

The Role of Extraordinary Chambers in the Courts of Cambodia in trying Khmer Rouge Human Rights Offender in Cambodia

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Abstract

Conflict often occurs when two or more interests are in contradiction and no one wants to concede. We know a variety of conflicts today, from the conflict preexisting since a long time ago such as intertribal conflict to more modern conflict such as a state's tapping over another. The way of resolving conflict is also varying according to the types of conflict, big conflict such as interstate conflict or the one attracting the world's attention, using more complex resolution and usually using the third party. Therefore, a special organization will be founded to solve a conflict. One of organizations created to solve a conflict is the Extraordinary Chambers in The Courts of Cambodia (ECCC) aiming to try the war criminals during Khmer Rouge humanity crime incidence in 1975-1979. Humanity crime occurring in Cambodia is one of largest humanity tragedies in modern era post 2nd World War. This ECCC was founded because at that time Cambodia's National Justice Institution could not try the perpetrator of humanity crime. Cambodian government along with UN then agreed to found a justice institution specifically aiming to deal with and to resolve Khmer Rouge case.

I. INTRODUCTION

Communist movement in Cambodia has emerged since French colonization era in 1940s; this movement was inspired with Vietnamese communistic movement under French colonization at that time. Then, Indochina war occurred in 1950s, presupposed to trigger the communistic spirit in both Cambodia and Vietnam. Next, Kampuchea Communist Party led by dictatorial leader, Pol Pot. Cambodia Communist Party embarked on its movement and based amid the jungle and in mountains area in the North East part of Cambodia. The party formerly had only few followers then changed into the one with big power when Lon Nol overthrew Prince Norodom Sihanouk's reign.

Then, Cambodian Communist Party coalesced with Norodom Sihanouk to fight against Lon Nol's government and successfully defeated the government. It designated the beginning of Pol Pot government regime, so called Khmer Rouge government era. At that time, Pol Pot

attempted to create agrarian utopia in Cambodia so that he closed Cambodia from international world and attempt to reconstruct Cambodia from zero. He removed currency and religion from Cambodia, led Cambodia citizens from urban to rural areas and forced them to farm and to breed cattle inhumanely, in turn resulting in two millions deaths due to fatigue, disease, and mistreatment committed by Khmer Rouge troops against civil Cambodians.

Furthermore, a fact was found that Khmer Rouge regime also committed massive annihilation or genocide against Vietnamese ethnics living in Cambodia and Muslim group in Cambodia. The annihilation of Vietnamese race was due to Khmer Rouge regime's resentment against this ethnic because at that time Cambodia was in conflict with Vietnam related to communism they adhere to. Meanwhile, the annihilation of Muslims was due to their resentment against Muslims considered as reactionary religion resisting many policies developed by Pol Pot,

thereby considered as inhibiting the development of communism tried to be constructed by this Khmer Rouge regime.

The dark period ended in 1979 when Vietnam successfully defeated Khmer Rouge, so that Khmer Rouge elites alienated to the forest. The officials of Khmer Rouge were successfully arrested one by one. However, the justice process against the suspect cannot run well because Cambodian National Justice Institution was considered less strong. Thus, Khmer Rouge elites often were not present in the trial.

Therefore, finally Cambodia government asked UN for helping found a justice institution to deal with and to try Khmer Rouge elites, ECCC. The members of judge chamber consisted of only Cambodians on Cambodian government's request, and added with law enforcers like judges and investigator team from international justice institution. Those members of institution were expected to represent Cambodians until today still feeling trauma due to what the Khmer Rouge has done in the past.

I. METHODOLOGY

In this journal article, the author conducted a research using qualitative research method. Through this method, the data presented consisted of sentences. This method was intended to enable the author to understand the event occurring more in-depth. This research tried to analyze the role of *Extraordinary Chambers in the Courts of Cambodia* (ECCC) in trying the offenders of human rights during Khmer Rouge reign in Cambodia.

The author employed historical descriptive research on Khmer Rouge's reign. Historical research, according to Surya Brata, is the one aiming to reconstruct the past systematically and objectively. Meanwhile, descriptive research is the one aiming to make description systematically, factually, and accurately on an event [1]. The research was conducted aiming to reveal how

Khmer Rouge could dominate Cambodia and what could actually occur during Khmer Rouge reign until today still considered as the biggest genocide event in the world. Method of collecting data used by the author was library study technique, by which primary and secondary sources were collected from book, journal, article, policy, and official website.

