



A stupa holding the skulls of over 5000 genocide victims is a powerful reminder of the Khmer Rouge's killing fields. Photo: Mendhak Paranormal <http://www.flickr.com/people/mendhak/>

# Echoes in the killing fields

During the 1970s the Khmer Rouge ravaged the population of Cambodia in a brutal regime of social engineering and genocide.

Thirty-one years later, ANU graduate law student, Lyma Nguyen, is finding that the path to justice is difficult.

BY JAMES GIGGACHER

A small white temple squats in the tropical vegetation, its layers tapering towards the sky. The walls of the temple are as marked and cracked as the hundreds of skulls piled haphazardly inside. They are silent and still like the brick that entombs them.

The temple and its grim contents are a powerful reminder of the Kraing Ta Chann prison, one of many killing fields that dotted Cambodia between 1975 and 1979. During the Khmer Rouge's regime of terror and genocide, up to 200,000 people were killed and buried at sites like Kraing Ta Chann. The regime's policies also caused the death of two million people through disease and starvation.

Thirty-one years later, Lyma Nguyen is helping the country to come to terms with this violent past. In addition to studying for her Master of Laws, she has been working as a pro bono international civil party lawyer at the Extraordinary Chambers in the Courts of Cambodia (ECCC). Through the ECCC, Nguyen is able to seek moral and collective reparations for victims of the regime's persecution of Cambodia's minority ethnic Vietnamese population – a group who also suffered terribly under the Khmer Rouge.

"The Khmer Rouge deliberately targeted the ethnic Vietnamese for elimination," Nguyen says. "In legal terms, what my clients went

through amounts to genocide as the crimes [had] an intention to destroy their group, either in part or in whole, on the basis of ethnic and national identity.

"Whilst I focus on cases of persecution against ethnic Vietnamese, my clients – who today number over 100 – include people from the United States, New Zealand and Australia, who lost family members through the Khmer Rouge's policies against foreign nationals," Nguyen adds.

"Together with my national co-lawyer, NY Chandy, I am also representing Khmer in mixed marriages who lost their Vietnamese spouses





Lyma Nguyen (left) sits with locals whilst collecting the testimony from a victim of the Khmer Rouge.

or family members as well as non-Vietnamese who suffered crimes because of a perception by the perpetrators that they were Vietnamese."

Like all victims of the Khmer Rouge, Nguyen's clients experienced forced relocation, enslavement, overwork, starvation, sickness and mental and physical abuse from their forced work in the killing fields.

"Victims were forced to dig soil, build dams and grow crops from 6am to 11pm each day. They were given meagre rations of watery porridge for meals, and were subjected to summary executions for the most arbitrary of reasons.

"Entire Vietnamese families were taken away in ox carts, never to be seen again, and many victims will never know the fate of their loved ones. In the communes where some of my clients lived, the Khmer Rouge dried human gallbladders taken from their victims and hung them out on the trees, to frighten and intimidate others."

Nguyen believes that the contempt for, and abuse of, ethnic Vietnamese were also made clear through mixed-marriage policies implemented by the Khmer Rouge where a Khmer spouse in a mixed Cambodian/Vietnamese family would be expected to kill the Vietnamese spouse as well as their mixed children, or have the entire family killed by the Khmer Rouge.

"Some people under these conditions were forced to kill their own family members," says Nguyen. "Unfortunately, as victims age, a number of key witnesses have passed away and the direct testimony is lost with the person."

Although the Khmer Rouge is no longer in power, discrimination against ethnic Vietnamese continues. Nguyen's clients claim that the Vietnamese in Cambodia have suffered ongoing and contemporary human rights issues, including immigration problems. They are at times treated with contempt and hostility, as a result of past conflicts between Vietnam and Cambodia.

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"Even though the ethnic Vietnamese were deliberately and positively targeted for elimination and persecution by the Khmer Rouge, some people do not regard them as 'victims'. This has led to the very real issue for this victim group of mistrust of authorities, and a fear of reprisals from surviving members of the Khmer Rouge who are still within the community. Khmer Rouge members continued to target ethnic Vietnamese into the 1990s, although those crimes are not within the jurisdiction of the ECCC."

In December 2009, Nguyen and her fellow lawyers filed a legal submission to the Office of the Co-Investigating Judges (OCIJ) in the ECCC, requesting the tribunal consider new evidence that the Khmer Rouge targeted Vietnamese populations living in Cambodia, with the intention of systematically wiping out the group.

Shortly after the submission, the tribunal charged former leaders of the Khmer Rouge regime - Nuon Chea, Ieng Sary, Khieu Samphan and Ieng Thirith - with genocide against ethnic Vietnamese. Nguyen believes that the charge is an acknowledgement of the scale and nature of the suffering caused by the regime's persecution of minority Vietnamese.

According to Nguyen, the ethnic Vietnamese she represents, like many victims of the Khmer Rouge, identify themselves, first and foremost, as survivors of the regime.

"That they are still alive is core to their identity," says Nguyen.

"Victims of genocide have distinct suffering and distinct interests and demand a true representation of the nature and extent of the crimes they suffered, simply because the scope of human suffering depicted by genocide has historic impact on victims, including on their descendants."

Yet the ECCC's December 2009 ruling has not ensured justice for all of Nguyen's clients. In January, an arm of the tribunal ruled that 16 people represented by the lawyer were inadmissible as civil parties due, in part, to the locations in which the alleged crimes took place. This was despite their being accepted as legitimate by another arm of the tribunal earlier on. In April, yet another part of the tribunal recommended that the clients have their ability to proceed reinstated.

"It provided a glimmer of hope in allowing us to re-submit their applications to the court," says Nguyen.

"The recent inclusion of genocide charges affords victims of genocide the opportunity to seek justice for the unspeakable crimes they suffered and, in that process, discover the truth about the defendants' role in those atrocities.

"The genocide charges are not only a manifestation of justice for Cambodia but a reminder, internationally, that there will never be impunity for perpetrators of genocide."

In June 2010, Nguyen will return to Cambodia to continue her pursuit of reparations for victims of violence against ethnic Vietnamese, through a placement with Legal Aid Cambodia and the support of Australian Volunteers International. In addition to working in the ECCC, Nguyen is also helping to rebuild legal capacity within the state. ■