

# INTERNATIONAL DEFENSE

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By Richard G. Freeman

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**O**ur world – from Filbert Street courthouse to Market Street courthouse, perhaps interspersed with a bold junket to West Chester – is too small for Alan Yatvin. Somehow this protean practitioner has balanced his role as a partner in the firm of Popper & Yatvin with meaningful appearances as defense counsel in the United Nations International Criminal Tribunal for the Former Yugoslavia (ICTY) at The Hague, representing defendants accused of crimes in the former Yugoslavia. For good measure Yatvin chairs the court’s Association of Defense Counsel Membership Committee. And last spring the globetrotting Yatvin was sworn in as a member of the Bar Association of the Kingdom of Cambodia, joining the list of international counsel at the Extraordinary Chambers in the Court of Cambodia (ECCC).

Loyal readers of *The Philadelphia Lawyer* will recall this author’s account of his 2012 trip to Cambodia, which included a visit to the ECCC. Unlike the other incumbent war crimes or genocide tribunals the ECCC was established by the Cambodian court system with United Nations funding and assistance. Hence, as Yatvin explained in an interview “The Cambodian courts use the French ‘civil law’ system, so there is something of a learning curve for someone like me coming from a common law system.” The French or civil system, Yatvin pointed out, depends on an investigating judge who is in charge of preparing the case and assessing whether it should come to court. This system is known as inquisitorial, as opposed to the adversarial system used in common law legal systems. The Yugoslavia Tribunal uses a hybrid system, with elements of both the common law adversarial and civil law inquisitorial systems, with the former predominating. The ECCC has moved slowly since it was established in the 1990s. Indeed, only four defendants have been tried, including the commander of a brutal prison complex in Phnom Penh; he pleaded guilty and was sentenced to life. The evidentiary portion of the trial of Khieu Samphan – Pol Pot’s right hand man — senior party member Nun Chea, and Khmer Rouge foreign minister Ieng Sary, began in 2011. Sary died during trial. Samphan and Chea were convicted on Aug. 7 of crimes against humanity. Cambodia has chosen only to try the top leadership of the former Khmer Rouge, the crazed revolutionaries whose nation-building resulted in the deliberate deaths of 1.7 million people.

It was Yatvin’s connection with the Yugoslavia tribunal that led to his appointment to serve as standby counsel for a suspect under investigation in Cambodia. The identity of his client and the nature of the investigation is treated as confidential by the court, so he and I could not discuss whom he represents and what the theory of his defense might be.

Yatvin, who is 58 years old is a graduate of Benjamin Cardozo Law School, served as an assistant public defender in state and federal court before embarking on private practice with his longtime law partner Howard Popper, also a former public defender. He has served as law clerk to judges of the Court of Common Pleas. He is a man of moderate build and active movement. In my experience Yatvin is one of the most cheerful and welcoming of my brethren; he is always available to offer guidance to other counsel.

So far Yatvin has only spent one harried week in Cambodia, the week in May when he was sworn in, oriented to the ECCC, met his local team, travelled many hours to meet with his client near the Thai border and posed for the photos in domestic robe, scarf and bib required when appearing in Cambodian courts. Then he returned to his local life representing clients in civil rights, police misconduct and special education cases. For his current work Yatvin receives compensation from the United Nations Assistance to the Khmer Rouge Tribunals (UNAKRT) in accordance with guidelines formulated by the “Defence Support Section” of the ECCC.

Yatvin is an active model of professional self-sacrifice, serving as national chair of Legal Advocacy for the American



Alan Yatvin appears before a tribunal in Cambodia. Photo courtesy of Alan Yatvin

Diabetes Association from 2010 - 2013. (He represents persons with diabetes in disability discrimination cases, particularly students). He received the 2012 Thurgood Marshall Award from the Criminal Justice Section of the Philadelphia Bar Association and the Court of Common Pleas' 2010 Pro Bono Publico Award.

Meanwhile, Yatvin and his wife Laura, a registered dietitian and certified diabetes educator, have raised two sons in their home in Overbrook Farms. "My wife knows I have a fever for travel," he says, defending his flights to Europe and Asia.

Yatvin awaits the next phase of the ECCC when he will be called on to engage in real courtroom forensics before the

panel of international judges. There is constant work in the mean time and not all of it on Eastern Daylight or Standard Time. "I find myself waking up in the middle of the night realizing there is something on my email from Asia where it is daytime," he says. And he awaits another call from The Hague or Arusha, Tanzania, where the tribunal continues to hear cases arising from the horrors of Bosnia, Serbia, Croatia and Rwanda. ■

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