II. ANALYSIS

A. *History of Khmer Rouge's Reign in Cambodia*

Khmer Rouge was established in 1960s under Pol Pot's leadership. This organization is Kampuchea Communist Party's wing constituting the substitutive term for the word "Cambodia" [2]. In early period of its establishment, Khmer Rouge is not a strong organization sounding strange to those living in Cambodian urban areas. Therefore, Khmer Rouge in its early period did not experience significant advance.

In the attempt of dominating Cambodia, Khmer Rouge's journey started with Prince Norodom Sihanouk was overthrown from his position as the head of Cambodia state. Since having been independent in 1954, Norodom Sihanouk was assigned to be the leader of Cambodia when his political party named Sangkum (he called it a movement rather than political party) retrieved its domination after winning parliamentary election in 1955 [3]. His long reign was due to some cause. In 1963 he forced National Chamber of Cambodia to approve an amendment to constitution related to its tenure, the output of which made him the Head of State without permanent position.

Norodom Sihanouk's rule was constructed in a variety of ways including intimidation, political manipulation, and maintaining right and left wing elements of his government. This neutrality of Cambodia was also based on Geneva Conference held to cease war and to realize peace in Indochina. In the conference there

was an agreement entered into by France, Vietnam, and Cambodia, related to the withdrawal of all military powers from Cambodia on October 1954. Alternatively, the communist representative in Geneva conference wanted full neutrality from Cambodia to prevent American soldiers from coming into Cambodia [4].

However, the second Indochina war or called Vietnam War occurred in 1955, lasting for nearly 20 years. This war made Sihanouk in trouble in balancing the right and left wings. In the election of 1966, Sangkum's political policy stating that each district might have one candidate only was ignored. The effect of left wing was getting stronger, and Lon Nol constituting a right wing activist became the Prime Minister [5]. In 1969, Lon Nol and the followers of right wing felt disappointed and frustrated when Sihanouk issued policy to tolerate Viet Cong and Vietnam People Soldier activities in Cambodian border, and they could not accept it.

In 1970, coming back after visiting Peking and Moscow, Sihanouk was overthrown from his position as the Head of State by Lon Nol and Sisowath Sirik Matak. However, in this coup d'etat Sihanouk was not killed by Lon Nol and his cronies, and thereafter they established Republic of Khmer [6]. Knowing this, Khmer Rouge attempted to approach Norodom Sihanouk and tried to coalesce with him. Sihanouk, at that time travelling to Beijing, was recommended by China to oppose the coup d'etat conducted by Lon Nol and to take over the government again.

To do so, Sihanouk should ally with China and North Vietnam. As such, they would employ Cambodian Communist troops, Khmer Rouge, under Saloth Sar's leadership – called Pol Pot – before which becoming Sihanouk troop's opponent during his reign [7]. Sihanouk then did what China recommended, he along with Khmer Rouge found United Front to oppose Lon Nol regime [8].

Norodom Sihanouk's affiliation with Khmer Rouge was a fresh wind to it

because Sihanouk had many proponents. Most Sihanouk's proponents live in rural areas where people were still loyal to Sihanouk and assumed that something wrong was occurring in Cambodia because of Sihanouk's overthrowing. After Khmer Rouge united with Norodom Sihanouk, a war occurred between Kampuchea Communist Party and Cambodian government, so called Cambodian Civil War. In his early reign, Lon Nol promised that he will clean up Cambodia from Vietnamese communist troop. Through such confrontation, he led Cambodia entirely into Vietnamese conflict. One of Cambodian "cleaning-up" forms was the invasion of American and South Vietnamese task forces against east Cambodian region on May 1970. However, the invasion against East Cambodian region was not fruitful because communist troops had retreated to Cambodian western area.

