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Achievements and legacies of the Khmer Rouge trials: Reflections from inside the Tribunal

Rachel Hughes, Maria Elander, Christoph Sperfeldt, Helen Jarvis, William Smith, Lyma Nguyen and Wendy Lobwein

Introduction

Cambodia's hybrid criminal tribunal, the Extraordinary Chambers in the Courts of Cambodia (ECCC), also referred to as the Khmer Rouge Tribunal, became fully functional more than a decade ago. One afternoon in December 2017, an audience in Melbourne heard from a panel of four professionals who shared a long-term involvement with these trials. They were all Australian citizens, but with many years of overseas and Cambodia-based experience between them. Reflecting the manifold activities of different sections of the ECCC, they were each able to offer perspectives on the Court's activities. In the order in which they spoke, they were: Dr Helen Jarvis[1] – former Chief of the Public Affairs and Victims Support Sections and Member of the Khmer Rouge Tribunal Task Force Secretariat; William Smith AM – International Deputy Co-Prosecutor; Lyma Nguyen[2] – International Civil Party Co-Lawyer; and Wendy Lobwein – former Coordinator of the Witness/Expert Support Unit.

As organisers, we hoped the 2017 panel might provide an opportunity to reflect on the achievements and legacies of the tribunal. As scholars, we have followed the progress of ECCC cases, which have so far seen three defendants sentenced to life imprisonment.[3] We have also observed and analysed the development of the Court's novel system of victim participation, one that built upon the Cambodian system of civil parties and sought to adapt it to a situation of mass crime, and we have researched the extensive outreach of the Court and its 'collective and moral reparations'.[4]

Since its inception, the ECCC has been a focal point for heated debate. Despite an initial recommendation by a UN Group of Experts to establish a purely international tribunal, the resulting hybrid tribunal – due to the persistence of Cambodian negotiators – comprises chambers within the Cambodian legal system with extraordinary functions and powers. The Court applies both international and national law and has been limited to crimes committed in Cambodia during a specific time period (1975-1979). Journalists and scholars have voiced criticisms concerning political interference, the length of the process, the cost of the process, victim participation not meeting expectations and the legacies of the Court as compromised. Many of these voices have been more interested in

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[1] Jarvis, H. 2016 'Trials and Tribulations: The Long Quest for Justice for the Cambodian Genocide' in S. Meisenberg, S. and I. Stegmiller (eds) *The Extraordinary Chambers in the Courts of Cambodia.* T.M.C. Asser Press: The Hague; Jarvis, H. 2014 '"Justice for the deceased": victims' participation in the Extraordinary Chambers in the Courts of Cambodia' in *Genocide Studies and Prevention* 8(2), 19-27.

[2] Nguyen, L. 2014 *Representing Minority Victims in Genocide Trials*, NT Law Journal 2, 363.
Nguyen, L. and Sperfeldt, C. 2014 'Victim Participation and Minorities in Internationalised Criminal Trials: Ethnic Vietnamese Civil Parties at the Extraordinary Chambers in the Courts of Cambodia' *Macquarie Law Journal* 14, 97-126.

[3] Kaing Guek Eav, alias Duch, was sentenced to life imprisonment by the ECCC Supreme Court Chamber in 2012, and Nuon Chea and Khieu Samphan were sentenced to life imprisonment by the ECCC Supreme Court Chamber in 2016.

[4] See, for example: Elander, M. 2018 *Figuring Victims in International Criminal Justice: The case of the Khmer Rouge Tribunal.* Routledge: London and New York; Hughes, R. 2015 'Ordinary theatre and extraordinary law at the Khmer Rouge Tribunal' *Environment and Planning D: Society and Space* 33(4), 714-731; Sperfeldt, C. 2012 'Cambodian Civil Society and the Khmer Rouge Tribunal' *International Journal of Transitional Justice,* 6(1), 149-160.

decrying the Court than learning much about it, for example, from those working inside the legal process. Recording such insider voices can make an important contribution to the work of future generations of scholars and practitioners.

This panel represents the first time such key insiders have come together outside of Cambodia and in an academic context to reflect on the work of the ECCC and their own experiences there. Each of our panellists gave unique insights into a different part of the ECCC process: prosecuting the alleged perpetrators, advocating for participating victims and their reparation requests, explaining and providing witness protection, and working to publicise and coordinate the various activities of the Court within its multiple constituencies. In line with their professional experience, some panel members reflected on the Cambodian experience vis-à-vis other international tribunals. All generously shared what had been personally meaningful about their work at the ECCC. With humility, passion and humour, they responded to some of the oft-repeated criticisms of the Court. Their reflections offered deeper and wider understandings of the ECCC as a complex and important process that is as cultural, spiritual and political as it is legal.

In pursuing this publication, we have been motivated by the recognition that there is much to be gained by enquiring into the lived experiences of those working at the ECCC and other tribunals. We sincerely thank the four panellists for their original participation, as well as their subsequent permission and assistance in publishing the following account.

Rachel Hughes, Maria Elander and Christoph Sperfeldt
Melbourne 2018

Helen Jarvis

I thought I would start with the question: is it worth it? How do we look ten years on? Certainly, it's a lot longer than anybody anticipated, certainly longer than anybody who had an organisational responsibility for setting up the Court anticipated. Maybe people who had more knowledge would have realised that it was going to take longer, but they weren't in the right place in the right time. We were set up with a budget that was initially US$19 million -- that was the original quote -- and it was thought it would all be finished within three years. That original quote was a bit of a ridiculous one, even for what it did outline. It was only for the international side; they didn't think about trying to cost the Cambodian side or include it, and that's been a bit of a running issue right through. So, we're now standing at US$293 million and ten years down the track, and still not finished.

My answer is: yes, it is worth it. I was asked this question on the first day. I remember when Case 001 Suspect Duch was brought in to the Court for a pre-trial detention hearing and for the initial charging, and the press was meeting in those days outside the gates; we didn't have a press room or anything, it was fairly early on. I went out to meet the press at the gates and the Al Jazeera reporter asked, "Is it worth it?" and I said, "Look, if the Court closed tomorrow it's worth it, to have just had this process so far and to have Duch finally charged". I still hold to that. I think it certainly has been worth it to have international judicial recognition, as well as national judicial recognition for the crimes.

Not only the recognition but the unveiling or unravelling of the extent of the crimes and the scope of the crimes that took place. So yes, absolutely worth it.

