

Introduction

Tena koutou katoa
Greetings to all

I am deeply honored and moved to be given the opportunity to speak today. I realise that this is a privilege made available to few, especially compared to the numbers of families that suffered under the Khmer Rouge regime.

I arrived in Cambodia last week. Last Thursday, 13 August was coincidentally 31 years to the day that my brother Kerry Hamill first set foot on Cambodia soil. The difference now is that I am here of my own volition.

This is the story of an innocent man brought to his knees and killed in the prime of his life and the impact his death had on just one family. It is my hope that other families likewise affected by the losses of this barbaric time can somehow relate to my statement and recognize that they are not alone in their grief.

This Court process – the trial and this sentencing hearing finally gives Kerry (and all of the other people that died at the hand of Duch and others) the opportunity for justice, acknowledgement and vindication.

Background – the Hamill family life before this tragedy

Your Honours, I strongly believe that my personal suffering cannot be understood unless the Chamber is properly informed of the background of my family, Kerry was part of a family which was torn apart due to the accused actions; a previously close knit outgoing and active family which was, in effect, destroyed along with Kerry at S-21. With Your Leave Mr. President I would like to briefly describe my family life before this tragedy.

My brother Kerry was the oldest son of five children to Esther and Miles Hamill . Kerry grew up in Whakatane New Zealand along with us - his siblings - John, Peter, Sue and me (Rob).

We were a very outdoors focused family. We spent our days outside, really enjoying nature.

Kerry was very special to Mum and Dad. We all were, but having children is pretty extraordinary life changing stuff and we knew, as first born, Kerry really was a very special child to them.

My second eldest sibling, John Hamill, was born 15 months after Kerry. In their youth the two were virtually inseparable. Together they sought out many adventures.

Mr President, could the AV Unit be instructed to show photo 1.

After going to university Kerry went to Australia to work in Sydney and develop his sailing skills. His goal was sailing around the world.

When cyclone Tracy devastated Darwin in 1974, Kerry went up there to work and earn enough money to buy his own yacht.

While in Darwin, Kerry befriended Canadian, Stuart Glass. The two eventually decided to each buy a 50% share in a yacht. A 28 foot double ended sloop named Foxy Lady

Mr President, could the AV Unit be instructed to show photo 2.

They spent a fair bit of time and money repairing the boat and getting it ready to sail off on their adventures.

While in Darwin, Kerry met Gail Colley. Gail is an important part of this story and I will return, with your Honours leave, to talk more about her later on.

Kerry and Stuart then sailed from Darwin and began a series of wonderful adventures sailing up through South East Asia.. To earn money they would do day charters out to nearby islands for fishing, snorkeling and sight seeing.

Kerry wrote home regularly telling terrific tails of his adventures. At home in New Zealand we would excitedly sit around the kitchen table while Dad read out each letter accompanied by our exclamations of awe and amusement at the many different sights and colorful cultures he was experiencing.

Occasionally a parcel of clothing would turn up to the extreme delight of my sister Sue and myself.

In one letter Kerry detailed how two Englishmen Neil and Bob got on board as paying passengers from Phuket to Penang. .

I met with both Neil and Bob earlier this year and they described to me their wonderful adventures with Kerry and Gail. They said Kerry and Gail were clearly very much in love. They believed the two would invariably get married, settle down and have children.

From all these things, Your Honours, I'm sure you can see that at 26 years of age Kerry was having the time of his life. He and Gail were planning a life, and future family, together and we were all enjoying their adventures in the stories they were sending back to us in their letters.

The last letter we got from Kerry was sent from Singapore in July 1978. Fortunately, Gail left the boat at around this time to visit her family. She and Kerry planned to meet up a couple of months later.

We believe the men made for Bangkok but were blown off course in bad weather and took shelter behind Koh Tang Island.

Mr. President, my lawyer has appraised me of the situation regarding the content of S-21 confessions, however, with your permission, I would like to recall six sentences

contained in the confession of John Dewhirst. From our family's perspective it is what we read 30 years ago and it affected us greatly at the time. Whether it be fact or fiction it is what we believed to have happened to them and affected us accordingly. Mr President, I recognise your discretion in this area and am therefore completely in your hands on this matter.

