea). Duch ardently believed in communist ideology and he loyally served the party (Chea). Sarath argues that Duch did not merely oversee torture but was the one that ordered torture, determined the degree of torture, and devised the torture policy, making him most responsible for these crimes (Sarath). This unanimous accord that Duch's was most responsible for the crimes committed at S-21 was broken by responses to the verdict.

The Verdict

News and media sources were replete with reactions to the final judgment. The overwhelming majority of these statements expressed anger, frustration, and disappointment, both with the sentence and with the reparations offered (Wallace and Naren). Many were confused by the fact that the judgment subtracted eleven years from Duch's sentence (McGilligan and Sokhorng). My interviewees express similar sentiments. I gathered responses

to the verdict from both my interviewees and published information in order to reach a comprehensive assessment of the final judgment.

Initial reactions to the verdict were powerful. As the sentence was pronounced at the courtroom, the audience gasped and some people started crying (Saliba and Nims). Anne Heindel watched the verdict in Kompong Thom province. She explained that locals were “stunned and frozen faced” at the sentence (Wallace and Naren). Theary Seng, the first civil party to be accepted for case 002 and a civil society leader, shared her reactions immediately following the verdict with an interviewee:

Today is a very very disappointing, to say the least, day for me. I am in a state of shock, as many victims are, at the verdict. It's a verdict that is incomprehensible, its inexplicable, its unacceptable.... Duch is being given effectively 19 years for taking the lives of at least 14,000 Cambodians and a few foreigners, which comes down to him paying 11 hours of prison time for each life he took... I'm exhausted by the weight of what this verdict means and the implication of this verdict on case 002 (Saliba and Nims).

Chum Mey, also a civil party, was furious, stating, “what the court has decided, it's not acceptable-- I will never accept such a decision... When Duch is released after serving [19] years in prison, will Cambodians be happy? Nobody is going to be happy when a person who killed thousands of people just got a slight sentence” (Wallace and Naren). Chum and Theary illustrate the assertion by Gillison and Bopha that low sentences are a slap in the face for victims (Gillison and Bopha). But even those that were not civil parties expressed fury. Motorcycle driver Khem Sinath states, “I want the court to decide to kill him. I feel 35 years is not enough

for what he has done to Cambodia” (McGilligan and Sokhorng). Sinath is not alone in this opinion. Several citizens have expressed their desire to see him killed, cremated, and his remains forever locked in a stupa (Strangio and Titthara). My interviews articulate similar sentiments.

Almost all of my interviewees express dissatisfaction and rage regarding the judgment. Similarly, Suon, interviewed prior to the verdict, expresses his desire for the most severe punishment, which in Cambodia is life imprisonment (Suon). Phung is extremely disappointed by the verdict, as the light sentence does not reflect the gravity of Duch’s crimes (Phung). An believes that Duch should be punished with the same torture he inflicted on others (An). She explains, “his guilt is so tremendous that it would be regarded as insufficient even if he were sentenced to death now” (An). Robinson doesn’t believe there’s any appropriate sentence in these circumstances (Robinson). He states:

How can you punish those people? You just have to put them away I suppose, out of harm’s way for as long as possible... But I don’t really care actually, I mean when people fall to that level of depravity and cause so much suffering to other human beings, I’m not sure I’m that concerned about what is right or wrong for them. I suppose you’re only really concerned about whether society is doing a fair job or a humane job putting somebody in prison for the rest of their life. You could consider that... inhumane but I don’t think that even begins to compare with the inhumanity of what he did to other helpless, defenseless human beings.

Sarath calls the verdict a “mockery” because Duch was not sentenced to half the time that the prosecution demanded (Sarath). He likens the trial to a film that is directed by Duch (Sarath).

He states that the message that this sentence sends to the younger generations is horrible (Sarath). Sarath speaks on behalf of victims: “the sentence, we are not happy with that. But maybe .. some people think .. that it’s acceptable. But we do not think, as victims, and on behalf of my victims’ association called we are not happy.” Va is not a direct victim, but also feels disappointed by the verdict (Va). He explains that the verdict does not fit Duch’s crimes and that the convicted should serve a life sentence because “he made Cambodia become a killing field” (Va). But some are more tempered in their responses.

Several Cambodians have received the judgment with optimism. Some believe that nineteen years is in effect a life sentence because Duch is already 67 years old (McGilligan and Sokhorng). DC-Cam director Youk Chhang shares this opinion, stating that a 19 year sentence means that Duch will most likely die in prison (McGilligan and Sokhorng). Others believe that Duch is already paying for his crimes thru karma, as a thief killed his wife in the mid 1990’s (Strangio and Titthara). For those of this opinion, the court’s judgment is a bit irrelevant.