Now, I haven't been involved in the legal side of this process. So, I would say that, from my perspective, the two most outstanding things have been the victim participation and the outreach activities. Ironically, those two activities were significantly absent from the budgets and staffing tables, and so it's been a battle to get real support for those activities, but in my appreciation of what's happened, these are possibly among the most important legacies of the Court.

The victim participation in particular was a tremendously long struggle. I remember the first press conference we had, it was on the 9th of February in 2006, when we'd just moved in …. A question was asked about the victims' role in the Court, and the Deputy Administrator, Michelle Lee, said, "Oh, the victims only have a role if they're called as witnesses. That's the only role they'll have." I practically fell off my seat at that. That was her understanding, and that was the United Nation's perspective; they didn't take into account that the Court had been set up commencing with Cambodian procedure, which gives a different role for victims as civil parties. There began a long and quite difficult struggle through the development of the Internal Rules; it took almost a year for those to be developed, and to give a role to victims. As it turned out, the role that they had was also very circumscribed in Case 001, and there was a big disappointment when the judgment came in Case 001 with its limited interpretation, even of the narrow reparations that could be issued [within the rules as they then stood].[5] So there was another big struggle around that.

The revised reparations scheme we have now,[6] … has opened up some extremely exciting and important opportunities. I think the role of 4 000 civil parties in Cases 001 and 002 has really been quite path-breaking. I think in some ways civil parties have been the highlights of the actual proceedings themselves. They've widened the scope of the Cases in terms of pushing open the Prosecution's envelope – particularly with regard to sexual violence and genocide and being partially successful in that – not entirely – and of course pushing the envelope on reparations and the revised reparation scheme. That's a really important achievement.

On the issue of outreach, public interest in these trials is said to be unprecedented in comparison to other countries and other tribunals. We have a Courtroom of 500 seats, which sounds huge, but it's full almost every day of hearings, at least for half the day

[5] In Case 001, the Trial Chamber found that it did not have 'the competence to enforce reparations awards' given it did not have 'jurisdiction over Cambodian or other national authorities or international bodies.' The only reparation awarded was a compilation of Duch's apologies and the public listing of the names of the recognised civil parties to the Case.

[6] Before Case 002, the Internal Rules were amended. Internal Rule 23 *quinquies* 3 a and b now provide for two modes of implementation of judicially recognised reparations projects. Projects may be ordered such that the costs of the award are borne by the convicted person, or they may be developed and funded by external actors in cooperation with the Lead Co-Lawyers and the Victims Support Section (Civil Parties Lead Co-Lawyers Closing Brief in Case 002/02). On account of the claimed and recognised indigence of the two Accused, reparations have been sought solely through the second mode. Reparations must provide benefits to the civil parties that address the harm caused by crimes within the scope of the case, but may also 'collaterally benefit a large number of unrepresented victims who have suffered harm as a result of the commission of the crimes for which the Accused are convicted' (Case 002/01 Trial Chamber Judgement, para 1114 footnote 3210).

when the Public Affairs Section brings in people from all over the country. I think it's nearly half a million people [that] have actually visited the Court, which is incredible. We've also had live television broadcasts and radio, newspaper reporting, and then an enormous number of related events. Some of these are reparations and some aren't reparations as such: films, plays, ballet, painting, sculpture, curriculum, memorials. It's true that, as some people argue, all these things, didn't need the Court to occur, but I would say on reflection that they wouldn't have happened, at least to the extent that they have, without the Court being there. Only last week we had an inauguration of a public sculpture in the centre of Phnom Penh, on the corner of Monivong Boulevard and the Chroy Changvar Bridge, marking where people were driven out of the city in 1975.[7]

I was asked to spend a little time on my own personal moments of importance, and to bring along a couple of photos. Well, I've got three moments and a few photos on each. The first one is the spiritual aspect, the unexpected things that happened to inject Cambodian spiritualism into the Court. The first one (see Figure 1) was blessing the Court's cars on the day that they arrived. The second one, which was a more interesting story, is the carving and installation of the Lord of the Iron Staff statue, or *Lokta Dambang Dek*. This was a long process. The sculpture was created at the Royal University of Fine Arts by the late Prof. Srieng Y. Before that, a wise man, a seer, was brought to the Court, invited to come to look around and see what we needed in order to get protection for the Court. So, we walked around the grounds with him and he stopped at one place and yes, maybe here, another place, and finally he got to this one place, he said, "Yes, this is where it should be." He poured holy water on the ground, and he invited the spirits, "Who would like to come and take the job of being the protector of the Court?" Then he went away, and a week later he came back, and he announced to us that *Lokta Dambang Dek* had accepted the invitation, and so we then had to commission the sculpture. In this image (Figure 2) there's the Director of Administration Sean Visoth on the right and Deputy Director Michelle Lee on the left at the inauguration ceremony, throwing flowers and holy water to inaugurate the statue. And it is before this statue that witnesses appearing before the Courtswear their oath, and also the translators and interpreters swear to tell the truth, the whole truth and nothing but the truth.

The second important moment for me was going around the countryside; we stuck up posters all around the country. We had an amazing experience meeting people at schools, on the roadside, etc.. This outreach activity was both very emotionally satisfying and challenging, I should say. But we never had a single case of anyone taking a booklet and throwing it on the ground, or spitting in our face, or anything. I was expecting that, but no, we were welcomed everywhere.

My third moment is the extraordinary experience I had arranging for Rithy Panh to come in and interview Case 001 defendant Duch when he was in pre-trial detention. Rithy was making a film later called *The Master of the Forges of Hell*, about Duch, which some of you may have seen. Rithy came with this idea and I was very pleased to be able to convince the Co-Investigating Judges and the Prosecutors that Rithy and his team should be allowed in to do this interviewing. And so Rithy spent many hours, and I spent the first

[7] The sculpture *For those who are no longer here* by French-Cambodian artist Séra was recognised as a judicial reparation in Case 002/01. It has since been moved into the first courtyard of the Tuol Sleng Genocide Museum.

few sessions with him, where he handed certain Khmer Rouge slogans, photographs and other things to Duch, and Duch responded, and that was the basis of the film.

Last, this is a moment that I personally wasn't present for, but I think that it's an amazing moment: this is the presentation of the Trial Chamber Judgement in Case 001 by the Public Affairs Section on 26 July 2010 (see Figure 3). There we have Public Affairs officers Dim Sovannarom, Lars Olsen, and of course the indefatigable Reach Sambath, he's second from the left, presenting the Case 001 Trial Chamber Judgement to the S-21 survivors. Here in the picture is Vann Nath, who chose not to be a civil party, but he was the first victim to testify at the Court, and very powerfully so. Here too, are Bou Meng and Chum Mey, survivors of S-21 who testified in the Case.