With a series of invasions conducted by Lon Nol regime and followed with the cessation of hostilities agreement entered into in Paris along with America, the proponents of North Vietnam decreased in number in Cambodia in 1973. Nevertheless, Cambodian Communist troop declined to comply with the cessation of hostilities consensus, so that they become the target of USA's air invasion despite no war occurring between US and Cambodia at that time. Through such an invasion, the movement of Cambodian communist troops was inhibited in Phnom Penh. The invasion also harmed the population-dense villages around the Capital. This Cambodian civil war lasted two more years following the incidence, but until late 1973, Lon Nol government controlled only Phnom Penh, Cambodia's northwestern area and some other provinces [8].

While Lon Nol controlled only Phnom Penh and some other regions, Cambodian communist troops could reverse the condition, by means of dominating each opposition and they still claimed Sihanouk

as a figurehead. Lon Nol regime then isolated in Phnom Penh received much help from America, increasing the opportunity of corruption. This civil war ended when Cambodian Communist troops led by Pol Pot successfully overthrew Lon Nol 1975 but Lon Nol escaped successfully to Hawaii. Lon Nol's runaway designated Cambodian government's loss and the beginning of Khmer Rouge's reign in Cambodia with the return of Sihanouk to Phnom Penh as the Head of State symbol and government run by Pol Pot, Ieng Sary, and Khieu Samphan [8].

Pol Pot along with Khmer Rouge having dominated Cambodia devised to make total restructuring. When Khmer Rouge still based in a remote area in the North East, Pol Pot was inspired and amazed with the tribes in the area who could fulfill their need without others' help by means of living communally and depending on collective farming activity. Those tribes knew neither money nor religion, so that they live dependently on nature [2].

Pol Pot began to believe that those tribes' way of life could be applied to national scale. Therefore, when he ruled Cambodia, he planned to rename Cambodia into Kampuchea and to change it immediately into an agrarian utopian state, the one promoting rural lifestyle and farming as the basis of its people's life.

Pol Pot declared 1975 as 'Year Zero' meaning that everything was started from zero. He removed Cambodian currency, free market, religious practice, traditional culture, fashion style, school, and private property. Such buildings as school, worship place, governmental building, and shopping center were shut down and often changed into jail, horse stall, educational camp, and warehouse [9]. Pol Pot also isolated Cambodian from international world, in which Cambodian borders were safeguarded tightly and communication network including telephone and mail was disconnected. All foreigners were forced to

get out of Cambodia. It made information was difficult to acquire on the events occurring in Cambodia because all foreign media were not allowed to enter into Cambodia [10].

Thereafter, Khmer Rouge conducted total evacuation in Cambodian Cities, including Phnom Penh Capital. Originally, Khmer Rouge troops said that citizens would be evacuated up to three kilometers out of the city and they would be allowed to go back to the city within two or three days. However, in reality all urban people were evacuated to rural areas, so that such cities as Phnom Penh, Batdambang, and Kampong Cham became the cities without population. Evacuation was conducted comprehensively without exception, and even hospital was evacuated and emptied.

Khmer Rouge troops provided transportation to some elders and people with disabilities. They also provided food stock out of the city for the prisoners. However, the volume of supply was not equivalent to the number of prisoners evacuated. As a result, during evacuation many prisoners died of starvation and due to fatigue [6]. Those evacuated were also separated from their family, in which each of family members was evacuated to difference places far away between one and another. Having arrived at the areas specified by Khmer Rouge, the prisoners were forced to work as farm workers.

Khmer Rouge stated that transportation used to bring inadequate food to the prisoners so that they should suffice their living need themselves by means of farming. Meanwhile, the actual reason was Pol Pot's wish to make Kampuchea a farming state in which corruption and urban life could be eradicated. As long as collective farming policy was applied by Pol Pot, the prisoners might not stop from working; consequently, thousands prisoners died of starvation, developed some diseases, and worked excessively.

At that time, everyone's basic rights have been deprived. No transportation and

no private property are available, and the only entertainment available was the revolutionary one. All Cambodian citizens should wear black clothing, constituting their “revolutionary” clothing. More than three persons assembling would be accused of being enemy and then arrested and killed [6].

One of most inhumane policies was that although prisoners had been mistreated severely, they could not express their emotion. The prisoners expressing their sad feeling would be warned 2 times, and more than that they would be killed. In addition, on Pol Pot’s order, Khmer Rouge also arrested and killed thousands soldiers, military personnel, and civil servants from the previous regime led by Lon Nol, because those having worked for the previous regime were considered as unqualified to build the new Cambodia.