A small population even feels that the sentence is too heavy. Some amongst the younger generations believe that Duch should have received a shorter sentence (Strangio and Titthara). Several former Khmer Rouge have labeled the verdict against Duch as unnecessary vengeance and question why Duch should spend what might be the rest of his life in prison (“Former KR Cadres React to Verdict”). Khan Nang, a former Khmer Rouge cadre says he didn’t take the trial seriously because it wasn’t investigating everyone responsible for the crimes committed under the regime, but only a few leaders (“Former KR Cadres React to Verdict”). He called for a trial against all who were involved, including those currently involved in the government (“Former KR Cadres React to Verdict”). For Nang, Duch’s sentence has little significance. Others find the verdict to be satisfactory.

Two of my foreign interviewees were quite pleased with the ruling. Cruvellier agrees with the verdict, saying it is the “most logical judgment.” He also believes that there are victims that feel satisfied with this judgment, but they will likely keep silent (Cruvellier). Jennar was interviewed before the verdict was announced, but agrees with a reduced sentence taking into account mitigating factors (Jennar). He clarifies that “justice is not revenge” and that “if we refuse revenge, we have to follow the law” (Jennar). He explains that there are legal provisions to take mitigating factors and Duch’s unlawful detention into consideration (Jennar). Jennar does believe that Duch was a high level official, but asserts that there are people above him that are even more responsible for the crimes of the regime (Jennar). He explains that if the court gives a life sentence to everyone on trial, there is no differentiation between higher and lower level cadres (Jennar). Although there are mixed opinions regarding Duch’s prison sentence, the matter of reparations appears to be unanimously unpopular.

Reparations

Civil parties and others were outraged with the reparations offered by the court. Va states that the reparations disappointed many people and are “like a wound on the skin” (Va). Phung is also disappointed with the reparations that the tribunal offered and does not believe that the court will follow through with its promise to publish Duch’s apologies (Phung). Sarath is irate regarding the reparations, calling them “unimaginative” and “an insult to the victims.” He condemns and contextualizes the trial’s promise to post Duch’s statements online (Sarath). Sarath estimates that 50,000 people in Cambodia at most have access to the Internet (Sarath). Then only those that speak English will have access to Duch’s posted statements (Sarath). The overwhelming majority of victims resides in the countryside and speaks no English, so most victims will have no access to this most minimum offer of reparation (Sarath). Sarath explains,

“it’s like you throw a bone to a dog... it’s ridiculous.” He wants a physical memorial in a public area, not a publication on a website (Sarath). Sarath is extremely offended by the reparations and wishes that instead the court said nothing on this matter (Sarath). This fury is understandable when the context is further elucidated. But reparations form only one facet of the trial and judgment as a whole.

IMPACT OF TRIAL

Perhaps the most important aspect of the tribunal is the impact that it will have upon Cambodian society, specifically in relation to national reconciliation. In order to assess this impact, I questioned my interviewees on three aspects: their ability to forgive Duch, whether the tribunal brings justice, and the degree of healing that the proceedings bring.

Forgiveness

The ability to forgive is an important link in the process of national reconciliation. I asked my interviewees if they could forgive Duch for his crimes and uncovered mixed results.

There is widespread anger and a lack of forgiveness from victims, largely stemming from the fact that they do not believe that Duch is really remorseful (*Duch on Trial*, Week17). Most of my interviewees express their inability to forgive the convicted. An states, “I can’t forgive him... His guilt was so tremendous that it would be regarded as insufficient even if he were sentenced to death now.” Phung cannot forgive Duch either: “It is impossible to forgive such a murderer as Duch. It is a bad example to Cambodia.” Newspapers have also published irate and unforgiving sentiments. Hi Hor, 72, has lived in Duch’s village since she was born. She states, “I will kill him and eat his meat if I meet him,” clearly indicating her rage (Strangio and Tittthara). However, not all Cambodians, even those that suffered under the regime, share these attitudes.