(if YES, thank you Mr President).

John described in his confession how the boat was attacked. He said:

"Shortly after dark I went below to make some porridge and suddenly a boat began to close in on us very quickly. I was about to go up on deck when the boat opened fire and sent some shots over the mast so I stayed where I was and turned on our navigation light. The gunboat came in closer and lit us with its spotlight.

Stuart was shot and Kerry helped him out to sea in a lifebuoy. Kerry and I went over the side for safety and waited until the gunboat came in to pick us up. He told me later that Stuart had died and had been buried at sea."

→ If NO continue...

Thank you Mr President, even if we do not know the precise details of the capture of Kerry we do know he was brought to S-21. There, as part of the system of degradation and torture put in place by the accused he unquestionably suffered beyond all imagination. Yet despite this environment, the pressure to surrender to the pain, and futility and despair, Kerry's confessions were lucid. He was clever with what he said.

It is evident from both Kerry's and John Dewhirst's confessions that they were obtained under torture. The men wove the patently untrue statement that they had "CIA training" into real facts about their life. Again, Mr President, I am aware that the content of the confessions is not to be discussed before the Chamber – at this point, with your leave, I only wish to talk about certain names in the confession which lead my family and myself to believe it is entirely fictional. I do not seek to rely upon or place any credence upon the supposed 'factual' content of the confession.

In his confession, Kerry stated that Colonel Sanders (of Kentucky Fried Chicken fame, a popular chain of fast food restaurants) was one of his superiors. He used our home telephone number as his CIA operative number and mentioned several family friends as supposed members of the CIA. For instance, Colonel Perram was our father's gliding instructor. Captain Dodds is an old mate of Kerry's who still lives and Whakatane.

He also mentions a Captain Pepper which may well have been a reference to the Beetle's album and he talks about a Major Rouse. A ruse in English is a fraud or a confidence trick

Perhaps the most poignant comment in my brother's confession was the mention of the public speaking instructor ' a Mr. S. Tarr'. The instructor's family name was spelt Tarr. Only the initial of the instructor's first name S was given. S Tarr is in fact the name of my adoring mother Esther. Esther Hamill. That's my mother's name
He was sending a message to our mother. A message of love and hope. And it was as if, whatever the final outcome, he would have the last say.

Approximately three weeks after his capture, John Dewhirst had signed a confession and, I presume at that time, was executed.

Exactly two months after his capture my brother, Kerry Hamill, signed a confession and, I presume, at that time he too was executed.

I say presume because we still do not know exactly when or how either of the men were killed.

The Overall Impact Kerry's death had on our family

Mr President, Kerry's final letter arrived at our home on July 1978 . The silence after the arrival of that letter was deafening.

Your Honours, I need to explain the impact of this period, the impact which this period of crushing uncertainty had upon my family. As you will be well aware your Honours, in any family, in every family, everyone is interconnected. When a mother, a father, a sister or a brother suffers, all others suffer. A family shares in happiness and warmth, a family shares in depression and misery. My family's suffering is my suffering, my family's disintegration is my disintegration, my family's pain is my pain.

As already described, Kerry used to write home about once a month. Some weeks passed without any communication from Kerry. The weeks turned to months still with no contact from Kerry. As time went by we became more and more concerned that something was wrong.

Our family home was positioned at the mouth of the Whakatane River where it flows into the Pacific Ocean. Towards the end of the year my mother, Esther, would gaze out to sea and say "It's ok, he'll turn up for Christmas to surprise us." We all half expected the yacht to appear over the horizon at any moment. Mr President, you like myself, will perhaps remember the times before we lived in a world of instant communication – the days before mobile phones, the internet and 24/7 news. It was in this time of letters and telegrams, which younger generations cannot appreciate, that my family waited, and waited for any news.

There was a desperate sense of hope in our household.

Christmas 1978 came and went, as did the New Year and there was still no news. This was the first Christmas without the normal happiness – there was no excitement at New Years. We were all thinking of the person missing from our lives; Kerry.

As time went by my parents became more and more anxious. Still we hoped for a positive outcome but deep down we were all thinking the same thing; that something terrible had happened to my brother.

