



# IDSS COMMENTARIES (67/2006)

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## **CAMBODIA'S WAR CRIMES TRIALS Are they worth it?**

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ALMOST TWO decades after the December 1978 Vietnamese invasion of Cambodia which ended the brutal four-year rule of the Khmer Rouge, the Phnom Penh government is putting some of the former leaders on trial. The dark days of the “Killing Fields” by the Khmer Rouge had been a blot on Cambodian history. Some 20 percent of the country’s people had died from exhaustion, starvation or murder.

Today, the United Nations and the government of Prime Minister Hun Sen are preparing to put the surviving Khmer Rouge figures through a recently-established war crimes tribunal. The trials of the ageing former leaders are expected to begin in mid 2007. On July 16, however, one of the most notorious Khmer Rouge leaders, Ta Mok, known as “The Butcher”, slipped into a coma. The age of the handful of likely defendants like Ta Mok and the US\$56.3 million price tag, however, have many asking: Are the trials worth it?

Indeed, the questions are really two. First, will the tribunal bring the guilty to justice? And second, will it bring closure to a nation still nursing severe psychological wounds? In answering these questions, one should not assume that convictions alone will bring closure. Just the opposite, the state of memory in Cambodia suggests they will not. If the trials are to help heal Cambodia, they will need an added element — the stories of the victims.

### **The Past in Cambodia’s Present**

The story of memory in Cambodia exhibits two trends — the construction of a politicized official history and the use of that history to repress individual memories.

The Cambodian past changed when Vietnam invaded. Soon after forming, the new Hanoi-backed government began to propagate an official version of the Khmer Rouge years. To a large extent, this history still frames Cambodian understanding of that period.

Correspondent Margaret Scott describes this orthodoxy as “Pol Pot time”. Pitting the few against the many — a familiar theme of the Cambodian past — this account maintains that Pol Pot and a coterie of senior staff tricked and oppressed the Cambodian people, creating a second Holocaust. “Pol Pot time” is about as nuanced as a primary-school history text.

Why push a history that ignores international influences, latent Cambodian enmity towards Vietnamese, the role of ideology, and the body of Khmer Rouge supporters among other

things? Simply, the “Pol Pot clique” thesis gave needed legitimacy to the new communist government. It demonized Pol Pot and his deputies, who remained threats even in hiding. It gave a communist-friendly, exploitation-based reading of events. Importantly, it implicitly discredited Khmer Rouge ideology, which, in its later years, had become virulently anti-Vietnamese. Reports from journalists reinforced the new government’s preferred image as liberator, thus increasing international legitimacy.

That history provides legitimacy, however, is an old lesson. What is important is that, in Cambodia, officials kept the official history in the public sphere, where it would not have to contend with private memories. The new government made a museum out of the S-21 prison camp in Phnom Penh; tried Pol Pot and his deputy Ieng Sary *in absentia*; exhumed mass graves; erected monuments at several “killing fields”; and created a holiday called the Day of Anger, when people were to stew in resentment at what had been done to them (not, notably, what they had done to one another). Until 2001, schools did not teach anything about the period. Many schools still don’t.

Why go so far to keep history in a public realm of spectacle and rhetoric? The new government did this to limit the power of individual memories. A great number of former Khmer Rouge officials continued on in government. Blaming them instead of Pol Pot — as memories would — could have undermined social order and possibly the government itself.

This repression of private memories continues to take a terrible psychological toll. USAID estimates that two out of five Cambodians suffer from post-traumatic stress disorder (shocking when one considers that over half of the current population was not yet born when the Khmer Rouge ruled).

### **The trials**

Many hope that the tribunal will ease such psychological burdens. This understanding seems to be founded on the assumption that the trials will function as what the French historian and memory theorist Pierre Nora terms a *lieu de mémoire*, or site of memory. Sites of memory, Nora theorizes, are objects, places, or events to which people attach a memory, removing that memory’s immediacy, and aiding it in its journey toward resolution and a detached history. Funerals and gravesites are an everyday example.

Assuming that the trials will automatically bring a mystical “healing,” however, is wrong. The tribunal is distant; it provides no way for individuals to attach or share their memories. Indeed, far from being a *lieu de mémoire* that helps release memories, the tribunal may actually support the official history and further repress them. By prosecuting just a few leaders, the tribunal implies that just a few were guilty. While prosecuting many more is impractical, charging these few is not much better. It looks like “Pol Pot time” all over again.

Moreover, the tribunal will further the official history’s legitimization project. Blaming a few implicitly clears the many former Khmer Rouge officials still in government — no doubt a concern near the heart of Prime Minister Hun Sen, himself an old Khmer Rouge official. Similarly, cooperation with the UN lends the government international legitimacy.

Which is not to say the tribunal is bad. These criminals oversaw despicable acts and must be brought to justice. But, if undertaken alone, the trials will be counterproductive. Without some added element, they will not only legitimize a questionable regime, but they will further

strangle private memories with politicized public history.

### **New element?**

But what should this “added element” be? The experience of other post-conflict societies such as Rwanda and South Africa suggests that it might be something as simple as sharing. A recognized, legitimate forum in which survivors can share their memories would be a true *lieu de mémoire*. Individual memories would re-enter — and re-define — the public space.

Thankfully, some groups have already taken steps in this direction. The Documentation Center of Cambodia has spent most of the past decade collecting oral histories, individual stories, and Khmer Rouge paperwork. It publishes these accounts in a journal, *Searching for the Truth*. Yale University’s Cambodia Genocide Project, with a large presence in-country, operates in much the same way. Together with other non-governmental organizations, these two groups could become the forum Cambodia needs. Through the sharing of individual memories, a new history could be built, a more open and democratic public space created, and survivors slowly freed from the burdens of strangled memory.

As they pursue a war crimes tribunal, Cambodia and the UN should also organize these groups, give them the authority of a government or UN name, and encourage them to expand their work. Certainly, it would cost a fraction of the \$56.3 million already secured. After having devoted so much attention to the question of justice, Cambodia and the UN should not neglect that of memory.

Is the tribunal worth it? With an added element, it will be.

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