Some Cambodians have found the ability to forgive Duch. For some, this forgiveness stems from the fact that so much time has passed since the regime (Strangio and Titthara). Chhum Oeun, 71, explains, “Even though I was tortured and did not get enough food to eat during that time, I pardon him. Everything passed over 30 years ago” (Strangio and Titthara). Religious beliefs have prompted others to forgive. Sem Thuon, a former classmate of Duch’s, states, “I want him to be released from prison because everything has been passed over already. I pardon him because I now respect the Buddha’s teachings” (Strangio and Titthara). Christopher Lapelle, a pastor from Los Angeles, told Duch that he loves him and forgives him and that it gave him joy and healing to forgive the convicted (*Duch on Trial*, Week 20). He also declares that he is proud of Duch for accepting responsibility for his crimes (*Duch on Trial*, Week 20). Others are able to find forgiveness, perhaps because they did not live through the regime. Chea expresses that he can forgive Duch, but that he must still be punished (Chea). Despite the fact that forgiveness is a deeply personal matter, it is essential on the national level to bring about reconciliation.

Justice

A question lingering on many lips is whether the tribunal brings justice to Cambodian society, and if so, to what extent. There are dissenting opinions on this matter.

Many Cambodians, especially direct or indirect victims, express that the judgment does not enact justice. Phung states, “I am not satisfied with the judgment on the 26th. It doesn’t bring justice to the victims and their families.” Suon believes that a sentence of 40 years in prison demarcates the line between just and unjust (Suon). He feels that a sentence of 40 years in prison would be just because then Duch would likely die in prison (Suon). But a sentence of less than 40 years is insufficient (Suon). However, Suon explains that Duch’s sentencing is not

enough (Suon). For true justice to occur, more former cadres need to be brought to court as well (Suon). Va believes that the tribunal brings about 15% percent justice (Va). Chea agrees stating, “I believe that the verdict will bring justice to Cambodian society, even if it is not 100% justice. But it’s better than if we don’t have it at all.” However, as discussed earlier, the issue of whether or not the tribunal brings justice to Cambodia is not be a fair question to ask. Several interviewees express this.

The tribunal was not meant to bring full justice to Cambodian society, so it is unfair to judge it by this standard (Pheaktra). True and complete justice can never exist in these circumstances because the severe level of loss can never be matched (Cruvellier). Cruvellier asserts, “it would be very naïve to expect from a trial, and from a single trial, to bring justice to a whole country.” He explains that the Duch trial has been expected to address the entire issue of justice and that “it’s absurd, it’s dangerous, and it’s necessary a failure. Even if there were a hundred trials, it would not answer the justice quest by Cambodians” (Cruvellier). He clarifies that this quest for justice is extremely complex and encompasses many different issues, not just punishment and reparations (Cruvellier). Thus, expectations for the trial to bring full and total justice are “crazy” and “completely distorted” (Cruvellier). However, this is not to say that the tribunal does not bring some semblance of justice to the nation.

The tribunal should be perceived as a single facet in a long process of justice that can ultimately lead to national reconciliation (Pheaktra). Pheaktra believes that the court should be trusted with enacting 50 to 60% justice (Pheaktra). The remaining 50% should be brought about through civil society and government ventures, such as establishing “a reconciliation committee in the community, so that local people including the victims and criminals can settle down to

discuss, share ideas, understand each other, and talk about their issues” (Pheaktra). This can “fill in the gap of justice” with the ultimate goal of national reconciliation (Pheaktra).

Although the tribunal has not been effective in tackling this broad concept of justice, it has enacted justice indirectly in ways that are impressive. Specifically, the tribunal has positively impacted Cambodia’s judicial system. Sarath explains that Cambodia has long suffered from a “culture of impunity.” The fact that Duch was recognized for such serious crimes and subsequently convicted is momentous (Sarath). No other attempts at justice have been made in 30 years (Cruvellier). Although the trial in actuality has done little more than recognize that particular crimes were committed in a certain time, place, and regime, this in its own right is significant for Cambodia (Cruvellier). Pheaktra states, “This trial encourages us to believe that a perpetrator or criminal cannot escape from justice.” It gives Cambodians more faith in their society and in their legal system. Tangential to this issue is the fact that the court has accomplished a certain level of justice through acknowledging the sacred nature of all human life, whether that person be old or young, rich or poor, high or low class (Suon). Phung explains that this has reduced caste barriers, uniting people through their sufferings (Phung). This tribunal also helps set a standard for continuing judicial justice. Jennar asserts that the Cambodian judiciary is weak due to corruption and a lack of skill, amongst other factors (Jennar). It desperately needs improvement (Jennar). The tribunal has served as a model and example for the Cambodian judiciary (Jennar). Jennar explains that a nation’s judiciary helps define the nation, and even with a minimum judiciary, there is a minimum level of democracy (Jennar). From this point of view the tribunal has had a positive impact upon the nation.