For the following three years, Khmer Rouge killed thousands intellectuals, smart urban people, minorities like Muslim Cham, Vietnamese and Chinese descents, and soldiers and their own party’s members supposed to be traitors. Some locations became the place for Khmer Rouge to mistreat and to kill those whom they have arrested, one of which is a school named *Tuol Svay Prey High School* located in Phnom Penh suburban. Khmer Rouge then renamed *Tuol Svay Prey High School* into “S-21” functioning to be a jail at that time [11]. No real number was noted, but about 13,000 – 20,000 persons have been jailed in S-21, and only 7-12 of them successfully got out safely. All prisoners arrested in S-21 would be taken for their picture first and then archived to prevent them from escaping. Most of persons jailed in S-21 were ‘elite’ prisoners coming from Khmer Rouge and considered as betrayals and or spies of CIA or KGB [12].

In this S-21, the prisoners would be brought into interrogation and chained on the floor or on an iron bed. Thereafter, they were mistreated, from being stricken with stick, stung with electricity, flushed with water on their head, to being sliced on their

body part. Along with the mistreatment given, the prisoners would be forced to admit what they have never done. The prisoners would be mistreated continuously until they admitted what the guard wanted they admitted, so most prisoners would give fake admission to stop the guards from mistreating them. The guard would usually force the prisoners that they were members of CIA, KGB, or Vietnamese spies [12]. The admissions obtained from the prisoners would then be given to their superior as the evidence that they have been arrested and jailed in S-21.

As a result, many prisoners died, but some of them died because they were killed by the guards by means of cutting their throat.

From the series of events, a liberation movement named “Cambodian National Unity Front for National Safety” was created to liberate Cambodian people from Khmer Rouge’s cruelty, thereafter called KNUFNS. The movement was founded on December 3, 1978 and led by Heng Samrin constituting one of leaders of rebellion against Khmer Rouge. This movement was supported by Vietnam because of its dispute with Cambodia on state borders since 1977. The Coup d’etat attempt was then taken by KNUFNS movement that eventually successfully seized Phnom Penh Capital and overthrew Pol Pot’s rule all at once on January 1979. Having seized Phnom Penh City and overthrown Pol Pot, Heng Samrin became Cambodia’s leader. It ended the Khmer Rouge’s reign and replaced it with Heng Samrin and Hun Sen’s reign.

B. Effect of Khmer Rouge’s Reign on Cambodia

The four-year Khmer Rouge’s reign exerted some effects on Cambodia. During ruling Cambodia, Khmer Rouge developed political policy affecting ethnics and religions in Cambodia, particularly minority ethnics such as Muslim Cham

and Malayan. Several early policies implemented by Khmer Rouge to organize Cambodians' life are as follows:

1. Evacuating all urban people
2. Removing all markets
3. Withdrawing all currencies during Lon Nol period and replacing it with revolutionary printed currency
4. Firing all Buddhist priests and positioning them to work planting rice.
5. Executing all leaders of Lon Nol Regime, from the supreme leaders
6. Improving cooperation with all regions and making them collective property
7. Expelling all Vietnamese minority ethnics [13].

This point "expelling all Vietnamese minority ethnics" was the effect of the dispute between Khmer Rouge with Vietnam. However, with their communist foundation, Khmer Rouge's government considered that everyone is equal as long as they are obedient to the regime. To remove minority ethnic, Khmer ethnic conducted assimilation by attracting minority ethnic into Khmer ethnic or can be said as *Khmerization* [14].

Oppression conducted by Khmer Rouge's reign was inseparable from ethnic difference in which they want to conduct *Khmerization*. The culmination of policies oppressing other ethnics than Khmer ethnic was the rebellion occurring on July 1978 as the people's respond to Khmer Rouge's reign. Those policies of course affected the condition of religious people in Cambodia at that time and until today.

On January 5, 1976, Khmer Rouge's reign ratified *Democratic Kampuchea Constitution* governing the foundation of state, economy, culture, and religion. The policy governing religion in Cambodia was regulated in Chapter 15, reading:

"Every Cambodian is allowed to do worship according to any religion and is not allowed to do worship according to other religions"

All reactionary religions threatening *Democratic Kampuchea* and Cambodian people were prohibited strictly [15].