I don't want to end on a sad note, or a bad note, but I do want to point out the difference in the line-up between the photos of the presentation of the Trial Chamber Judgement and the Supreme Court Chamber Judgment in Case 001. We had lost Vann Nath and Reach Sambath, as both had passed away in the intervening two-and-a-half-year period. The time that these trials have taken has not meant only loss of time and slow process from the point of view of the people saying there's a need for a speedy trial for the defendants, but a speedy trial for the victims I think is more significant. I was just thinking this morning that the speedy trial right is always thought of as a defence right but, in fact, I think the victims have really suffered. There's been a huge loss, even up to fifty percent of people slated to testify have not been able to, because they've either passed away or have become too unwell. So yes, it's been worth it, and yes, it's taken too long.

William Smith
First, I'm proud to be invited here with these people alongside of me. They have been and are all still determined to make the ECCC process work. Perhaps, however, I'll start off by disagreeing with Helen though; I don't think the process has been too long. Agreed it has been long and although it could have been shorter, the length of investigations and trials is an issue that concerns the whole of international criminal justice. This system aims to achieve multiple objectives more than holding accused to account for their criminal acts but significantly to have the voices of victims heard.

As Helen has said, the main exacerbating factor has been that these investigations and trials started twenty-five to thirty years after the alleged crimes occurred. However, once they commenced the pace and cost of the ECCC proceedings, are and have been similar to that of other international criminal courts. Ways to speed up the process of international criminal justice while still ensuring fair trials should be absolutely examined, however, the benefits so far have outweighed the costs.

Before I talk briefly about the specific ECCC cases I would like to remind ourselves of the commonly known facts as to how serious and painful the Khmer Rouge period was for the population of Cambodia. It is estimated that at least 1.7 million people were killed in just over three and a half years of Khmer Rouge rule, half of them through execution, half through starvation, overwork and lack of medical care. During that period of time, tens of thousands of women and men were forcibly married and raped to increase the population.

The Khmer Rouge killed people from various groups that they believed opposed or would oppose the Party or their goals. They included individuals from the cities, the capitalist class, the old regime, the upper and middle class, the intellectual class, religious groups such as Cham muslims, Buddhists, national groups such as the Vietnamese and the Khmer Rouge members themselves that they believed to be traitors. To be clear, however, it wasn't communism or socialism that was on trial but the methods that the leaders used to implement their ideological vision, overnight.

With this in mind I turn to the ECCC cases, ten suspects have been investigated; the first being Kaing Guek Eav alias Duch. He was in charge of the S-21 security centre for over 3 years. There it is estimated now that up to 18,000 people, perceived to be enemies, were detained, tortured and killed. For his central involvement in these crimes, Duch received a life sentence.

Following the Duch trial, the Khmer Rouge leadership case was heard, initially against four accused; Nuon Chea, Ieng Sary, Khieu Samphan and Ieng Thirith. This group represented the last remaining senior ideologues and architects of Khmer Rouge policy who with Pol Pot and a small group of other individuals imposed by force their vision of a utopian society by criminal means. The leaders justified their crimes, as a means to an end for them. If not for them, the Khmer Rouge period wouldn't have occurred in the criminal way it did. You wouldn't have had systematic abuses against the population nor would you have had at least 1.7 million people killed. Unfortunately, shortly before the commencement of the trial, Ieng Thirith was found unfit to plead due to Alzheimer's disease and Ieng Sary died within 3 months of the trial commencing.

Ultimately, the indictment against the remaining two Accused, Noun Chea and Khieu Samphan, was split into two trials. In the first trial, Case 002/01, both Accused were found guilty at trial and on appeal and given a life sentence. The sentence was for the forced transfers of the population out of Phnom Penh and the other cities in the beginning of the regime's rule and the killings and inhumane treatment that occurred during those transfers. The Trial Chamber gave their reason for splitting the indictment into two trials on the basis that the Accused may die before a longer trial was completed.

The Prosecution had a different perspective. We were of the view that both Accused were of such an advanced age that the chance of them dying tomorrow or in six months' time or two years' time was exactly the same. We were of the view that if the trial continued for another six months we could have heard representative examples of all of the other crimes, which go to the core of their criminality; the killings, the enslavement and the forced marriages and rapes, thereby allowing only one judicial process for the two accused. But the trial was split by the Chamber, all with good intention, but that is why we've ended up with two trials and ultimately two appeals. To be frank, I am surprised that Noun Chea and Khieu Samphan are still alive today. The trial judgement will be issued next year with an appeal most likely following.

So, I think we've been very lucky that the judicial process has got his far, having history being told at a level that is strenuously tested, not just through the writing of books as critical and invaluable as they have been. There have been some great academics who have written these books however the level of detail of the sum total of the evidence coming out

of these trials is far greater than any of these books. The trials have had all of the books and their sources included and further through witness testimony and the admission of other contemporaneous documents the Chamber has been able to take into account many more facts.

Turning now to the other five suspects investigated at the ECCC they were investigated in two other cases, Cases 003 and 004. These suspects were senior leaders in the Khmer Rouge military and political hierarchy including Zone level leaders. The country was divided into seven zones which were governed centrally by the Standing Committee. These suspects were closely involved in the purges, killings, forced marriages and rapes and other crimes in their area of responsibility. All of the investigations have finished in relation to all of these suspects and the prosecution are awaiting decisions from the investigating judges as to whether three of the five of them will proceed to trial. One suspect died during the investigation and the other suspect Im Chaem, is awaiting a decision on appeal if her case will be ultimately dismissed.

I'll move now to the important achievements of the court. First, the very fact that three trials have been held is remarkable. I remember when I started at the court back in 2006 many journalists and commentators said, "This will never happen. These cases will never start or end." Since then we have had three trials against the top leaders and those most responsible for the crimes committed in Democratic Kampuchea. These trials have examined all the different type of criminal policies implemented by the Khmer Rouge. Around 350 witnesses have been heard and tens of thousands of documents tendered as evidence. In effect, the court has created a public space for discussions on human rights which otherwise the general public would be more reluctant to raise for fear of retribution.