The tribunal has also affected levels of awareness regarding the nation’s history and the crimes that were committed under Democratic Kampuchea. Jennar explains that from a

historical point of view this tribunal is extremely important (Jennar). People born after the regime are oftentimes completely uneducated or naïve about the Khmer Rouge regime (Jennar). Some even believe that the killers were Vietnamese because they cannot accept that Khmers killed Khmers (Jennar). The tribunal now makes it impossible for Cambodians to outsource the blame of the regime (Jennar). The genocide is definitively Cambodia's responsibility, a realization that is very important for the future of the nation (Jennar). Jennar asserts that in order to rebuild a society, one needs more than just rebuilt infrastructure (Jennar). A nation needs a common view of the past (Jennar). Cruvellier argues that there is no direct impact of the trial, but acknowledges an indirect effect (Cruvellier). He states that the existence of the tribunal has sparked public debate about the period and that this has never happened before (Cruvellier). This will gradually incite the government to allow more teaching on this period, which will have a serious long-term impact (Cruvellier). An demonstrates the effect. She explains that prior to the tribunal, she did not know much about the Khmer Rouge regime and did not understand the pain of victims (An). She states, "I am delighted that those who are responsible are now brought to justice" (An). The fact that An and countless others now know more about their country's history is significant and is a form of justice in its own right. Therefore, when judged by appropriate standards, the tribunal has accomplished a great deal.

Healing

Severe after effects of the Khmer Rouge regime continue to plague Cambodia. These effects manifest themselves in physical, emotional, and psychological ways. The severity of the situation can be explained through a brief psychological analysis of the Cambodian population. Two out of every five Cambodians over 18 years of age have developed a psychological trauma, including depression, suicide, and hopelessness, which in turn leads to problems like alcoholism

and chronic disease (*Duch on Trial*, Week 18). In addition, it is estimated that 14% of Cambodians over 18 years of age have posttraumatic stress disorder (*Duch on Trial*, Week 18). Cambodia is in desperate need of healing on both national and personal levels. Many hoped that the tribunal would incite this healing. But its ability to actually do so is controversial.

Several interviewees expressed restrained optimism that the tribunal has helped the healing process in Cambodia. Dalin states that sentencing Duch and other former KR leaders may bring healing and relief to the Cambodian people and also prevent a similar incident from happening again (Dalin). Although the trial cannot erase the past, it helps victims in knowing that their pain has not been forgotten (Dalin). Without the trial, many would feel that the victims had died in vain (Dalin). Suon believes that Duch's limited expressions of responsibility and cooperation may help ease the suffering of victims (Suon). But he imagines that future cases will be more important for helping to heal Cambodians, as the root causes of the killings are discovered (Suon). He states, "When massacre happens, it is important to know who did it, why, and who participated in the massacre so that the victims may feel release" (Suon). Chea states, "I feel much better when I know that a perpetrator like Duch tried to cooperate with the court; he tried to reveal something. So to me, he really relieved the sorry of Cambodian people." Chea also affirms that he feels a sense of personal healing and that he is "very happy to have the trial." However, most interviewees were not as pleased with the tribunal's ability to ease the nation's sufferings.

Two interviewees assert that the tribunal will have a limited effect on the healing process. Pheaktra thinks that the tribunal can bring some healing to Cambodians, but it cannot relieve all the pain and anger (Pheaktra). He predicts that this case will alleviate sorrow by 20-30%, as this trial only dealt with S-21 and not any other sites of injustice (Pheaktra). Therefore, he believes

that this trial will primarily relieve the grief of victims of S-21 (Phektra). Others are still waiting for their relief, which will hopefully come through the future trials (Phektra). Phektra notes that some Cambodians are apathetic to the tribunal, and that the trial cannot relieve their suffering (Phektra). He states, “Some Cambodian people do not care about it; they do not want to hear about it, while some are fed up with it when hearing about the case. Cambodian people know, understand, and relive their sorrow” (Phektra). Phektra acknowledges that some will feel a sense of healing through the eradication of the “culture of impunity” that has hurt Cambodians for the past 30 years (Phektra). Robinson believes that the guilty verdict and sentencing will begin the healing process (Robinson). But Duch’s statements, his “velvet, well-thought out, premeditated words,” do not fool many Cambodians (Robinson). He does not believe that the fact that Duch has been on trial, expressed remorse, and apologized will aid the healing process (Robinson). Others outright reject the trial’s ability to heal.