Actually the policy did not incriminate the religious people to do their worship. However, before the constitution was published, Muslim Cham people were assassinated by Khmer Rouge because Islam was considered as reactionary religion as the result of declination and rebellion they did.

Another factor affecting the number of Cambodian populations was Killing Field constituting the effect of Four-Year Plan program in which Khmer Rouge appealed collectivization over all private properties such as rice farm and put national priority on paddy planting. All citizens should submit their private objects to be used collectively. They were forced to work more than 12 hours a day without sufficient rest and food [16].

Killing Field tragedy had taken many life tolls due to assassination committed by Khmer Rouge. They executed the suspected, useless, and dangerous ones. In addition they also executed former soldiers, civil servants, and governmental staffs of Lon Nol. Many Cambodians became the victims of Pol Pot regime's assassination, as indicated with demographic census in 1970 showing the decrease of population number from 7 millions to 4 millions people during Khmer Rouge's reign [17].

C. History of ECCC Establishment

As explained in previous sub chapter, Khmer Rouge is the crime against humanity pertaining to Human right infringement and recognized internationally. In addition to international Human right infringement, members of Khmer Rouge were also indicted for committing genocide against two groups: Muslim and Vietnamese groups living in Cambodia. Because the crime committed had disgraced international principles, the trial should be held against this crime with

international court's intervention, e.g. International Court of Justice (ICJ). However, because the crime occurring in Cambodia, Cambodia was entitled to hold trying process in the attempt of undertaking the state's responsibility for giving its citizens the feeling of secure. From the two options aforementioned, a consensus was reached between Cambodia and international world concerning what court would deal with this case.

Extraordinary Chambers in the Courts of Cambodia (ECCC) was one of justice institutions in Cambodia helped by international justice institution and international organizations like United Nations (UN) in the term of its membership. Intervention made by this international institution builds on Cambodia's inability of solving Human Right problems in its country. As a Hybrid tribunal, ECCC used Cambodian national law and international law provisions.

UN's intervention into Human Right case occurring befalling Cambodia was intended, among others, to follow up the new universal standard specified by this international institution on human rights in 1948 or called the Universal Declaration of Human Rights (UDHR). Previously, UN has entered into an agreement with Cambodia in which Cambodian government agreed to receive UN's help in the attempt of enforcing human rights in this country. The agreement intended was *Agreement on a Comprehensive Political Settlement of the Cambodia Conflict* [18]. Although in reality the process by which Cambodia received the help offered by international justice institution took time, eventually this tribunal was successfully founded after several negotiations made by the representatives of parties.

The idea of establishing international-level criminal tribunal built on Tokyo and Nuremberg Tribunal established after the outbreak of 2nd World War aiming to try the war criminals in certain area and it was effective provisionally. One of institutions

founded at that time was *International Criminal Tribunal for the Former Yugoslavia* (ICTY) intended to try the criminals in Yugoslavian conflict. ICTY's success in undertaking its duty was then followed with the establishment of similar institution to deal with the case occurring in different regions, for example, an ethnic conflict in Rwanda, inspiring the establishment of Ad Hoc tribunal named *International Criminal Tribunal for Rwanda* (ICTR).

Such tribunal's high proportion of success then led the international actors to attempt continuously to establish similar institution aiming to focus on dealing some cases so that it is expected to undertake its duty more effectively. Until today, such national institution still becomes one of best options to both state and international tribunal to resolve criminal case occurring in a state and international law breaking, so that this institution establishment is still done frequently, one of which is ECCC.

ECCC was established in 2003 through General Assembly of UN's resolution and specifically aiming to deal with Human Right infringement committed by members of Khmer Rouge [18]. Therefore, this tribunal can be stated as ad hoc in nature recalling that it aimed specifically to deal with a certain case that can be solve at a certain time.

After the trial against Human Right infringement (Khmer Rouge) had been completed, ECCC would lose its main function and objective, thereby could be dismissed immediately. It is just like the handling of Human Right and humanity criminal cases committed by some Indonesians against Timor people in which international world decided to help resolve this case by establishing a provisional agency. This institution was established by an international organizational or UN to deal with human rights offenders in that case only, named *International Commissions of Inquiry on East Timor*.

