Educating on the Khmer Rouge: Legal History and Practice e-Learning and Training Program

Legal Aid of Cambodia

FROM 17 APRIL 1975 to 7 January 1979, the Khmer Rouge controlled Cambodia and committed a wide range of mass atrocities amounting to war crimes, crimes against humanity, and genocide. Millions of people were killed, injured, and displaced as a result of these acts, and the intergenerational trauma continues to affect the Cambodian people to this day.

To pursue accountability, seek the truth, and promote healing, discussions commenced in 1997 to establish a tribunal to try members of the Khmer Rouge for their actions. This resulted in the establishment of the Extraordinary Chambers in the Courts of Cambodia (ECCC), also commonly known as the Khmer Rouge Tribunal, which became operational in 2006 and concluded its final case in December 2022, with the residual functions currently in place. As a hybrid, internationalized court based in Cambodia, the ECCC's jurisdiction was limited specifically to the senior leaders of the Democratic Kampuchea and those who were most responsible for the international and domestic crimes committed during the relevant period of the Khmer Rouge's rule as specified above.

Throughout the lifetime of the court, a number of cases were investigated, and several senior leaders of the Khmer Rouge were convicted. A massive amount of evidentiary materials were documented and preserved in various formats, and a large number of victim-survivors had the opportunity to participate in these proceedings as civil parties and have their stories heard, with various reparation awards ordered by the court. From a legal perspective, the jurisprudence of the court has contributed to the development of international criminal law, and the procedures and application of law at the ECCC have had positive impact on the Cambodian domestic court system. However, the court has also had its weaknesses and has received constructive criticism, which provides an opportunity for learning. Although there were various outreach efforts by the court, there was a general lack of easily accessible and understandable learning resources that comprehensively covered the legal work of the ECCC and its impact, available to anyone in Cambodia, as well as those abroad who desired to learn about the ECCC. In addition, though a few law programs at Cambodian universities offered courses and activities in international law, there was a need to expand the availability of free and interesting materials to train law students, young legal professionals, and other interested individuals on international criminal and human rights laws and foundational skills for legal processes such as investigation and trial preparation.

To satisfy this need, the Legal Aid of Cambodia designed and implemented a program entitled "Educating on the Khmer Rouge: Legal History and Practice e-Learning and Training Program", funded by the European Union through the United Nations Office for Project Services (UNOPS), and in partnership with the Global Diligence Alliance and the Amrin Law and Consultants Group. The overarching goal was to build the next generation of public interest lawyers and legal professionals who can preserve the legal history of the Khmer Rouge and the legacy of the ECCC, and who can thereby strengthen the rule of law in the country. It believed that an understanding of the country's pursuit of justice for the atrocities of the past can enable law students and young lawyers to better advocate for today's most marginalized members of society and ensure that history does not repeat itself.

The e-learning platform is available at <u>www.elearning-lac.org</u>.





Course Development

The program consists of six e-learning courses, which have been developed jointly by the Legal Aid of Cambodia, legal experts, and the lecturers for each lesson. The course development process also involved contributions from various stakeholders, including an Advisory Group, the ECCC, legal interns, pilot run participants, and e-learning specialists. Additional information is available in the Program Syllabus provided on the e-learning platform.

Legal Aid of Cambodia (LAC)

LAC is an independent, non-governmental legal aid organization that provides free, quality legal services for Cambodia's indigent population in both criminal and civil cases. Having provided legal services for the most marginalized members of society since its founding in 1995, LAC strives towards access to justice for all and the protection of fundamental human rights. LAC's current core programs consist of the General Legal Aid Program, the Women's Justice Program, the Child Justice Program, and the Land and Natural Resources Program. For nearly a decade, LAC provided legal representation for over 1,200 civil parties to multiple cases at the ECCC to ensure that the survivors are able to access justice, while also conducting educational sessions in the communities to ensure that they are able to better understand the purpose and procedures of the ECCC proceedings.

Legal Experts

The work of legal experts Kristin Rosella of the Global Diligence Alliance and Sok Sopheakmonica of the Amrin Law and Consultants Group were integral in developing the courses, including laying the foundation for the course outline and structure, developing lecture materials and practice exercises, securing and supporting the lecturers, and contributing holistically to the implementation of the program. They also served as lecturers in Course 1, based on their experiences at the ECCC and background in international law. In addition, legal expert Meas Bora, PhD, made significant contributions to the outline of the courses, in addition to serving as the lecturer for Course 6.