The court has also demonstrated how a fair trial process looks in practice, it has ensured that fair trial rights are protected every step of the way. Cambodia's democratic situation is under significant pressure right now, nonetheless for the future of its society it requires a body of knowledge in this area to be able to move forward at the right time. Positive change comes through education. As a result of this court, there are now thousands of decisions and comprehensive judgements that can now be used for legal education purposes both for the judiciary itself, universities and civil society. The principles and values in these decisions and judgments will assist those involved in the democratic process to lead the country and its institutions in the right direction.

As far as my most memorable experience is concerned, I haven't really found a lot enjoyable about prosecuting these types of cases, satisfying yes, but not enjoyable. I don't know how many times I have thought, "Thank God I didn't live in the Khmer Rouge period. Thank God I wasn't one of those millions of victims." Strangely my most memorable experiences are when I stop and think about the experience of a victim who is giving testimony, described in a statement or identified in a photograph. These moments remind myself of my responsibility to do my job to the best level I can.

When I first saw this photograph[8] and looked at it closely it reminded me of what was international criminal justice's role in the tragic plight of this young man. And more, what sort of individual responsibility do we all have for the way we should carry ourselves in our short lives, in the limited circles we have.

This is a young man who had been detained in a classroom at S-21, one of the many interrogation, torture and killing centres set up by the Khmer Rouge leaders. Many of you may have been there, the converted school in Phnom Penh which Duch was in command and under his supervision up to 18,000 people have been killed because they were perceived to be enemies of the State, that is men, women and children. This young man was one of 18,000 killed at S-21 who were only a part of about one million people executed across Cambodia over three and a half years. In totality, about 1 in 4 Cambodians were killed. Just imagine if a quarter of the population of Victoria, or a quarter of us in this room were killed as a result of government criminal policies. And you think, "How can they do this? How can they do this?"

Duch told us at the trial how he could do it. I was fascinated by his testimony during the trial when he told us that he did his job so well because he believed in the utopian vision he was told the Khmer Rouge leaders would realize. Duch believed somehow or another the torture and killings were a means to a good end. He said if he could treat people like enemies, like animals it was easier to kill. He trained some of the interrogators and guards to kill but would rarely go to the cells himself. He explained that if he went down there, he would then have to look into the eyes of his victim and there he would see his or her humanity. Seeing this he said there was no way he could treat them like animals or enemies. That is why he stayed away from the torture and killing locations, so he could do his job better.

Duch's explanation of not looking into someone's eyes will always be with me, as it reminds me of something we can all do so easily, turn away from somebody. Somebody who is very different to us. It reminds me of the importance of accepting diversity, difference and never treating someone as a second-class citizen. As once we do, it is a slippery slope before systematic abuse of people can happen because they are viewed as something less than human. All of these ECCC cases remind me of the importance of individuals engaging with each other respectfully. The more we do this, the chances of the abhorrent treatment of human beings, as in the Khmer Rouge period, will be significantly reduced. The more we see our humanity in others, the more we will respect them with the humanity we all deserve.

Lyma Nguyen

Thank you to Christoph, Rachel and Maria for inviting me to this forum. It is actually a real trigger for reflection about what has happened over the last ten years, and I'm very honoured to be with our [other] panellists today because I have worked with Helen and Bill and Wendy, in various capacities as the trial and the pre-trial processes have progressed over the last ten years. Christoph was one of the very first people I met in Cambodia when I first came there in 2008.

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[8] Bill showed a photograph of a young male prisoner inside S-21 prison, see similar examples here: http://tuolsleng.gov.kh/en/imprisoned/

I'll speak about my role as a Civil Party Lawyer. I represent civil parties across Cases 002, 003 and 004, and the group whose focus I have been working on largely have been the ethnic Vietnamese minority group who live on the Tonle Sap River in floating villages, and these are the victims of the genocide charges.

The role of a Civil Party Lawyer is distinct from the Prosecution, so in this setting the drafters of the Court instruments had determined to include *per* the Cambodian procedural laws, civil parties, which meant that victims of crime could participate in the criminal process alongside the Prosecution and alongside the Defence, and have had their own separate roles as well as procedural rights. So, for example, [in the] pre-trial [phase], victims could make requests for further investigations, and during trial they have a right to question the witnesses. Victims in this setting have two main roles. One as those who had experienced the crimes and experienced harm, they can play a role as factual witnesses, [but] they also have a distinct [second] role, and that is to seek reparation, which at the Court is limited to 'moral and collective' reparations for the harm that they experienced.

My role, in working directly with the victims, has progressed through the different phases, so at the beginning when I was there, a lot of outreach [was] being done to [reach] potential applicants who lived in regional areas. Helen has touched on the [issue of the] ECCC budget not really including a substantial budget, or any [budget] as far as I was aware, for civil parties at the beginning. So, what happened was that it fell to NGOs and civil society to go out there to regional areas and let these victims know that they had the ability to participate in the proceedings, to help them fill out their victim [information] forms, and then to help them to submit [their forms] to the [Court's] Victim Support Section.

I'm incredulous when I think about the structure of the rules and the Cambodian context, because when you think about it pretty much everyone who was over the age of thirty was a victim of the Khmer Rouge. So, the scope of victims, particularly nation-wide, was potentially enormous, and yet the Court hadn't really envisaged things such as outreach, and notification to victims, in terms of its structure. So, I worked with NGOs, I got put in touch with the Vietnamese survivors, and it was a good alignment because I'm also [of] Vietnamese ethnicity and the ability to communicate directly with these victims was absolutely crucial to gaining their trust, to be able to collect their stories, and to be able to give them a voice. We're talking about genocide charges, so we're talking about the evidence [brought before] the Tribunal, that after [the] Khmer Rouge [came to power] there was in fact a 100 percent elimination of the Vietnamese from Cambodia in terms of elimination by executions and killings. Those who survived, and those are my clients, the reason they survived was because they had been forcibly transferred [prior to Khmer Rouge rule] out of Cambodia to Vietnam where they were treated as refugees in refugee camps. Because their families and ancestors had been born and raised and grew up in Cambodia, they considered Cambodia to be their homeland, they returned to Cambodia when they thought it was safe to do so, and that was in the 1980s, when the Khmer Rouge fell. They found when they returned that everyone who remained had died, but also that the Cambodian administration were [now] not treating them as residents of Cambodia; they had lost the ability to identify themselves, including identifying who they were, their

birth in Cambodia, their years of residence in Cambodia, and [their] Cambodian nationality which many of them had acquired under the previous Nationality Laws (which had existed at the time of their birth).