Although ECCC had been established officially in 2003, UN had actively offered help to Cambodia in dealing with this Human Right problem since 1997. Hun Sen, at that time serving as Cambodia's Prime Minister, had actually negotiated and discussed actively with UN's General Secretary, Koffi Annan [18]. A long period of negotiation was taken due the difficulty of achieving consensus between two parties because UN as external party asked for too many licenses to intervene with this resolution of human right infringement case, while Cambodian government wanted to have stronger authority of dealing with this case. Nevertheless, having passed through a long negotiation process, a consensus was achieved by the two parties making ECCC a justice institution breaking neither Cambodian domestic code nor international law and recognized by international world.

D. The Role of ECCC in Dealing with Khmer Rouge case

To measure an organization's effectiveness in undertaking its duty, we should know a general definition of effectiveness so that our interpretation does not become subjective and deviate from the result of observation. Schemerhin John R. Jr defined effectiveness as the end of the process of achieving target or output that can be analyzed by comparing the target to achieve with the target actually achieved [19]. If the target achieved has been close to the idealized one, an organization's effectiveness is considered as high, and vice versa.

Since its inception in 2003, ECCC has successfully conducted a variety of fruitful investigations yielding the list of suspected names likely becoming the mastermind of Khmer Rouge humanity crime in the past. The names included Kaing Guek Eav or called Duch responsible for the mistreatment center in Tuol Sleng and Phnom Penh jail. Others name were Ieng Sary, the former Prime Minister of Khmer Rouge, whose wife named Thirinth or the

minister of domestic social affairs during Khmer Rouge's reign, and Khieu Samphan as the head of state of Cambodian regime and Nuon Chea as the representative of Pol Pot [20].

From the list of suspects above, ECCC kept conducting investigation aiming to find the evidence incriminating the suspects. The five persons aforementioned even have become defendants in the trial process attempted by ECCC. In 2010, ECCC had issued the court's verdict with the final result of guilty verdict for Kaing Guek Eav for evidently contributing to the genocide process committed by Khmer Rouge regime. He was then sentenced with lifetime imprisonment since 2010.

The handling of Kaing Guek Eav case was ECCC's first success of imprisoning the perpetrator since its inception in 2003. However, not all tribunal attempts taken by ECCC were fruitful. The attempt taken by ECCC in 2014 was in vain. Foreign Minister of Khmer Rouge, Ieng Sary, died in 2014, before the judge issued its court verdict. Meanwhile, the other two suspects, Khieu Samphan and Nuon Chea, undertaking tribunal process along with Ieng Sary kept continuing the trial process and were newly decided as guilty for genocide action in 2018.

Previously, in 2014, these couple had been sentenced with lifetime imprisonment for humanity crime. These two felons were then sentenced again with lifetime imprisonment for genocide action by the supreme judge [20]. This verdict was made based on the judge's rationale concerning evidence stating that the policy taken by these Khmer Rouge's officials was equivalent to the policy ever implemented by Pol Pot during his reign. Pol Pot himself has been a fugitive after the collapse of regime he held in 1979. After his reign, the court sentenced him with lifetime imprisonment. However, Pol Pot escaped into the jungle and was found to die in 1999 in West Cambodian Jungle [21].

The court's verdict of lifetime imprisonment in 2018 was actually

regrettable recalling these two felons' age, Nuon Chea 92 years old and Khieu Samphan 87 years old. Meanwhile, they had committed the crime in 1975 or about 40 years ago. Injustice can be felt here. Although ECCC has attempted to find strong evidence and to act on the offenders of human rights as maximally as possible, the time taken to find out can be said as a factor of ECCC's ineffectiveness in undertaking its duty. In reality, the long justice process taken was due to not only ECCC but also Cambodian government that dealt with this case less adeptly and even seemed to complicate the justice process.

This ECCC's ineffectiveness, among others, pertains to fund affairs. Much fund used in this justice process seemed to be not equivalent with entire performance implemented by this justice institution recalling that only few felons were condemned successfully.

