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27 Years On, Another Khmer Rouge Tribunal

By Luke Hunt

PHNOM PENH, Cambodia— Shortly after Vietnamese tanks rumbled across Cambodia's border in late 1978 the Khmer Rouge elite fled the capital and a new regime first attempted what the United Nations is poised to try again more than a quarter of a century later—account for the grisly deaths of up to two million people.

Pol Pot and perhaps his closest friend from their university days in France, Ieng Sary, were long ago sentenced to death in absentia for genocide, in a trial widely regarded as a legal farce. It was so badly handled and wrapped-up in Cold War politics that it escaped the attention of the outside world and for only a handful of people it remains a distant and inconvenient memory.

In the wake of the Vietnam War, the West and Washington in particular preferred to recognize Pol Pot as head of state, and despite the atrocities committed by the hard line cadre that surrounded Brother Number One, Hanoi's occupation of Cambodia was deemed illegal and their Soviet-backed effort to deliver justice for the dead was damned as a rigged show trial.

Twenty-seven years later, however, that two-day tribunal is on the verge of re-emerging onto the final stage of the Khmer Rouge era with legal ramifications that prosecutors would like the defense to forget, but with evidence so compelling and gut-wrenching that lawyers and the West can no longer ignore it.

The original trial began on August 15, 1979, with testimonies from 54 people.

Hundreds in the audience wept openly as Sim Phia told the court: "Hidden from behind a coconut tree, I saw the soldiers take nine children from 10 to 13 years of age out of trucks.

"The children's arms were tied. The soldiers pulled them up to the bridge over the pool. No matter how much they cried or shouted for help, they were thrown in as prey for the crocodiles."

Vang Pheap, a guard at the notorious S-21 torture and execution camp delivered unfettered insights into how 16,000 people would meet their ultimate fate. Pits were dug ahead of time and the prisoners were struck with an iron bar: "After that, Pol Pot's men cut the victims' throats or ripped their bellies to pluck the liver."

Denise Alfonso, a former secretary at the French embassy, witnessed cannibalism.

"The condemned man was tied to a tree, his chest bare and a blindfold over his eyes. Ta Sok the executioner, using a large knife, made a long cut in the stomach of the poor man."

Ms Alfonso then testified the man screamed like a wild beast: "His insides were all laid bare, and Ta Sok cut out the liver and cooked it on a little stove. . . . They divided the liver among them and ate it hungrily."

Mass killings were well documented and Bun Sath, a political officer, told the court of the steady precision required to carry out the leadership's commands. Evenings were preferred because the streets were deserted. The prisoners were bound in pairs and bashed on the napes of their necks.

Up to 300 were killed in a session: "We began at 6pm and continued until 9pm or 10pm," the court heard.

Evidence of genocide committed against ethnic Muslim Chams, Vietnamese, Chinese and intellectuals was overwhelming, and on Aug. 19 Pol Pot and Ieng Sary were sentenced to death in absentia while they were holed-up in the jungles of the remote countryside.

While the testimony was honest, the tribunal was not.

Hope Stevens, an African American, landed the job of defending Pol Pot and Ieng Sary. Because of her own background, she described herself as an expert on "genocide, murder, rape, torture, mutilation, lynching and deprivation of human rights."

She then labeled her own clients as "criminally insane monsters."

Few would take the verdict seriously, including the Khmer Rouge, which would continue to wage its wars for another two decades. But that changed in 1996 when serious efforts were finally made to end the conflict and Ieng Sary, along with the troops he personally commanded, defected.

His defection was assured only after negotiating a pardon of the verdict from then-king Norodom Sihanouk. Thus from a legal standpoint the 1979 tribunal was legitimized, posing serious questions for the current trial, which is expected to get underway in earnest by early next year, and whether or not Ieng Sary can be tried for genocide.

In his own mind, Ieng Sary believed he had immunity from any future

prosecution. However, advisors to the trial will argue that while a royal pardon may exempt Ieng Sary from being put in the dock again on charges of genocide, the ageing former foreign minister and Khmer Rouge power broker could still be charged with murder or crimes against humanity.

Pol Pot, like many others in his circle who may have faced justice, has since died. Of those who remain, Ieng Sary's wife Ieng Tirith, Brother Number Two Nuon Chea and former prime minister Khieu Samphan are chief candidates for prosecution at the tribunal.

If justice is to be delivered, a fair trial of Ieng Sary is crucial, but this will only become possible once the legalities of the long forgotten 1979 tribunal have been dealt with.

And this time around it will be those same original detractors—the United States, Australia, France and Japan—who as chief backers of the current tribunal will be forced to pay attention.

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