Now, this case was a very contentious case for many reasons, but the reparation that they ultimately wanted to seek was recognition of [their] Cambodian nationality, and it was extremely sensitive. I did a lot of research, together with Christoph and NGOs that we worked with in Cambodia, to get to the bottom of what they meant. When we looked at their victim application forms, and all that was written was "Cambodian nationality". Were they looking for recognition of Cambodian nationality which they had acquired? Were they asking for a grant of Cambodian nationality in contemporary times? Exploring deeply their personal backgrounds, their histories and ties to Cambodia and the harm that they suffered on account of the Khmer Rouge, and this harm we articulated as [the] loss of an ability to identify themselves, this was extremely important because this loss of ability for this ethnic Vietnamese minority group, was what has caused their disadvantage and marginalisation in Cambodian society today.

Helen and I were just discussing what's going on with the group now, with the [current] government revoking identity documents of members of the group. This shows that there is a level of discrimination against this group that still prevails to this day. I can say that when I first came to Cambodia the sentiment, even amongst Cambodian Civil Party Lawyers, was that the Vietnamese could never be seen as victims of crime, and that goes back to the entrenched hostilities and sentiments against this group by mainstream Cambodian society. I've also been asked whether I was sent [by] the Vietnamese government to represent these groups! So, it has been an interesting case from many different levels.

I mentioned that during the investigation phase, civil party applicants have a right to seek further investigations, and that's what we did at the very beginning. In 2009, we made a submission to the Co-Investigating Judges to investigate crimes against the Vietnamese in Kampong Chhnang Province, in the floating villages where they lived. The thing about the Prosecution case was [it argued] yes, there was genocide against the ethnic Vietnamese, but the focus was on [a] very, very limited scope of geographical areas, mostly focused on areas where there was evidence of a policy to eliminate Vietnamese in mixed marriages. This policy, the proof of this policy was very important, I think, to establishing the intention to eliminate a group, in part or in whole, because of an identifying particular, which in this case was ethnicity and race.

The Prosecution case had focused on survivors of mixed marriage families and a policy during the Khmer Rouge times that if the female spouse in a mixed marriage was Vietnamese, the Khmer spouse was ordered to kill the Vietnamese spouse, as well as the children, because there was a matrilineal descent theory that the bloodline went through the mother to the children. But if it was the other situation, where the Vietnamese spouse was the husband, then the children could be spared. So, we're talking about the targeting of a group, and yet there were, the main witnesses were those who survived, and those who survived were mainly Cambodian spouses of Vietnamese who had been killed.

So importantly for my case, I felt, was that these people [I represented] had to have a voice because they were the survivors of the group that the genocide was targeting, and yet at the same time their stories were not within the scope of the judicial investigations.

What happened in 2009, the Co-Investigating Judges decided that they would not investigate crimes against the Vietnamese in Kampong Chhnang, and along with that decision they decided to deem the ethnic Vietnamese from these floating villages to be not admissible as civil parties to the proceedings. This was the very first admissibility decision by the Tribunal. In 2010, the Civil Party Lawyers did a very crazy thing: we appealed for 2 000 applicants who had been deemed not admissible. The appeal process almost killed us because it was just a horrendous time, there were notifications coming out on the Case File every day, and we had only ten days to appeal every case. And there were 4 000 applicants; 2 000 had been deemed admissible, 2 000 had [been deemed] not [admissible]. In short, one of the greatest achievements for victims came from these admissibility appeals. (For the ethnic Vietnamese group, I actually appealed them twice, because on the first appeal the Pre-trial Chamber upheld the Co-Investigating Judges' decision to deem them not admissible. On the second appeal, which was done [as part of] the mass appeals, they were deemed admissible.) The result of the appeals process was an expanded definition or [expanded] criteria for civil parties, which meant that you didn't have to be a direct victim of crime, you could be an indirect victim, or a victim of the policies [and still be recognised as a civil party]. This is where the Vietnamese case came in, because these survivors were victims of a policy.

Here's a picture (Figure 4) of me at an early Civil Party Forum in Kampong Chhnang with my ethnic Vietnamese clients. I just came back from Cambodia yesterday, where I met up with my National Co-Lawyer, Sam Sokong, here in the picture he's standing beside me. After ten years, we now all look very different!

Wendy Lobwein

I want to try and link my comments with the three of you who have spoken before me. I jotted little things down as you were talking. I'm Wendy Lobwein, I was the ECCC Head of the Witness and Expert Support Unit, and for twelve years before that I worked at the Victim Witness Section at the International Criminal Tribunal for the former Yugoslavia (ICTY) where I was Acting Head and Deputy Head of the Section.

So, to link in with the three speakers so far.

Helen, I want to join with what you'd said about the initial set up. The Witness Unit of the ECCC was also envisaged as not requiring any funding from the United Nations. I actually remember being at a meeting in The Hague when a UN administrator returned with a plan for the ECCC, the Court, and I saw the extraordinarily stripped-down nature of it, with the witness unit missing and the outreach unit missing! I do think it says something about the gaps when pure administrators try to imagine and set up legal institutions.

This issue is also reflected in another area of the ECCC that I was going to mention, in terms of the differences, which is that the ECCC, unlike the ICTY, doesn't have a

Registrar position. The Registrar in the ICTY was a much-needed link between the judicial chambers through to the United Nations administration, and in the ECCC the most senior UN administrator had a pure administrative function with no Registry functions or responsibilities. And it did leave me feeling that there was a lack of coherence in our response to issues that touched all of the Court, that weren't particular to either the Prosecutor or the Defence, or the Civil Parties, but were more general.

So the setting up of these Courts is extremely important. I wanted to open with a quote actually, so I will say it after all. (I can't quite source it but it seems to be a United Kingdom author.) Anyway, if it was 'her', she said, "If you can't be a good example, be a terrible warning." In some respects, I find that the ECCC can be used a terrible warning, but it is also a display of good examples. It really is both, and I always encouraged students and researchers to continue to examine that Court, because it is my hope that there will be another endeavour that is jointly international and national, because I think there are possibilities there that haven't yet shown themselves. Along with the terrible warnings or, as we call them, "lessons learnt" from the Court.