In addition to the three felons condemned successfully by ECCC, another named assigned to be defendant should be removed from the list because the defendant named Thirinth, Ieng Sary's wife, was stated developing mental disorder by a hospital in Cambodia and died in 2015 [21]. In addition to the names aforementioned, ECCC still attempts to explore and to examine further and completely this human right infringement cases committed by Khmer Rouge. Therefore, investigation and search for new names are still conducted despite no new name appearing to be the suspect until today. It is because ECCC cannot act haphazardly in determining the suspect of crime that will complicate this legal institution's work.

Moreover, some scholars wrote biography of Pol Pot and his regime. A scholar named Philip Short stated that Khmer Rouge regime did not mean to mistreat or to commit genocide against two minorities in Cambodia [22]. It also retards the trial process once again because ECCC should respond more objectively to any

new evidence found and search for more evidence supporting the genocide planned by Khmer Rouge regime.

In addition to internal factor resulting from inside ECCC, some external factors retarded this trial process. One of most influential factors is the respond of Minister of Cambodia, Hun Sen, opposing the organization of new trial in the attempt of examining completely the human right violation and genocide cases that have been very harmful to Cambodian populations.

This declination was because of Hun Sen's worry about further rebellion and violence conducted by former members of Khmer Rouge not accepting this trial process. Such worry was confirmed with the evidence showing that in 1990s, during the overthrow of Khmer Rouge regime period, massive rebellion was conducted by the members who still wanted to maintain Khmer Rouge's domination.

In addition to historical factor, Prime Minister Hun Sen was also very sure that Cambodian people, particularly the youths, want to forget their dark past due to assassination and genocide committed by Khmer Rouge and to continue their life. It is reported by bbc news source that in some places in Cambodia, perpetrators and investigators have been living adjacently in certain areas. It indicates that the wish is so great to forget the past and to continue life as the citizens who are equal before the law.

Nevertheless, the statement above cannot be stated as accurate recalling that the existing source does not mention who do live adjacently with former members of Khmer Rouge are those whose group became the victim of cruelty and genocide, Cambodian Muslim or Vietnamese people group living in Cambodia. Even other source stated that a Cambodian Muslim citizen named Los Sat attending the trial along with his wife said that he and along with his wife felt satisfied with the result of trial recalling that Khmer Rouge's regime has given many miseries to the family [22].

Los Sat stated that he has lost many of his family members and this court at least can be relieving by means of giving justice to the victims. In addition to the reason aforementioned, another source stated that the caveat filed by Prime Minister Hun Sen concerning the follow-up of this tribunal establishment is related to his past who has been a commander in Khmer Rouge regime before finally returned to support Vietnam troops [23]. From the statement, it could be concluded that Prime Minister Hun Sen was very selective and careful in taking measures as he wanted neither to disgrace his reputation and nor to lose Cambodians' trust.

Regardless of the reasons aforementioned on ECCC's poor performance, it can be concluded that this justice institution is still considered as less effective, viewed from the time taken for justice process and cost needed to undertake the justice process. In addition, viewed from the result of recent trial, it can be seen that the process undertaken in relatively long time can actually be fruitful because in 2014, two felons: Nuon Chea and Khieu Samphan had been sentenced with lifetime imprisonment. Meanwhile, ECCC keep conducting the next trial and eventually in 2018 the two felons remained to be sentenced similarly for new international crime, genocide. Such a statement is a form of ineffectiveness the ECCC has recalling no significant difference resulting from the next trial process.

III. CONCLUSION

In the attempt of enforcing the law to all Cambodians, particularly to two groups becoming the victim of genocide by Pol Pot, Cambodia along with international law enforcing institution agreed to establish justice institution to try specifically the law breakers in Khmer Rouge case in Cambodia and it is provisional in nature. In practice, this institution establishment ran slowly due to many constraints coming from Cambodia. Having undertaken a long

process, this institution was established successfully and named *Extraordinary Chambers in the Courts of Cambodia*.

In fact, this institution is also considered as indolent in undertaking its task due to the difficulty of finding evidence incriminating the suspects. Moreover, Prime Minister, Hunsen, as if retarded the trial process completely. It is because of such factors as people who wanted to move on from the bad times during Pol Pot's reign. In addition, ECCC could evidently achieve the main objective of its establishment, by trying 3 perpetrators of Khmer Rouge crime. This successful was appreciated greatly by Cambodians, particularly the group of which becoming the victim of Khmer Rouge regime's felony.

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