Lecturers

The course development involved a total of twenty-six lecturers across the various sections of the ECCC, including national and international staff from the judicial chamber, prosecution, investigation, defense, and civil parties. As a combination of practitioners and academics, they collectively bring a wealth of firsthand knowledge regarding the ECCC and international law, including from the early stages of the court's establishment. The lecturers participated in the course development in their personal capacities rather than on behalf of the ECCC, and their views may not necessarily represent those of the ECCC.

In addition, the six exclusive interviewees represent the Cambodian judiciary, prosecution, civil society, and the Bar Association. Together, the lecturers and interviewees provide perspectives and insights both from within and outside of the ECCC.

Advisory Group

An Advisory Group was established consisting of partners across sectors, to more effectively develop the courses, avoid duplication in efforts, enhance synergies, ensure diverse content and sustainability, and promote collaboration. The Advisory Group members provided input into the curriculum, course materials, course delivery approaches, and implementation design, among others. The Advisory Group members consisted of:

- Center for the Study of Humanitarian Law (CSHL), Royal University of Law and Economics (RULE)
- Documentation Center of Cambodia (DC-Cam)
- Faculty of Law and Public Affairs (FLPA), Paññāsāstra University of Cambodia (PUC)
- Kdei Karuna Organization (KdK)
- Lawyer Training Center (LTC), Bar Association of the Kingdom of Cambodia (BAKC)
- Office of the United Nations High Commissioner for Human Rights (OHCHR)
- Raoul Wallenberg Institute (RWI).

In addition, though not a member of the Advisory Group, the ECCCS Public Affairs Section supported the project by supplying helpful documents and resources for the e-learning courses, such as the recordings of the hearings in Khmer and English.

Legal Interns

Cambodian and foreign legal interns provided essential support to develop the e-learning courses.

Pilot Run Participants

Four pilot runs were conducted during the course development process to ensure that the course materials, course delivery approach, and e-learning platform are user-friendly and effective. The pilot runs were conducted with law students of various backgrounds, including Cambodian students between their first and fourth years in university, master's students in international human rights law and international relations, and a foreign law student.

e-Learning Specialists

The platform was developed using Moodle, with the technical support of e-learning specialists from Beekee.

Program Syllabus

Each course is available in both English and Khmer on the e-learning platform. There is no enrollment fee to take the courses, and they are open to anyone for self-enrollment.

The program is comprised of six courses divided into two segments:

- Four academic courses: ECCC's legal history, framework, and application of international criminal law and international human rights law in Cambodia;
- Two skills-based training courses: Foundational knowledge of select practical skills, including investigation, collection and assessment of evidence, witness interview and examination, and preparations for trial. These courses are only meant to provide basic knowledge and tips, rather than qualifications for practice.



Course Content

Most of the course content was developed between May and September 2021, while some contain information that was current as of December 2021. Thus, the jurisprudence of the ECCC that developed further since then could not be covered by the courses. In addition, given the development timeframe, the lessons do not all contain identical information about the progress in the cases at the ECCC. However, the reading excerpt in Course 2 Lesson 2 Section 2 provides the most updated progress as of 31 December 2021.

The content has been produced using a variety of sources, including primary and secondary sources.

In addition to the expertise and experiences of each lecturer, the course developers also drew upon domestic and international laws, ECCC and international court decisions, other ECCC documents like the Internal Rules, and legal publications, among others. Direct citations are provided either in the lecture slides or transcripts, and only documents properly classified and posted for public circulation have been referenced. For the photos and graphics used in the lecture slides and videos, permission has been sought for their use where necessary, and the appropriate credits are specified.

Course Composition

Course participants are able to jump between courses and lessons according to their interest, as there are no prerequisites. Each lesson is designed to take on average 1 to 1.5 hours to complete, though this will vary according to the participant's learning style and level of engagement with the materials.