Bill, you were talking about the details that are obtained through witness evidence, and I saw the ripple effect of these details, not just for the Court but in the lives of the Cambodians. There was one area, and I cannot remember now where it was, but it was a place where there had been a prison camp, prisoners and prison guards, and many of the survivors from both the guard and the prisoner groups had originally come from that area and remained living in that area after the conflict. So, when it came time for my Unit to collect witnesses and bring them for testimony, what we were finding in that area was that the older people, the witnesses, they knew well which of their community had been a Khmer Rouge and who had been a prisoner. But the stories that individuals told each other and their families had blurred those lines, and their children had vague ideas of who'd been a prisoner and who'd been a Khmer Rouge cadre, or who'd been outside the walls and who had been inside the walls. But that was not really clear to them. And the grandchildren had no idea; they thought everyone had been a victim, that the story of the area was that everyone was a victim. And so it caused this, not turmoil, but experience for that area as they had to re-come to terms with the actual story versus the carried stories, and it did play out in the school grounds, which is, "Your father carried a gun. Your father was Pol Pot." And we had in this area a very good relationship with the police; they understood the situation well. The police in Cambodia are not widely trusted, but in this case they worked very harmoniously with us, talking to the populations, keeping them aware that what was important was harmony in that community by facing these stories. So those details are not just for our history books, but are also found in lived lives.

And in response to Lyma in regard to the inclusion of the expanded grounds for admission of civil parties. This was powerful for victims, but inadvertently led to an extra burden for me. Witness Protection is one of the responsibilities of the Witness Unit. Civil have rights to information, they have entitlements to documentation and records (including confidential documents), and the expanded grounds meant many more parties who conceivably have access to confidential material, but may not have the understanding of how to keep that information confidential, how to look after it. There was a point where I thought that the best place to be, if you were a protagonist who was

unhappy with the Court, the best place to get your information would be to be to join as a civil party, because that would give you this access, and because of the sweeping inclusion of civil parties, rather than individual analysis, there was very little scrutiny over who was and who wasn't admitted. But what it does mean is that these are the lessons, the terrible warnings, the lessons to be learned, that I think have not been thoroughly explored enough to give us a picture of how a new joint UN and National venture might look in the future.

I was asked to focus a bit on the differences between the ICTY and the ECCC.
One of the things I saw is that victims of any jurisdiction, whether it's national or international, particularly victims and witnesses, share similar kinds of needs, so similar kinds of needs for psychological support, for physical support, for information, to understand what this system is that they're engaging with. But for crimes of this magnitude, I see three main differences, and those main differences are the same for the Yugoslavia Tribunal as for Cambodia, but they played out differently.

One of them is the huge amount of fear that witnesses feel. If you're a victim of a violent crime in your own jurisdiction, the perpetrators are normally small in number, or one, or a couple, or a few. In these crimes of mass violence, the perpetrators were, in former Yugoslavia, an ethnic group, in Cambodia, an ideological group. These are vast numbers of people, and also members of your community, your family, they may involve multiple acts of betrayal and indoctrination. And so, the corresponding fear of witnesses is towards everybody, so they fear reprisals because they don't know from where the threat will come, and they think the threat can come from everywhere. This significant amount of fear has to be dealt with by the Witness Unit. The Unit tries to reduce this fear and to try and see what is realistic and what are objective fears and what are psychological and emotional fears in order to determine what protection measures should be recommended.

Trying to explain protection measures was particularly difficult in Cambodia because an understanding of protection is, is just not well understood. Even the word "protection" had the flavour – Helen will know better – of 'bodyguard' to the witnesses. Cambodians are familiar with bodyguards; they see them, wealthy people have them. So, most people asked for witness protection assuming they would get a bodyguard who would protect them. One other thing about protection in Cambodia is that best practice witness protection is developed in wealthy Western societies, and it is not easily translated to different societies. One of my first interviews was with a civil party, and he wanted witness protection measures, he was really afraid. I talked to him about what it was that he wanted, and he said, "I'm really afraid. I think the Khmer Rouge is still here. I think they're going to harm me." I just wanted to start off with the basics, and I said, "Who knows that you've applied to be a civil party?" He said, "Nobody, it's a secret." And I said, "Are you married?" and he says, "Yes, yes I'm married." I said, "Is it something your wife would know about?" "Yes, she knows." I said, "Do you have any children?" "Yes, three big boys." And I said, "And is it something that they all know about?" He says, "Yes, yes they know about it." So, I say, "Are they married, these three big boys?" "Yes." I say, "Is it something that their wives would also know about, and their children?" "Yes, yes, we've all talked about it as a family." And then I say, "And in your village, how do you get on with your neighbours?" "Excellent. We share a water buffalo." And I said, "Is it something that your neighbours would ever talk…?" He goes,

"Oh yes, we've talked about it, so they know." And I said, "Did somebody help you fill in your form?" "Yes, an NGO." And I said, "Okay, do you remember who they were?" "No." And I said, "Do you remember where you were when you filled it in?" "Yes, a community meeting." I said, "Okay, how many people do you think were there?" He said, "About 100." And I said, "Are they people that you know and people that know you?" "Yes." So, I said, "Okay, so how many people do you think actually know that you have applied?" And he said, "Well no one, it's a secret." [laughter]

What he was telling me, of course, is that as long as it is people that he knows and trusts who know, then that's the same as nobody knowing, because it's just a different familiarity with how secrets are kept. And so, witness protection is not transferrable, and it really needs creative thinking in each society about what's going to work for them. In fact, I used to get most of my ideas out of women's services, those who were protecting women escaping family violence, because they're the ones doing creative thinking; they were operating outside police forces and really stretching their minds.

The second difference is in the scale of the destruction. Most of us, when we're victims of crime, we recover by leaning on our sisters, our mothers, our churches, our employment, our schools, our hospitals; in these war crimes, the sisters are crying, the mothers are dead, the temples have gone, there are no hospitals, there is no work, so the scale of the destruction is huge and there's no infrastructure to help people to recover.

And the third key difference is understanding the legal system. Who here is not a lawyer? Those of us who are not, through our lives and through our education, we slowly build up layer by layer a fairly sophisticated understanding of how our own legal service works, and what we don't know we just fill in from television. And that's exactly what happens in Cambodia, except for Cambodia, they hadn't been familiar with a legal system for a lifetime, or a generation. So, many had nothing but a vacuum. It was really difficult for them to understand what this system was about, what they could expect, what would they receive, and we had to do it on an individual basis, talking to them. There was one civil party that I liked so much, she was sophisticated and smart – she was all over the issue. And I asked her, "What is motivating you to do this? What do you expect from this," she said, "Ten thousand dollars." And I said, "Well, you know that reparations are symbolic." She said, "Yes, if you pay me what I lost, the value of my husband, my children, my home, my culture, my country, it would be billions. So, ten thousand dollars *is* symbolic." [laughter]

Anyway, another couple of key differences [between the ICTY and the ECCC]: the absence of proofing in the ECCC.[9] For example, I think that contributed to the length of time it took; witnesses were not well prepared, expert witnesses were not well prepared. It dragged it out. Also there was the whole matter of self-incrimination that was new to the Court which added a lengthy complexity.