My father, Miles Hamill, wrote letters to the ports of Asia and the NZ Government requesting information about the Foxy Lady and any possible sightings. He was trying to establish if any ship wrecks had been reported in the area.

Nothing of any consequence was reported back to my father.

When you are waiting to hear from a loved one, 16 months is a very very long time. Your Honours one year 4 months of uncertainty passes like an eternity. In less than this period a new life can be conceived and born. I was 14 when Kerry went missing and 16 when we found out the terrible news. My two birthdays were a time of mute celebration. The waiting without knowing and hoping while fearing the worst had been a terrible terrible time for our family.

~~As time went by the only thing we could cling to was hope.~~

I remember the day a neighbor rung us suggesting we go and get a copy of the local newspaper. I went with my second eldest sibling John Hamill, to the local news agent and I recall the look of sympathy on the attendants face as he handed over the newspaper. On this day, 16 months after Kerry's capture, we got the news that Kerry had been captured, tortured and killed at the hands of Pol Pot's Khmer Rouge regime. My brother, had been captured, tortured and killed. Mr President, Nobody in the New Zealand Government had taken the time to contact my parents with this terrible news; all we had was the report staring out from the front of the newspaper.

We were devastated. All that hope was now extinguished.

I remember later that day standing in the kitchen hugging my father, both of us crying, for what seemed like a long time. It was the closest I had ever felt to my father.

I find it difficult to describe the feeling of complete and utter love combined with sorrow I felt for my father at that moment. In some ways it was a beautiful moment but was all consumed in the grief and shock of the tragedy that had occurred..

Never in our worst nightmares had we considered the reality of what had to Kerry.

Death, not by ship wreck, not by drowning or freak accident BUT Death by torture. Death by torture not over a few seconds or minutes or hours or days or weeks even.

Death by torture over a period of months.

In the absence of Kerry's body, a memorial service was held.

For the next 12 months my parents tried to ascertain the detail of what had happened and why the New Zealand Government still supported Pol Pot's regime into the 80s. At the same time they tried to sustain their business which was in decline and held off bankruptcy.


Mr. President, Family life disintegrated. I would like to describe how my family struggled and perhaps failed to cope with Kerry's death. With Your leave MR President, I'd like to begin by telling you about my brother John. It is my conviction that what happened to John is directly linked to Kerry's death at S-21, as such, his story is an important part of the damage caused to my family

John Hamill (Kerry's brother)

John was a year younger than Kerry. The two brothers had a very close bond.

John was a wonderful sensitive man that had the ability to make us all laugh to the point of tears. After Kerry went missing, that humor stopped.

During the 16 month time lag between Kerry's capture and our discovery of what had happened, John displayed the affects of deep depression.


The loss of his closest sibling had a massive impact on John.

Eight months after we found out what had happened to my eldest brother Keny, my second eldest brother John took his own life. He threw himself off a cliff near our family home.

My father Miles and my third brother Peter were the first to find John. They retraced his footsteps to the edge of the cliff and saw his body at the bottom on the rocks.

On the morning of John's funeral I remember my mother administering pills to me and my other older siblings, Sue and Peter. I later found out that they were valium tablets. It was an example of how my parents didn't know how to deal with their grief. There was so little in the way of effective support systems that they somehow thought it best to mask one's feelings in a cloak of prescription medicine.

I discovered later that morning that my father had been in such a bad way during the night that my mother had called for the doctor who administered strong sedatives. It was enough to render my father unconscious for the next 24 hours.

He did not, could not, attend the funeral of John, his second son
It was simply too much for him.

I feel he blamed himself for the death of his two eldest children. I think he felt he could have done more to protect them from harm. ~~_____~~

Both Kerry George Hamill and John Dwyer Hamill died at the age of 27.
I find it difficult to separate the death of John from the death of Kerry.
I am certain that if Kerry's life had been spared, John would not have taken his own life.

** Look at DUCH

Duch, when you killed my brother Kerry, you also killed my brother John.

The effect these two devastating losses had on our family simply cannot be measured. They were massive and incomprehensible.