Three interviewees expressed that the trial has not at all helped to advance the healing processes. Phung thinks that Duch’s insincere cooperation does not relieve any suffering of the Cambodian people (Phung). She doesn’t feel any sense of personal healing due to Duch’s light prison sentence (Phung). Va does not feel that Duch’s admissions were sincere or from the heart, but were just pretenses (Va). He states that Cambodians do not believe his confessions or apologies, and therefore they are useless (Va). They do not pacify or relieve the people, but make them angrier than before (Va). Sarath believes that Duch’s actions on trial were meant to relieve his own conscience, so he in no way relieves the suffering of Cambodians (Sarath). He explains that following the verdict he hoped to find inner peace, but that this is not the case (Sarath).

Just like the tribunal is only the beginning of the process of justice in Cambodia, it can only incite a beginning to the process of healing. One possibility for further healing is reinstating local truth and reconciliation commissions that were practiced in the 1980s, as expressed by one victim (*Duch on Trial*, Week 18). These commissions can assist victims to express their feelings and share experiences, slowly helping Cambodians to heal and reconcile (*Duch on Trial*, Week 18). For some, religion may serve as another outlet for healing. One witness expresses that Buddhism has helped her get rid of her anger toward a relative (*Duch on Trial*, Week 18). It is unfair to look to the tribunal, or any criminal court for that matter, to exclusively complete the process of healing on a national or individual level.

§

There certainly appears to be a popular opinion regarding Duch and the trial. This opinion is that the convicted is insincere, dishonest, even monstrous, and that the judgment is completely inadequate and does not bring healing or justice to the nation. Although there are certainly those that disagree, as evidenced by my responses, it is unlikely that these people will speak out. The fact that there appears to be a mainstreamed opinion regarding Case 001, one that is arguably biased and unfair, may impede national reconciliation. This viewpoint leaves no room for forgiveness or healing, but upholds a sense of rage and bitterness. This opinion also refuses to acknowledge the trial within fair and logical parameters. In a nation where few people are well-educated and even fewer closely follow the trial, this popular opinion could spread to many uninformed or impressionable minds, further impeding the healing process. Despite this common attitude, there are still evident cleavages in opinion.

There are certain differentiations in opinion to the tribunal based on age. Younger generations are slightly more sympathetic to Duch. This is understandable, as these generations

did not live through the regime. Therefore, the issue is much less personal and more difficult to comprehend. Those of this mindset will likely find it easier to attain a sense of relief and personal healing. In contrast, older generations tend to perceive Duch as inherently iniquitous and reject the possibility of rehabilitation, asserting that today he remains loyal to the Khmer Rouge. By retaining this attitude, one refuses to let go of the past, but keeps crimes and injustices memorialized in the present. This opinion will certainly impede reconciliation. When one clings to anger and a sense of injustice, the potential for future progress is sacrificed.

Cambodians tends to perceive Duch as dishonest and insincere in the context of the trial. There appears to be consent that Duch's cooperation with the court was limited at best, that his actions on trial were self-serving and aimed at securing a reduced sentence, that his apology and expressions of remorse were insincere, and that his emotions were falsely orchestrated. For many, this opinion was solidified when Duch asked to be acquitted. It is hard to argue with this opinion after closely analyzing the case. For many Cambodians, this sense of insincerity on behalf of the convicted impedes the possibility for personal healing. And without a sense of relief on behalf of individuals, collective healing is impossible. In this way, Duch's actions on trial have done little to help the progression of national reconciliation.

6 Conclusion

It is impossible to judge Duch's state of mind at the time the alleged crimes were committed, or his state of mind during the trial. No one is able to read another's mind. However, we do have a strong record of what happened at S-21, as well as Duch's account of that record. On that basis, the only basis upon which a judgment can be made, it is my opinion that Duch is not trustworthy. He is demonstrably intelligent, meticulous, and articulate. I also assert that he has excellent survival skills and that he applied these to the trial in order to secure a mitigated sentence, if not an acquittal. However, this is not surprising. Certainly one shouldn't expect Duch to be self-incriminating. While I do not accept many of his statements as sincere, I recognize humanity in him. My perceptions have found a hardened, calculating person and we can see this callous exterior disintegrate at select points during the trial. I do not perceive Duch as a monster or demon as some do, but agree with Francois Bizot when he says that one can only fully appreciate the gravity of Duch's crimes by acknowledging his humanity (*Duch on Trial*, Week 2). However, it is not my opinion that is important, but the opinions of Cambodians, and they have spoken on the matter.