Each course is divided into multiple lessons comprised of up to four sections that contain lecture videos (with their transcripts), PowerPoint lecture slides, reading and video excerpts, retention practice exercises, and supplemental materials. All lesson documents are available in the Course Materials folder provided in each Course Home.

Each course is equipped with a Course Syllabus that provides the details for each lesson, including the learning objectives, types of practice exercises, and a listing of all the associated excerpts and supplemental materials, including relevant links. The expected completion time for each course is also identified, but the Khmer courses will generally take longer than the English courses to complete due to the longer lecture videos despite the same con-



tent. The syllabus also provides the biographies of the lecturers for each lesson and any further instructions. Note that the consolidated biographies of all lecturers and interviewees are provided in the Lecturer and Interviewee Biographies document.

The lecture videos consist of the lecturer's introductory video in the first section and closing video in the last section of the lesson, along with the PowerPoint audio recording videos for each section.

Where the English or Khmer lecturers are specified in the Course Syllabus, the recordings have been conducted by these lecturers. For lessons that do not specify lecturers in both languages, the audio recording was conducted by LAC or the legal experts utilizing a translated version of the course materials. The introductory and closing videos are provided in English, Khmer, or French, as these are the three working languages of the ECCC. Subtitles are only provided where the lecturer speaks in a language different from the language of the course, but the full text is available in the lecture video transcript.

Transcripts have been provided for all lecture videos and exclusive interview videos for course participants who prefer to read the text while watching the videos, or for those who may have difficulty understanding the videos. Some transcripts also contain additional information that is not introduced in the lecture videos.

The practice exercises combine retention and critical thinking questions, which may cover content from the same, previous, or upcoming sections to enhance the learning experience. A variety of exercise types are utilized, including multiple choice, scenario application, matching, drag and drop, true or false, fill in the blank, flashcards, video/reading extracts, and writing/documentation, among others. Explanatory feedback on the answer choices is provided where helpful.

Certain sections also contain reading and/or video excerpts after the lecture videos, which are meant to provide a better context and understanding of the lesson content. Not all excerpts are available in both English and Khmer. Furthermore, lessons are complemented by supplemental materials in the form of documents, videos, websites, online courses, and other forms, which are specified in the Course Syllabus and partially provided in the Course Materials folder. Common readings are provided in certain courses for helpful documents that are relevant to all lessons in that course. Many of the readings and videos are only available in English and are identified as such in the syllabus.

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In addition, each course begins with an exclusive interview video with a Khmer legal practitioner or expert to set the stage for the course and to share their insights in the field. These videos were produced to further motivate law students and young lawyers to advance their studies and research to improve their understanding of the law and advance their careers in the legal field. At the end of the course, an evaluation and feedback form is provided for participants to submit their comments. Automated certificates are issued for individuals that complete entire courses, and separate certificates can be obtained for the English and Khmer versions of the same course.

Prior to taking a course, it is suggested that the participant review the Platform Instructions document that provides explanations and tips for using and navigating through the platform and its functionalities.



Course Description

COURSE 1: Legal Implications of the Khmer Rouge Regime

Exclusive Interview Video	
So Farina Principal Deputy Director, Documentation Center of Cambodia	
Lessons and Sections	Lecturers
Lesson 1: A History of the Khmer Rouge Section 1: 1970-1979: Rise and Fall of the Khmer Rouge Section 2: Structure and Leadership of the Democratic Kampuchea Section 3: Acts Underlying the Crimes Committed During the Khmer Rouge Lesson 2: An Overview of the Legal Process Section 1: Legal Terminology Section 2: Understanding Jurisdiction Section 3: Stages of a Case Lesson 3: Accountability Mechanisms Section 1: Introduction and National Courts Section 2: Human Rights Mechanisms Section 3: Ad Hoc Tribunals and International Criminal Court Section 4: Hybrid and Special Courts	Kristin Rosella Partner, Global Diligence Sok Sopheakmonica Lawyer, Amrin Law and Consultants Group

Sok Sam Oeun

Chief Attorney,

Amrin Law and

Consultants Group

Lesson 4: Formation of the ECCC

- Section 1: Political Developments in 1991-1998
- Section 2: Establishment Process of the ECCC
- Section 3: Goals of the ECCC by Cambodian Civil Society and the People