I often think how much better things might have been had Kerry's life not been taken. It's impossible to say.

Esther Hamill (Kerry's Mother)

My mother Esther Hamill was possibly the most deeply affected by Kerry's death. She was thinking about Kerry nonstop but not communicating that to us, She was a very private woman in her own way but she was a very outgoing lady as well, very humorous, she had a great sense of humour.

That all changed after Kerry was captured. I never saw her cry, she was very strong, but as a result of that strength and holding her pain within, she became very sick. Two years after we found out what happened to Kerry and about 18 months after John's death, mum became bed ridden with painful arthritis. She was in bed for many months. Her room was like a mausoleum.

I could barely bring myself to go into her room. I avoided her, so much so that it feels to me like I abandoned her, right when she needed me most.

It must have felt to her like she had lost not one, not two but three sons, such was my lack of support.

I cannot forgive myself for that.

It took years for her to get her independence back but, though she rarely let on, her back was a continuous source of pain for her.

A few years later she was afflicted with shingles which is a disease of the nervous system. This illness took a long time for her to shake off.

During those years my mother was depressed but she didn't express it in a way that I consciously understood. She was angry, she fought with Dad and she was very sad, very sad.

Mum stopped engaging with life, did less and saw less of her friends. She removed herself from all social interactions in the township.

For her remaining children however, she remained strong and supportive but I know that she longed to turn back time.

Her courage was illustrated when I was planning adventures of my own. Adventures that would put my life at great risk.

When I decided to enter the first ever rowing race across the Atlantic Ocean she said, "You go for it boy."

My mother had witnessed the death of two beloved sons and here was a third son wanting to embark on crazy challenge that may well kill him; she continued to support me.

Every Christmas my mother would put on a brave face but at some point on Christmas Day she would disappear to visit John's grave site and lay flowers as a memorial to her two boys.

My mother died 28 July 2003 after succumbing to leukemia - cancer of the blood. She died before seeing any measure of accountability for the tragic death of Kerry

Father – Miles Hamill.

My father Miles Hamill, took the death of Kerry and John very badly.

Over the years it was relatively common to be watching television and hear Dad in the kitchen doing mindless chores next door quietly weeping.

I knew at that point that he would have been crying for some considerable time before it progressed to being audible to where I sat in the room next door.

At these times Mum would stare at the television and try to block it out.

To a certain extent, I did the same. I didn't offer Dad any sympathy or affection. For some reason I couldn't.

The one moment of closeness that was shared between us the day we found out what happened to Kerry was all I could offer.

He was a business owner in partnership with his cousin. It was a business that his father and his uncle had set up and it was originally very successful.

After Kerry's disappearance murder and John's death, my father lost the ability to function effectively at work. He couldn't make the difficult decisions anymore and when hard financial times came along he didn't respond the way he once might have. He was forced to retire far too young.

Dad is aged 88 and is suffering from the affects of Alzheimer's disease. He no longer recognises Kerry in photos. I believe the pain of the last 30 years have taken a toll.

Miles and Esther as parents

I note on both my parent's bravery through all this. There were many examples that illustrated how grief stricken they were. They continued to do the best they could to be good parents to us, however, it is clear to me now, as a parent myself, that they were paralysed by the tragic loss of their son.

I remember clearly how John openly beat me, punching me in the face, with my mother and father just a meter away. Before the loss of Kerry this would be unimaginable in my house, my parents would never have allowed such behaviour. But there they were, a meter away, allowing this to happen – they lost the ability to parent for a long time. It was as if they were now paralyzed leaving them unable to continue their parenting duties. At the time I didn't know what to make of it but in reflection believe their reaction, or lack of it, was symptomatic of the psychology of their grief.

But they held on and perhaps we, their remaining children, were what kept them going. They hung in there, and were incredibly strong.

Peter Hamill (Kerry's Brother)

Peter does not wish for me to talk about how Kerry Hamill's torture and murder and subsequently John Hamill's suicide affected him. I wish to acknowledge Peter at this time and send him my love

Sue Hamill (Kerry's Sister)

My sister Sue Hamill was 16 years old when Kerry was snatched from his boat by the Khmer Rouge. She was 18 years old when she found out what had happened to him.