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[9] Whereas some courts provide for lawyers and prosecutors to prepare their witnesses before trial testimony, this is not permitted at the ECCC.

My memorable moment doesn't have a photo but it could have. The Witness Unit was sent to find, locate a witness, and prepare them for testimony. It was a witness nominated by the Prosecutor. When we went to his home we were told that he had died, but we couldn't obtain a confirmation of his death because he died in another part of the country, unexpectedly. So, we went haring off to the other part of the country and we got a confirmation of his death, a letter from a local council leader just saying, "I confirm that this witness died on this date." And we brought it back and provided it to the chambers, and they provided it to the parties. The Prosecutor noticed that the date of death actually came before the date of interview, so technically he was deceased at the time that his statement was taken. So, we got sent back out to find him again, and we started shaking trees, and it was terribly difficult to find him. I think eventually we broke a nine-year-old to learn that his grandfather was, in fact, still alive and hiding. We had a witness protection officer with the unit at that point, and he said it was the most amazingly cohesive deception that he'd ever seen, and he'd worked in undercover drug operations; he'd never seen such a tight management of information across so many. The powers of a collective culture. Anyway, this witness did duly come and testify, but on the way to Phnom Penh, he said he wasn't well and we stopped at a doctor. One of the Witness Unit staff went [in] to the doctor and said, "I want you to see …" and he said the witness's name. And the doctor said, "Oh, he died." [laughter] "No, he's in the car, come on.' […] [laughter]

Question (Maria Elander)
Thank you, so much. You all could have been invited to give keynote speeches, so I really appreciate you coming to do this [rather shorter version]. I want to ask Bill a question about prosecution within this scale of violence and destruction. […] Can [you] speak a little bit to the difficulties and the challenges of building a case, and also [about] avoiding the narrative that everything was the same during the entire time and place of Democratic Kampuchea, [for example] *how* you choose crime sites?

Question (audience member)
I have a question for Helen and Bill. I liked how Helen originally posed [the question] "is it worth it?". And so, with [all due] respect to what you've contributed, with accusations of government interference and bias and so on at the Court, where is that line between helping the Cambodian people and [being] potentially detrimental? Also, in Cambodian society, do you think that there's an emphasis on the final judgment rather than the actual process of the trial?

Answer: Bill Smith
Okay, to the first question, when you're dealing with mass crime, whether it be Syria, Yugoslavia, Rwanda, Cambodia, or any other place, unfortunately you can't prosecute every killing or every rape, or every inhumane treatment, beyond reasonable doubt. It's impossible, because you look [at] how long a [single] murder trial [takes] in Melbourne; probably, I don't know, maybe six weeks for some of them. And so [for] 1.1 million victims, say, you can't do it. So the general principle of international criminal law, and [the one] we applied to the ECCC, is that you pick representative examples of the criminality that occurred during that period, [ones] that illustrate or exemplify the policies that were put in place by the senior leaders, because ultimately that's the aim, to

prosecute the people at the highest level, because if not for them those policies wouldn't [have been] put in place. So, in relation to the ECCC, the population was forcibly transferred out of all of the big cities in the first couple of days, we had a force transfer case, and so [we chose] was the forcible transfer of people from Phnom Penh. Then people were put in cooperatives or worksites where they were given little food, worked fourteen hours a day, no medical care, no rest, no nothing. There'd be lots of worksites around Cambodia, there'd be 20, 30 big worksites, 40, 50. We picked four or five of the ones where we had a lot of evidence coming forward and [where] a lot of the worst crimes were [committed]. Then with the forced marriage, there were tens of thousands of people that were forcibly married, and we tried to pick people from different parts of the country to show the policy of forced marriage. [This was] also [the case] in relation to the execution and killing of different groups, we were trying to pick individuals from each group from different parts of the country to exemplify that policy. That [approach] tries to balance the need for historical comprehensiveness and legal accountability for the crimes, [with] efficiency and the concept of speedy trial. So that's what we tried to do. That's the policy that should be applied in all of the different tribunals, and that's a common practice. Sometimes it's done well, sometimes not so well, but that's what we aim to do.

In relation to is it worth it, [or] not worth it? If a process is so bad, does undermine the idea of a judicial process? Well, with the ECCC, I think there's been far more talk about the process not being good, as opposed to the actual process itself. When you look at the substance or the quality of the evidence in the cases, particularly a lot of the contemporaneous documents and the numbers of witnesses we had […] because the policies were so extreme […] evidence was very, very easy to find in [regard to] all of the different types of policies. So, the evidence was strong, and I think that's one of the most important things in terms of fair trial rights. Is a person […] being found guilty on the appropriate amount of evidence, beyond reasonable doubt? Certainly, in relation to the ECCC, the levels of evidence [there were] far stronger than at [the] Yugoslavia Tribunal […] part of that is because of the extreme nature of the Communist Party of Kampuchea and their policies, and [that] they documented that.

I think that the [ECCC] trial process was extremely fair in the sense that the defendants were given their lawyers and [that] add[ed] millions. The Prosecution cost millions, and the Defence cost millions, and everyone else. And [also the process was fair] because of the length of trial. This was not a speedy, one day trial and [then] let's hang them or let's release them, these were long trials. So, one [resulting] discussion is [around] 'they're too long', and another discussion is [around] 'they're too short'. Those fair trial rights and the ability to challenge the case, examine witnesses, cross-examine, understand the documents, debate the documents and their authenticity [matter]. (I am from the Prosecution, so obviously it's part of my work.) The level and the amount of time that was given for the Defence to mount their arguments and challenge the process is far more than would be given in say, Australian courts. [That's] because […] international tribunals are so sensitive, because you're dealing often with political ideologies and leadership, so it really goes to the core of the stability of communities, and prosecutors are particularly well aware of the type of attack that will be placed on that process, because usually it's one side, or one government, or one leadership that's being brought to trial. There have been instances where perhaps decisions may have been made and […] you may have felt that [the decision] may have been influenced by the judges' mentality

[regarding] the government of the day, or [the government] in Cambodia, in the case of Cambodia. I think those types of instances, if it was assumed that it was political interference in that regard, the number of decisions of that ilk are really very, very small, such that the thousands of other decisions very clearly have not been interfered with or influenced by the government.