COURSE 2: The ECCC Legal Framework

Exclusive Interview Video		
Sok Sam Oeun Chief Attorney, Amrin Law and Consultants Group		
Lessons and Sections		Lecturers
Lesson 1: Structure of the ECCC Section 1: ECCC Hybrid Structure Section 2: Jurisdictional Limitations of the ECCC Section 3: Stages of a Case and Applicable Standards 		Juliette Esneau Legal Consultant, Pre-Trial Chamber, ECCC
 Lesson 2: Cases Before the ECCC Section 1: Introduction to the Cases Section 2: Case Developments Section 3: Case Study of a Key Legal Development: Detention of the Accused 	Liv Sovanna Secretary General, Bar Association of the Kingdom of Cambodia Dy Socheata Lawyer	Doreen Chen International Human Rights Lawyer
Lesson 3: Fair Trial Rights at the ECCC • Section 1: Defining Fair Trial Rights • Section 2: Three Important Rights • Section 3: Minimum Guarantees for Accused • Section 4: Fair Trial Rights After Trial	Lawyor	Michael G. Karnavas International Co-Lawyer, Case 003 Defense Team, ECCC
 Lesson 4: Victim Rights at the ECCC Section 1: Victim Participation at the ECCC Section 2: Procedures for Civil Party Participation Section 3: Rights and Roles of Civil Parties Section 4: Reparations 	Pich Ang National Lead Co-Lawyer for Civil Parties, ECCC Keo Sothie National Legal Officer for Civil Parties, ECCC	Megan Hirst International Lead Co-Lawyer for Civil Parties, ECCC Lauren Tipton International Legal Consultant for Civil Parties, ECCC

COURSE 3: International Criminal Law, Human Rights, and the ECCC

Exclusive Interview Video Sin Soworn Civil Party Co-Lawyer, ECCC | Deputy Director, Department of Defense for the Poor, Bar Association of the Kingdom of Cambodia

Lessons and Sections	Lecturers
 Lesson 1: Genocide of the Cham and Vietnamese Groups Section 1: Genocide and its Elements Section 2: Specific Intent of Genocide Section 3: Protected Groups Under Genocide Section 4: Underlying Acts of Genocide 	Tomas Hamilton Senior Legal Consultant, Case 004 Defense Team, ECCC
 Lesson 2: Crimes Against Humanity During the Khmer Rouge Section 1: Crimes Against Humanity and its Contextual Elements Section 2: Underlying Acts of Crimes Against Humanity (Part One) Section 3: Underlying Acts of Crimes Against Humanity (Part Two) Section 4: Underlying Acts of Crimes Against Humanity (Part Three) 	Kristopher Yue Legal Consultant, Pre-Trial Chamber, ECCC Nataliia Voitseshyna Legal Consultant, Pre-Trial Chamber, ECCC
Lesson 3: War Crimes During the Armed Conflicts from 1975-1979 • Section 1: War Crimes and its Contextual Elements • Section 2: Underlying Acts of War Crimes (Part One) • Section 3: Underlying Acts of War Crimes (Part Two)	Janine Ensing Legal Consultant, Pre-Trial Chamber, ECCC
 Lesson 4: Modes of Liability Section 1: Introduction to Modes of Liability Section 2: Direct Commission and Joint Criminal Enterprise Section 3: Aiding and Abetting Section 4: Command Responsibility 	Marc Tiernan Ph.D. Researcher, University of Amsterdam

COURSE 4: Investigative Practice at the ECCC

Exclusive Interview Video			
You Bunleng Deputy President, Supreme Court of Cambodia National Co-Investigating Judge, ECCC			
Lessons and Sections		Lecturers	
Lesson 1: Introduction to Evidence Section 1: Types of Evidence Section 2: Evidence Assessment and Corroboration Section 3: Source Evaluation and Biases		Laura-Lou Moreau Legal Counsel, Civitas Maxima	
Lesson 2: Fundamentals of Investigation Section 1: Investigation at the ECCC Section 2: Key Investigative Principles Section 3: Beginning the Investigation Section 4: Drafting an Investigation Plan 	Ajit Tiwana Investigator Police Officer Retd.	Nivedha Thiru Associate Appeals Counsel, International Criminal Court	
Lesson 3: Collecting and Preserving Documentary Evidence Section 1: Collecting Documentary Evidence Section 2: Chain of Custody Section 3: Case Management 		•	
Lesson 4: Collecting Testimonial Evidence Section 1: Introduction to Testimonial Evidence Section 2: The PEACE Model (Part One) Section 3: The PEACE Model (Part Two) Section 4: Challenges and Gender Aspects in Interviewing 		Brenda J. Hollis International Co-Prosecutor, ECCC	