Sue has spoken to me about the subliminal fear she feels she has carried with her, consciously or otherwise, for the last 30 years. A fear that has influenced many of her decisions and life choices.

Mr President, with your leave I would like to read out just one or two lines of what Sue wrote to me, not only does it describe her feelings but it also encapsulates my suffering.

After shock, disbelief and anger there came the realisation that I could not do anything to bring back Kerry – he is gone forever. What then? I began to wonder how could one human do something unbelievably abhorrent to another human and to an innocent one?

Something had to fill the void where there was once hope and expectation of his return. What filled that hole was my choice but I did not consciously choose fear. Often it has only been in retrospect that I have understood why I deferred certain plans, sometimes indefinitely. But slowly I have come to understand that deep hurts can cause a subtle kind of paralysis. Time is a very, very slow healer.

Rob Hamill (Me)

Mr President – as I already mentioned – the suffering and pain of my mother, father, brothers and sister was part of my own suffering.

The distressing aspect of Kerry's death is the nature in which his life was taken. Ultimately, I do not know how Kerry finally met his fate

At best my brother was blind folded, taken out of the S21 compound to a pre-dug trench, made to kneel down beside it, hit over the head with a metal bar, his throat slit, then buried.

That was the best case scenario. Unfortunately, Kerry was regarded as a 'special prisoner', the type of prisoner the Duch Division was set up to look after. It indicates that these prisoners received special attention, the thought of which makes my stomach turn.

It is also possible that Kerry, still alive, could have been made to sit in the middle of car tyres, covered in petrol and set alight.

When I think about what happened to my brother Kerry Hamill, I get the sense of the hopelessness, powerlessness and despair he must have felt while incarcerated and tortured in S21. He must have been suffering terribly and yet:

He had no one to appeal to,

He had no one prepared to listen to his pain and anguish,

There was no way out and no vindication,

When I try to imagine how my brother Kerry would have responded in that environment, I feel sick to my core. I know Kerry was physically and mentally strong. He would not have succumbed easily. His will to live would have been evident.

Mr. president, I would like, with your leave to show one last photo, the photo that I imagine illustrates what Kerry suffered; if the AV unit could be directed to show photo 3.

I know this individual may not have been Kerry, just another poor soul at S-21. But the way he is shackled, the way he has been grotesquely beaten, the blood flowing from gaping wounds, yet the continuing struggle, the resilience. This man's struggle to hold onto life is evident. He is moving, holding himself up ever so slightly off the floor. For me, Mr President this is my gorgeous beautiful brother Kerry Hamill at S-21. This is the

sort of image that haunted me when I was 16 and still haunts me today; I have lost much sleep over this image.

The time frame Kerry was detained at S-21 also continues to trouble me. From what I have been led to believe, the longer a prisoner remains in S21 the worse the torture got. It has also my understanding that once prisoners signed confessions and put their thumb print to them that they were then executed.

Whereas John Dewhirst was detained for 3 weeks my brother endured a much longer stay in the compound. His last dated confession was in 13 October 1978, two months to the day after his capture

When I think about the depravation, the degradation and the abuse that Kerry would have suffered, after 30 years my tears are still copious and I try not to think deeply about what he went through. I can't bear to think about it.

I think Kerry would have been very, very angry. Angry to the point of outrage. Then I think there must have been stages when he felt that it was useless to resist. That sense of powerlessness and hopelessness must have been incredibly difficult.

I have wondered how Kerry felt in those days in prison, deprived of food and water, dehumanized beyond belief and tortured.

Last year's Republican nominee for the presidential elections in the United States of America John McCain, talked about his incarceration during a Vietnamese prison. He described how he lost the will to live and attempted to commit suicide on more than one occasion.

I have wondered if Kerry tried to do the same. As much as it hurts me to say it, I believe at some point in his incarceration my brother may have lost all hope and contemplated suicide as a welcome relief.

During the 16 month period Kerry was missing I, at 14 and then 15 years of age, took solace in alcohol, boozing it up in the pub or out somewhere with my friends.