Maybe I'll finish [with this point], because I know it's a question, not a speech! In terms of these four other cases that we're finishing the investigation [of] now, these are the cases that the Prime Minister of Cambodia has said, "We don't want these cases prosecuted because we feel that it will bring instability to Cambodia, and we've had war for too long, and you shouldn't be prosecuting them." Prime Ministers have political opinions all the time, Malcolm Turnbull [has them], people across the globe. But the agreement between the Cambodian government and the Court is that [the] government, or the UN, or any other government, won't interfere with the process. As much as the Prime Minister is not particularly keen about these extra cases, there's been no interference with investigators going out taking statements and building a case file. If you really want to thwart a process, you break the agreement and say, "UN, go home", or you don't let the evidence get collected; that's not happening in Cambodia. From the reports I hear people are not being [subjected to] direct threats. So, from the outset, many, many people said that you should never have a court in Cambodia because the legal system is weak, it's influenced by its government, however [you have] the marriage [between the Cambodian judicial system and] the UN [system], and the insurance that that is meant to provide, and the idea that this Court is quite separate from the national system. I think the discussion about political interference […] get[s] traction because of the history of Cambodia and how people look at the judicial system. I don't think it has a[ny] real substance in practice from the [perspective of] day-to-day work.

Answer: Helen Jarvis
Thanks. I don't think I can really add much more to what Bill said. The only point I would [make] is that before the Prime Minister said anything about the other cases the National Co-Prosecutor had said she didn't think those other cases should go forward, and given her reasons for why. That's often forgotten. People say, "Oh, the Prime Minister spoke and then they followed," but in fact she filed her objections and she still stands by those objections, and not a single Cambodian Judge or Investigator has supported the [additional] cases [i.e. Cases 003 and 004].

Indeed, the process itself stands up to scrutiny. We could talk a long time on that point, but I think the night is young.

Question (audience member)
[A question for] Ms Nguyen: Given the fact that you only had a very limited time to ask questions, as did each of the questioning parties, did you ever talk [to] Prosecutors like Bill about the questioning, so that you didn't overlap on questioning, because really there's an overlap between what representatives of victims are doing and what the Prosecutor's doing?

Question (audience member)

My […] question is, so it's about government interference in a different way, or government inadequacy, but keeping things unstable in the sense of no one being able to hold tight to any human rights, [because] they could be removed tomorrow. So, being involved in the process, do you think it had any democratising effect, or was it too much just trying to come to terms with fear, which would have narrowed the learning, I suppose, and also what you might hope for as an outcome?

Answer: Lyma Nguyen
Just in answer to the first question: yes, there was coordination. There were a very large number of civil party lawyers, and in Case 002, at the trial phase, for the purposes of case management, the Internal Rules had changed so that there would be Lead Co-Lawyers to essentially coordinate the fifteen or twenty civil party lawyers who are representing across these 4 000 civil parties.

In respect of my clients' cases, there had been liaison with the Prosecution. It was important, not just because of the limited amount of time, for example, but in this judicial setting the Prosecution are actually prohibited from proofing their witnesses, but Civil Party Lawyers were not prohibited from proofing their civil parties. So that was one of our tasks: to prepare them to give evidence. It was important to speak with the other parties, and particularly with the Prosecution, where some of the civil parties were [also] giving factual evidence as witnesses. You'd find [as well] that some civil parties had passed away, and so there was always a need to revise witness lists and select the best ones [together]. And in some cases, if I remember correctly, we even gave our time to the Prosecution; we said, "We've got an extra half an hour. The Prosecution can have that."

Bill Smith
It's hard to get a lawyer to do that. [laughter]

Answer: Wendy Lobwein
[T]hanks for that question because it really is a powerful look into the recovery of a nation, in a way, and there's two things [to say about that]. [First] I don't know that there was a democratising effect, but there was a knowledge effect. So, when I contacted witnesses after they'd gone back home and asked them, "How was it when you got home? Did anyone say anything to you?" and [in] a number of cases they said, "Yeah, they said 'did [you] get beaten? And I said, 'No, they don't beat you there,'" because for many people [the] experience [of] being called to the station or called to the courthouse does mean you're in for a bit of a beating. And so, this was this trust that I'm not sure extended to the national courts. I think one of my regrets is that we, I think we missed many opportunities to capitalise on transfer of skills and knowledge and legacy, and that was for a whole variety of reasons.

The [second] memory I had when you were speaking was [in regard to] a protest, I can't remember which year, a few years ago now, at a bridge, and there was a shooting. I don't know if it was around an election, maybe Helen [will know], or after the election. And Phnom Penh went to ground. There was silence in that city. I walked around the busiest part of the inner city, the Independence [Monument], there wasn't a soul, only me. And I think those people are so close still to that fear that as soon as that was triggered, politically triggered, the terror was right there and they acted on it.

Answer: Bill Smith

Can I just briefly add: I think it's the case that the government, police, the courts, [they're] the conservative part of society, and usually it's the academic institutions, the researchers and [those engaging in] debates and discussions, they're the people who are more likely to step out and express opinions. Particularly in Asia, particularly in Cambodia, it's a very deferential society. It's been part of their history. There's a history of an authoritarian sort of society as well, so people are reluctant to speak out. So, when you talk about democratisation, there is that sense of being out of place by speaking about what may happen. But what I can say, and what Wendy has said, is that certainly in terms of the educational institutions and certainly in terms of laying down a whole body of legal knowledge in terms of fair trial rights, the substance, human rights, etc., through the judgements and all of those decisions, that is being taught at the universities. Many of us take up those opportunities to go to the universities and talk, and the time may not be right now for people to feel more confident in terms of speaking out, and [claiming] all those rights and freedoms, but until they know what their rights are, until they know the content and their limits, it's very difficult for people to step forward. So, I think it's been an important grounding process to put that knowledge in Khmer, and in the academic education community, and then as Cambodia develops forwards, and backwards, but as it goes forward it has a body of knowledge to teach from, and that's quite [an] exhaustive [one] from the Court.

Postscript

In November 2018, the ECCC Trial Chamber convicted Nuon Chea and Khieu Samphan of crimes against humanity, war crimes and genocide against the ethnic Vietnamese and Cham (Khieu Samphan was acquitted for genocide against the Cham). The two are likely to appeal. Of the fourteen reparation projects proposed by the Civil Party Lead Co-Lawyers in Case 002/02, twelve were endorsed in full and one partially endorsed by the Trial Chamber. It is currently unclear whether any additional defendants will be sent to trial.

Figure 1

Figure 2

Figure 3

Figure 4