COURSE 5: Trial and	Appellate	Practice at	the ECCC
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Exclusive Interview Video		
Song Chorvoin Deputy Prosecutor, Phnom Penh Municipal Court Former National Deputy Co-Prosecutor, ECCC		
Lessons and Sections	Lecturers	
 Lesson 1: Preparing for Trial Section 1: Fundamental Principles of Trial Preparation Section 2: Case Study: Trial Preparation as a Defense Lawyer 	Anta Guissé International Co-Lawyer, Case 002 Defense Team, ECCC	
Lesson 2: Opening and Closing Statements Section 1: Advocating Your Case Section 2: Opening Statement Section 3: Closing Statement 	William Smith International Deputy Co-Prosecutor, ECCC	
Lesson 3: Questioning Witnesses and Civil Parties Section 1: Preparations for Questioning Section 2: Question Types Section 3: Presentation Tips and Objections Section 4: Questioning Vulnerable Witnesses 	Vincent de Wilde d'Estmael Senior Assistant International Prosecutor, ECCC	
Lesson 4: Appeal Process Section 1: Difference Between Trial and Appellate Stages Section 2: Pre-Trial Chamber Section 3: Supreme Court Chamber 	So Mosseny National Co-Lawyer, Case 004 Defense Team, ECCC	

COURSE 6: Application of ECCC Law and Practice in the National Courts

Exclusive Interview Video	
Ly Chantola President, Bar Association of the Kingdom of Cambodia	
Lessons and Sections	Lecturers
Lesson 1: Comparing Practices at the ECCC and National Courts Section 1: Comparison: Pre-Trial Section 2: Comparison: Trials and Appeals 	Meas Bora Lawyer and Law Lecturer

The biographies of all lecturers and interviewees are provided in the Lecturer and Interviewee Biographies document, as well as in the syllabus of each course. The specified job titles are current as of September 2021.

Training

Utilizing the e-learning platform, LAC also implemented two terms of a 12-week training program, along with a separate training of trainers (ToT) throughout 2022. The programs combined synchronous (live) and asynchronous (self-study) learning that were both academic and clinical in nature, for law students, young lawyers, and young legal professionals in Cambodia.

Discussion on Project Implementation

The e-learning platform was launched at the end of March 2022, and over seven months, there were over two hundred forty platform users and six hundred eighty course enrollments, with the completion of over 4,600 sections across the seventy sections of the six e-learning courses. The vast majority of users were under the age of 35 and based in Cambodia, which were the main target groups of the platform. Over half of the users either completed or were pursuing a university degree, while almost half either completed or were pursuing a graduate or post-graduate degree. The vast majority of users were majoring in law and human rights, with quite a few in international studies/relations and public administration, among various other majors, and the vast majority were law students, lawyers, legal specialists, and educators, among various other occupations. The evaluation forms submitted through the platform by the users have generally contained positive feedback of the e-learning platform and courses, with words of appreciation for making these learning materials available to the public.

In addition, the first term of the separate twelve-week training program was conducted from April to June 2022, and the second term was conducted from August to October 2022. A total of thirty-eight participants completed the program, focused on Cambodian law students, young entry-level lawyers, and young legal professionals or trainees. On top of the completion of the six e-learning courses following a pre-set curricular schedule, the participants also took part in weekly Q&A sessions, periodic check-ins, career talks with legal practitioners and experts, live trainings on additional topics, and extracurricular activities, including a mock trial exercise that took place at the ECCC courtroom and critical thinking assignments.

Furthermore, a ToT was conducted from August to September 2022, where ten participants were provided with the opportunity to learn about online teaching methodologies and to practice producing and altering content on a separate test Moodle platform that was developed for them. As part of their practicum, they also had the chance to put their learnings into practice by teaching a session at a university, as organized by the project staff.