Cambodians in general have not responded well to Duch's actions on trial. Although there are exceptions to this statement, there appears to be a common opinion that Duch is insincere, dishonest, self-serving, and that the judgment does not bring justice to Cambodian society. The fact that his opinion appears to be mainstreamed will not aid the process of national reconciliation, as it fosters anger and bitterness, thus impeding healing. However, there are apparent differences of opinion based on age, and this is promising for the nation. While older generations are much more resistant to Duch's statements and to the beneficial aspects of

the tribunal, younger generations have responded more positively. This attitude will facilitate an easier transition to a peaceful mindset. As the former French ambassador to Cambodia, Stephan Hessel explains, national reconciliation means building a peaceful nation (*Duch on Trial*, Week 20). I predict that as time progresses and this younger generation acquires more ownership over their nation, their attitudes will greatly contribute to the advancement of reconciliation. In order to assess the true impact of the trial on the process of national reconciliation, factors that are independent of Cambodian reactions must also be reviewed.

Objective factors of Case 001 illustrate that the case will have a positive but limited impact upon the progression of national reconciliation. The fact that the Khmer Rouge Tribunal has been established and that Case 001 has come to close is monumental, as it marks the end of a thirty-year reign of impunity in Cambodia. The fair and thorough proceedings of Case 001 have built a strong foundation for the cases to follow and may also inspire Cambodia's own judiciary. It is also significant that Duch admitted to and acknowledged crimes committed under the regime, as he is the only former leading Khmer Rouge cadre to offer such statements or to acknowledge the suffering of victims. Duch also helped confirm a good deal of factual information, thus elucidating what occurred at S-21. This information helps establish a shared view of the past and may also offer victims and families a sense of peace. In addition, the trial formally acknowledged victims and allowed them to speak out, which may help to relieve anger. Unfortunately, the capacity of the tribunal to ameliorate was limited by its narrow scope, insufficient reparations, and Duch's apparent inconsistency. These objective factors, in combination with Cambodian responses, help illuminate the impact that this case will have upon Cambodian society.

Case 001 has in many ways served as a source of hope and healing, thus advancing the process of national reconciliation in Cambodia. However, the impact of this case is limited, and can be likened to a single small step in the long journey toward a reconciled future. This extensive process will extend far beyond this particular trial and even beyond the last case of the Khmer Rouge Tribunal. However, there are several means through which this process can and should be advanced, aided, and expedited. The progress made by Case 001 needs to be supplemented by other reforms, including institutional reforms and attitudinal changes.

There are several institutional reforms that should supplement the Khmer Rouge tribunal. If the court cannot implement these suggestions, then perhaps Cambodia's numerous NGOs can pool their knowledge and resources to help in this process. First, the nation would be well served by creating reports similar to Guatemala's *Memoria del Silencio* and *Guatemala Nunca Más*. A document of this sort will further acknowledge Duch's crimes and perhaps more importantly, will publish the names of victims that suffered under the regime. Second, sufficient reparations need to be offered to victims. I suggest that a memorial be erected in their honor. In addition, Cambodia should institute an annual memorial day to commemorate those that suffered and to ensure that the brutalities of the regime are not forgotten. Another option, as suggested by victims, is to instate communal open air tribunals. The court has addressed reconciliation on the national level to an extent, but these effects will be stunted due to the fact that the local level still needs attention (*Duch on Trial*, Week 18). These tribunals can foster reconciliation between victims, low level perpetrators, and those in between to advance healing within communities. Fourth, foreign influence in the tribunal needs to continue. Cambodia remains extremely corrupt and does not have the political or legal infrastructure to carry out a fair tribunal without international support. Finally, information about the regime and the trial needs to be more

widely taught in schools. Younger generations need to learn about this part of their nation's history to ensure that these atrocities are not forgotten nor repeated. If implemented, these suggestions can progress national reconciliation, facilitate a greater degree of justice, and ensure the continuing success of future cases.

Attitudes toward the court need to be modified if Cambodia is to advance reconciliation. With an improved outlook, Cambodians can maximize the potential benefit of the tribunal in this regard. I suggest that Cambodians adopt a legalistic point of view in several regards. First, the notion of justice needs to be reassessed. Real, true, and complete justice will never exist, as the crimes that Duch committed cannot be repaid. Cambodians should stop looking to the Khmer Rouge Tribunal to bring about this fictional notion of true justice, as this impedes healing. Second, Cambodians should view the tribunal within appropriate parameters. Although the tribunal has had certain shortcomings, it has been successful in numerous regards, and these accomplishments should be appreciated. In addition, although Duch's statements while on trial are generally perceived to be insincere, his cooperation has proven somewhat beneficial. This fact should also be recognized. Cambodians should also accept the limitations of the tribunal. Many citizens are furious that mitigating factors reduced Duch's sentence. However, one must understand that the court is obligated to take these factors into consideration and appreciate that this reduction may serve as an incentive for future individuals to cooperate with the court. Once Cambodians understand the abilities, limitations, and obligations of the court and perceive the judgment within an appropriate context, it is likely that they will be more satisfied with the proceedings. Third, there is widespread confusion regarding what is legally fair and what constitutes revenge. Many victims are seeking vengeance. Cambodians must release the hope and desire that former Khmer Rouge cadres will be brutally punished, as this will never happen,