I was 16 years old when the news of Kerry's fate arrived. In the year that followed my nights out binging escalated in regularity and duration. I was inebriated many nights of the school week. I developed a capacity to consume vast quantities of alcohol. I also worked diligently at speed drinking often winning drinking games against friends and strangers. I would often end up violently ill, sometimes on the carpet of my bedroom after returning home in the late hours of the night.

I would often go to school with a hang over and my education accordingly suffered.

My parents were dealing with their grief in their own way and through no fault of their own either didn't notice my antics or felt powerless to do anything about it.

In effect, for that period, I had lost not only my brother Kerry but my parents also.

When I was actually at home I was often having enormous arguments with my second eldest brother John. As I mentioned before, on one extreme occasion these arguments turned violent.

Before losing Kerry and John we were an outgoing family but afterwards, mum and dad cut off many of their social contacts and that affected all our relationships.

As children we stopped meeting other children and families. (X)

Our immediate family became a little bubble and we became very reluctant to interact at all.

Hilary and Gail.

Your Honours, I believe that a family is not necessarily limited to just blood relatives or family by marriage. They are often family by circumstance. There are two people who I consider to be family in this way and I ask your Leave Mr. President to allow me to very briefly refer to them.

The first is Hillary Holland, who is the sister of John Dewhirst. I contacted her three years ago and have since visited. In the interim we have formed a strong bond in our shared grief. Such is Hillary's grief that she, today, cannot say her brothers name out loud. In our correspondence Hillary described her pain, and as I feel it also captures my own feelings, I would like to read you just 5 sentences of what she has written.

When I first heard of my brother's death and for a long time, I felt that if it was possible to die as a result of emotional pain then I would. I could not see how my heart could continue to pump and my lungs to breathe. The physical pain was so intense and that pain was continous.

For me it is all to do with how they were killed. Torturç, I believe is dehumanizing. Both for the person who suffers that torture and the person perpetrating it.

Gail Colley

Mr President, I would now like to speak about Gail Colley, the love of Kerry's life.

The two of them had plans to marry and have children.

Even now I cannot look at a beautiful picture I have of the two of them together without feeling deprived of such a wonderful sister in law and their planned children.

When Gail finally received the news of Kerry's demise she too was devastated. Gail did not get married and she did not have children.

Conclusion

Mr. President, to conclude, all the pain and suffering my family, Gail, Hilary and myself have had to endure was created to by one man, by the system of degradation, humiliation and torture he created; from the death camp he ran. All this heart break, sorrow and human suffering has stemmed from the destruction of the life of my beautiful brother Kerry.

There are between 13,000 and 20,000 stories like ours – all stemming from the systems and practices and actions that Duch administered at S21.

At a personal level, this whole process has been demanding. I have had to drag up all the memories and try to put them in perspective. I have had to sit down and write about what you did to good people and the pain that you caused.

When the need and desire arises I can be incredibly focused. I'm tough. I'm determined. And yet I sit before this court feeling frail and emotional. I should feel shame for behaving so weakly. But I do not. The only person in this court who should feel shame is that man standing before me.

Duch, at times I have wanted to “smash” you (to use your words) in the same way that you “smashed” so many others! At times I have imagined you shackled, starved, whipped and clubbed viciously. I have imagined your scrotum electrified, being forced to eat your own feces, being nearly drowned and having your throat cut. I have wanted that to be your experience, your reality. I have wanted you to suffer the way that you made Kerry and so many others.

However, while part of me has a desire to feel that way, I am trying to let go and this process is part of that. Today, in this court room, I am giving to you all the crushing weight of emotion – the anger, the grief and the sorrow, - I am placing this emotional burden on your head; for it is you who created this burden which no one deserves, it is you, who should bear the burden alone. It is you who ~~should~~ suffer – not the families of the people you killed. From this day forward, I feel nothing towards you; to me what you did removed you from the ranks of being human.

If anything, anything at all, is to come from this trial and from my statement on behalf of those I love,

- i) let it be that the world takes notice of the evil that can happen when people do nothing,
- ii) let it be that world decides that doing nothing is not an option.

Mr President, Your Honours, thank you for the opportunity to appear before this Chamber and express the pain and suffering that I, and my family, have endured due to the actions of the accused.