Through various partnerships and outreach efforts, the platform has reached a wide audience. The Bar Association of the Kingdom of Cambodia decided to include parts of this program in their mandatory training for legal trainees, and some universities considered providing credit to their students, integrating parts of the program into their courses, or including parts of the program as a way to satisfy the requirements for certain degrees. Various stakeholders from the government, United Nations agencies, development partners, academic institutions, civil society organizations, and communities commended the platform for being the first of its kind in Cambodia to impart legal knowledge, especially in a synthesized, comprehensible, and accessible manner. In addition, individuals assessed that the platform was able to bring the ECCC closer to the people in Cambodia and abroad, especially for law students, lawyers, and legal scholars, as well as for the civil parties and other victim-survivors.

The project officially ended in November 2022, but the e-learning platform has been sustained through the support of the Global Diligence Alliance and the Amrin Law and Consultants Group.

Separately from this project, LAC designed a six-month International Law Fellowship Program in Cambodia utilizing the e-learning platform, with the financial support of USAID. Ten fellows were selected to participate in the program from January to June 2023. This program provided a platform for academic learning, clinical training, career mentorship, and exchange to equip young Cambodians with the substantive, practical, and institutional knowledge and skills needed to pursue a career in international law, either internationally or domestically. The Fellowship Program drew on the experience of the ECCC and its pursuit of justice and accountability against the Khmer Rouge, so that the fellows could properly understand the court and its work. Furthermore, the clinical training provided practical exposure to legal case and project work as would be conducted by a lawyer or legal professional, especially in international law. In addition, the career mentorship opportunities enhanced the fellows' understanding of the procedural and technical details of a career in international law, drawing on the experiences of Cambodians and foreigners who have pursued this path. Through this program, the fellows were placed at a better position to apply for jobs related to international law in Cambodia or abroad, both in terms of qualifications and the recruitment process. In addition, they were able to pursue their legal careers in a more sensitized, informed, and competent manner as future experts and leaders, with a proper understanding of the country's past.

Annex A. Legal History and Practice e-Learning and Training Program

COURSE 1: LEGAL IMPLICATIONS OF THE KHMER ROUGE REGIME

- A History of the Khmer Rouge
- An Overview of the Legal Process
- Accountability Mechanisms
- · Formation of the Extraordinary Chambers in the Courts of Cambodia (ECCC)

COURSE 2: THE ECCC LEGAL FRAMEWORK

- Structure of the ECCC
- Cases Before the ECCC
- Fair Trial Rights at the ECCC
- Victim Rights at the ECCC

COURSE 3: INTERNATIONAL CRIMINAL LAW, HUMAN RIGHTS, AND THE ECCC

- Genocide of the Cham and Vietnamese Groups
- Crimes Against Humanity During the Khmer Rouge
- War Crimes During the Armed Conflicts from 1975-1979
- Modes of Liability

COURSE 4: INVESTIGATIVE PRACTICE AT THE ECCC

- Introduction to Evidence
- Fundamentals of Investigation
- Collecting Testimonial Evidence

COURSE 5: TRIAL AND APPELLATE

- Preparing for Trial
- Opening and Closing Statements
- Questioning Witnesses and Civil Parties
- Appeal Process



COURSE 6: APPLICATION OF ECCC LAW AND PRACTICE IN THE NATIONAL COURTS

 Comparing Practices at the ECCC and National Courts





Educating on the Khmer Rouge:

LEGAL HISTORY AND PRACTICE E-LEARNING AND TRAINING PROGRAM

Equip yourself with the knowledge to strengthen the rule of law, pursue justice for mass atrocities, and better advocate for today's most marginalized members of society!



and more

Khmer and English

Digital certificates

Exclusive interviews with the Deputy President of the Co-Lawyers for defense teams, the Lead Co-Lawyers for Civil Supreme Court of Cambodia, Parties, the International the Deputy Prosecutor of the Co-Prosecutor, staff of the Phnom Penh Municipal Court, the President of the Bar Pre-Trial Chamber and Office Association of the Kingdom of of the Co-Investigating Judges, Cambodia, and more

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