nor should it. By clinging to these desires for retribution, Cambodians impede personal and collective healing. However, if Cambodians can perceive Case 001 through a legalistic lens, they will likely find a greater sense of personal healing, which collectively can incite national healing.

Case 001 of the Khmer Rouge Tribunal has been a difficult and painful stepping stone in the nation's long healing process, but one that is valuable and entirely justified. It will be interesting to observe how this case will contextualize and have bearing over the cases to come. In addition, Duch's appeal may further impact Cambodian society and will serve as an intriguing follow-up to this study. Despite the arduous process of bringing about healing and justice in the wake of genocide, I am optimistic that Cambodia will one day be able to recover from the injustices of its past and move forward to become a reconciled nation.

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Interviews

Cambodian Respondents:

CR: Sopheap Chea, research analyst at the Bophana Center, male, 26 years. Phnom Penh, July 2010.

CR: Neth Pheaktra, managing editor for the *Phnom Penh Post* in Khmer and presenter for *Duch on Trial*, male, ~40 years. Phnom Penh, July 2010.

CR: Kim An, student at Royal University, female, 21 years. Phnom Penh, July 2010.

CR: Kou Dalin, artist and student at Royal University of Fine Arts, female, 20 years. Phnom Penh, July 2010.

CR: Hong Kim Suon, lawyer for Cambodian Defenders Project and civil party lawyer for Case 001, male, 53 years. Phnom Penh, July 2010.

CR: Sunthary Phung, retired professor, female, 54 years. Phnom Penh, July 2010.

CR: Nou Va, director at Youth for Peace, male, 31 years. Phnom Penh, July 2010.

Foreign Respondents:

FR: Raoul-Marc Jennar, academic and consultant for the defense team during Case 001, male, 64 years. Phnom Penh, July 2010.

FR: Matthew Robinson, producer of Khmer Mekong Films and producer of *Duch on Trial*, male, ~ 50 years. Phnom Penh, July 2010.

FR: Thierry Cruvellier, journalist, male, ~35 years. Phnom Penh, July 2010.

Interview Guide

For Cambodian Respondents:

My name is Kym Cole and I am an undergraduate Anthropology student at the University of Pennsylvania in the United States. I am also currently a communications intern at the Bophana Audiovisual Center. I am conducting research for my senior thesis on the Duch trial. With your consent, I would like to ask you a few questions regarding your opinion of Duch and his trial. All information will be handled with the strictest care and confidence and will be solely for research purposes. Anonymity will be ensured upon request. Your cooperation and contributions are greatly appreciated!

My thesis focuses on several aspects of the Duch trial. Firstly, I seek to reach a greater understanding of Duch as an individual. I will examine his seemingly disparate occupations and stages of life, from his time as a math teacher, his instatement as a Khmer Rouge cadre and head of interrogation at S-21, followed by his intriguing conversion to Christianity, and now his current status as an accused person on trial. My second aim is informed by the fact that Duch is a Cambodian anomaly in the sense that he is the first and only former Khmer Rouge cadre to admit to his crimes, accept responsibility, apologize, and express remorse. I hope to assess the Cambodian public's response to Duch's actions on trial and also to evaluate public perception and opinion of Duch as a person. Finally, I hope to use the Duch trial as a lens to examine the concepts of apology, remorse, sincerity, forgiveness, and justice in modern Cambodian society. In this way I hope to place the reactions to Duch and his trial within a Cambodian cultural context.

For research purposes only:

Name (optional)

Age

Gender

Occupation

Location

Interview Questions

Duch on Trial

- 1) Duch has been extremely cooperative, open, and helpful throughout the trial. Why do you think this is?
- 2) What percentage of Duch's confessions do you believe?
- 3) Do you think that Duch is sincere in his apology? Why or why not?
- 4) Do you accept his apology? Why or why not?
- 5) Do you think Duch feels guilt? Remorse?
- 6) Do you think Duch should be found guilty? If yes, what should his punishment be?
- 7) Do you think Duch's sentence should be lessened because he is remorseful and has been cooperative?
- 8) Do you forgive Duch for his crimes?

