

UNITED NATIONS ASSISTANCE TO THE KHMER ROUGE TRIALS – PHNOM PENH

HRLA Bursary Report

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I would first like to thank the Human Rights Lawyers Association for their generosity in providing this bursary, without which I would not have been able to complete my internship for the United Nations Assistance to the Khmer Rouge Trials (UNAKRT) working in the Extraordinary Chambers in the Courts of Cambodia (ECCC).

Introduction

In the period 17 April 1975 to 6 January 1979, 3 million people, roughly 25% of the Cambodian population, died under the Democratic Kampuchea regime. This was followed by a civil war which lasted until 1998. Under Pol Pot, masses of people were moved from cities to the countryside, and private property, religion, and money were abolished. Intellectuals, those seen as capitalists, and ethnic minorities were either killed or imprisoned while the majority of the Cambodian population suffered from starvation.

Cambodia is still recovering from its turbulent past and the effects of the Democratic Kampuchea regime can still be seen today. In 1997, the Cambodian government requested that the United Nations establish a tribunal to prosecute the senior leaders of Democratic Kampuchea. On 6 June 2003, an agreement was reached between the government of Cambodia and the UN regarding the law and establishment of the tribunal.

The Extraordinary Chambers in the Courts of Cambodia

The Court is interesting because it is a civil law system which tries violations of Cambodian penal law and international humanitarian law, custom, and treaties. The structure of the court is also split into two halves: each department has a national team and an international team. This makes the ECCC unique, as it is the only internationalised tribunal to have such a dichotomised structure. I was interning for UNAKRT, the international part of the court.

Thus far, three senior leaders of the Democratic Kampuchea regime are serving sentences of life imprisonment: Kang Kek Iew, also known as Duch, who ran Tuol Sleng Prison in Phnom Penh; Nuon Chea, who was the second-in-command to Pol Pot; and the Democratic Kampuchea's Head of State, Khieu Samphan.

Office of the Co-Investigating Judges

I was a Legal Intern at the Office of the Co-Investigating Judges (OCIJ) for 5 months. This department is founded on the French civil law system, and is thus different to the other internationalised criminal tribunals which are largely based on common law systems. The pre-trial investigations at the ECCC are conducted by the OCIJ under Judge Bunleng and Judge Bohlander, who are the national and international Co-Investigating Judges respectively.

At present, Case 003 and 004 are under investigation. My main role was the impartial analysis of evidence. I gained a breadth of experience during this internship, both legal and non-legal. I conducted legal research and drafted memoranda but also assisted with the investigative aspect of the department.

I also watched parts of the trial on Case 002/01 during my internship. The issue of forced marriages was dealt with in detail during my time at the Court. I watched as women who had been forced to marry, and often forced to consummate the marriage, took the stand and recounted their experiences. As distressful as it was to watch, it made me realise how integral the Court is in achieving some semblance of justice for those affected by the Democratic Kampuchea regime. The achievement of justice for the victims is vital for post-conflict recovery and I am grateful to have been a part of the process in Cambodia. I would not have been able to undertake this internship without the assistance of the HRLA Bursary. I would have been unable to travel to Cambodia and live in Phnom Penh, having just graduated from university, without assistance.

My time in Phnom Penh was a formative experience. I would like to thank the HRLA for providing the opportunity to pursue an area of Law that I am interested in and would encourage all those interested in social justice to apply.