- 9) Duch has repeatedly stated that he was forced to carry out orders. If he did not, he and his family would also be killed. Do you think this exempts Duch from full responsibility? Does it make his crimes less severe?
- 10) Do you think the fact that Duch oversaw many crimes makes him guilty of these crimes? If yes, is he entirely guilty, or guilty to a lesser degree?
- 11) At times Duch called the claims of witnesses untrue. Did you ever believe Duch when he said this?

Duch as a Person

- 12) Duch recently converted to Christianity. Why do you think this is?
- 13) Do you think his religious affiliations have prompted his cooperation?
- 14) Duch is the first and only former Khmer Rouge cadre to accept full responsibility, apologize, and express remorse for his crimes. Does this impact your opinion of Duch as a person at all?
- 15) Do you think that factors such as Duch's kind character before he was recruited to the KR and today his desire to be rehabilitated should be taken into account?
- 16) Do you think that Duch was a victim of the Khmer Rouge in any way? How so?
- 17) Would you trust Duch today? Why or why not?

Impact of Trial

- 18) Do you think the verdict against Duch will bring justice to Cambodian society? If not, what needs to happen in order for there to be justice?
- 19) Duch has agreed to cooperate with the court and states that this is "to relieve the sorrow of the Cambodian people." Does Duch relieve any sorrow by cooperating? How and to what extent?
- 20) Does this trial give you personally any sense of healing or closure?

For Foreign Respondents:

My name is Kym Cole and I am an undergraduate Anthropology student at the University of Pennsylvania in the United States. I am also currently a communications intern at the Bophana Audiovisual Center. I am conducting research for my senior thesis on the Duch trial. With your consent, I would like to ask you a few questions regarding your opinion of Duch and his trial. Participation is entirely voluntary. All information will be handled with the strictest care and confidence and will be solely for research purposes. Anonymity will be ensured upon request. If you do not feel comfortable answering a question, feel free to leave it blank. Your cooperation and contributions are greatly appreciated!

My thesis focuses on several aspects of the Duch trial. Firstly, I seek to reach a greater understanding of Duch as an individual. I will examine his seemingly disparate occupations and stages of life, from his time as a math teacher, his instatement as a Khmer Rouge cadre and head

of interrogation at S-21, followed by his intriguing conversion to Christianity, and now his current status as an accused person on trial. My second aim is informed by the fact that Duch is a Cambodian anomaly in the sense that he is the first and only former Khmer Rouge cadre to admit to his crimes, accept responsibility, apologize, and express remorse. I hope to assess the Cambodian public's response to Duch's actions on trial and also to evaluate public perception and opinion of Duch as a person. Finally, I hope to use the Duch trial as a lens to examine the concepts of apology, remorse, sincerity, forgiveness, and justice in modern Cambodian society. In this way I hope to place the reactions to Duch and his trial within a Cambodian cultural context.

For research purposes only:

Name (optional)

Age

Gender

Occupation

Location

Interview Questions

Duch on Trial

- 21) How closely have you followed the Duch trial? Have you followed the trial on TV or attended in person?
- 22) Duch has been extremely cooperative, open, and helpful throughout the trial. Why do you think this is?
- 23) What percentage of Duch's statements do you believe are true?
- 24) Do you think that Duch is sincere in his apology? Why or why not?
- 25) Do you think Duch feels guilt? Remorse?
- 26) What do you think is a fair punishment or sentence for Duch?

Duch as a Person

- 27) Duch recently converted to Christianity. Why do you think this is?
- 28) Do you think his religious affiliations have prompted his cooperation?
- 29) Why do you think that Duch is the first and only former Khmer Rouge cadre to accept full responsibility, apologize, and express remorse for his crimes?
- 30) Do you think that Duch's apology and remorse have altered Cambodian perceptions and opinions of Duch in any way?

Cambodian Society

- 31) What impact do you think the Duch trial and verdict will have upon Cambodian society?
- 32) Do you think that the concept of remorse exists in Cambodian society to the same extent as in western societies? For example, do Cambodians recognize the possibility of genuine remorse? Please elaborate if possible.
- 33) Do you think that an apology serves the same function in Cambodian society as it does in Western societies? For example, do Cambodians recognize the possibility of a sincere apology? Please elaborate if possible.

- 34) Cambodians seem to not believe any of Duch's confessions. Do you think this has anything to do with Cambodian culture or society?
- 35) Do you think that Duch could be reintegrated into Cambodian society? Why or why not?
- 36) Do you think that Cambodians generally demonize Duch? If yes, in your opinion, is this unfair?