



# The Court Report

APRIL 2012

## The Extraordinary Chambers in the Courts of Cambodia

*Moving Forward Through Justice*



### ECCC's \$90 Million Budget for 2012-2013 is Released Online

The Extraordinary Chambers in the Courts of Cambodia released on 9 March its newly approved two-year budget for 2012-2013 on its website, following conditional endorsement by donors who had reviewed the documents.

In total, US\$89.6 million was budgeted for the court's two-year operations from January 2012 through the end of 2013, of which US\$45.7 million is for 2012 and US\$43.9 million for 2013. In the next two years, the ECCC projects that trial proceedings in the court's most complex case against three former Khmer Rouge leaders continue throughout the period while the judicial investigation in the court's third and fourth cases winds down.

Among the total, the international component accounts for US\$69.6 million, of which US\$35.4 million is for 2012 and US\$34.2 million for 2013. The national component of the ECCC accounts for US\$20.0 million in total, of which US\$10.3 million for 2012 and US\$9.7 million for 2013.

According to the 17 February budget proposal, which was presented to donors in New York and endorsed in early March, the court envisages that the year 2012 would be a peak year, requiring a total of 467 posts (175 international and 292 national) which would be reduced to 448 posts (161

international and 287 national) for 2013.

It also projects that the chambers complete both the trial and appeal processes of two mini-trials in Case 002 by the end of 2018, estimating the same level of budget as 2013 would be required each year for the next budget cycle of 2014-2015.

For the first time, the court has proposed a new budgetary requirement for legacy and residual activities, asking for US\$0.49 million to cover costs for a digital multimedia library and archive of the work of the court, Virtual Tribunal.

However, the approval of the latest budget proposal came on two conditions that activities in legacy must be deferred until sufficient funding is secured and that staffing requirements for the Office of National Co-Investigating Judge may be reconsidered if the budgeted money is not sufficient to properly implement its activities.

The both national and international components of the ECCC budget heavily rely on voluntary contributions from like-minded donors. Following the presentation of the budget proposal, a number of donors came forward to pledge new contributions, but the international side of the court is still facing a shortfall. (*See budget summary and related story on pg. 2*)

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## ECCC Budget

	International (million)	National (million)	TOTAL (million)
Revised budget 2011	30.8	9.9	40.7
Real expenditure 2011	22.9	9.1	32.0
Subtotal expenditure 2006-2011	107.9	33.2	141.1
Budget 2012-2013	69.6	20.0	89.6
Budget 2012	35.4	10.3	45.7
Budget 2013	34.2	9.7	43.9
TOTAL projected expenditure 2006-2013	177.5	53.2	230.7

## Major Donors Announce New Pledges

Responding to a call for financial support, a number of major donors have pledged to further support the operations of the Extraordinary Chambers in the Courts of Cambodia following the presentation of the 2012-2013 budget proposal in late February.

On 1 March, Japan announced a new pledge of US\$6.0 million, of which US\$2.5 million to the international side and US\$ 3.5 million to the national component, in hope that the work of the tribunal would complete Cambodia's peace process, bring justice to the victims and contribute to the strengthening of the rule of law here, a statement said.

On 2 March, the United Kingdom also informed the Cambodian government of a new pledge of £750,000, or roughly US\$1.2 million, to the Cambodian side of the court budget. "This demonstrates the UK's continued commitment to Cambodian reconciliation and development and bringing justice to the victims and families of victims of the horrific atrocities," said British Foreign Secretary Wil-

liam Hague in his 26 March statement to the parliament.

In addition, Australia also pledged to contribute AU\$1.61 million, or US\$1.73 million, of which AU\$1 million to the international component of the ECCC and the rest to the national side. New Australian Minister for Foreign Affairs, Senator the Hon Bob Carr, announced the pledge after he visited the court on 26 March.

All three countries are among the top 10 donors to the Khmer Rouge tribunal. According to the latest donor contributions table as of 31 March, Japan has so far disbursed US\$74.5 million (US\$60.1 million to the international side and another US\$14.3 million to the national side), accounting for 47 % of the total contributions. Australia follows Japan with the disbursement of altogether US\$14.3 million to the court while the UK has contributed US\$6.9 million in total so far.

Despite these contributions, the ECCC still faces a serious funding challenge.

## Australian Officials Reiterate Support for the ECCC



Acting Director of Administration H.E. Tony Kranh welcomes Australian Minister for Foreign Affairs Bob Carr to the ECCC

The ECCC was pleased to host two high-level visits from Australian representatives in March demonstrating amicable cooperation between the court and one of its largest-contributing donor nations.

On 6 March, Ms. Gillian Bird, the Australian Ambassador to ASEAN and Deputy Secretary of Foreign Affairs, traveled to the court as part of a 2-day trip to Cambodia. She met with Australian Judge Rowan Downing as well as H.E. Tony Kranh and Mr. Knut Rosandhaug to gain updates on the court proceedings and reiterate Australian support for the work of the tribunal. During her visit, Ms. Bird took the time to meet with the Australian nationals among the ECCC staff and thank them for their contributions to the court and its efforts to seek international justice.

On 26 March, Australian Minister for Foreign Affairs Bob Carr came to the ECCC as part of his first regional tour since assuming the post of Foreign Minister. At the court, Mr. Carr met with Judge Downing and senior officials from the Office of Administration, in addition to observing a portion of the day's Trial Chamber hearing in Case 002. He later had a meeting with Cambodian Deputy Prime Minister Sok An, after which Carr announced Australia's intent to provide an additional AUD 1.61 million in funding to the ECCC. He emphasized "Australia's strong and long-standing support" for the tribunal, stating, "The ECCC's work is vital to ensure justice for the Cambodian people who endured unspeakable suffering at the hands of the Khmer Rouge."

	Donors	Int'l (mil)	%	Nat'l (mil)	%	TOTAL	%
1	Japan	60.1	52	14.3	39	74.5	47
2	Australia	11.7	10	2.6	7	14.3	9
3	Germany	7.8	7	1.9	5	9.7	6
4	USA	9.5	8	-	-	9.5	6
5	France	7.0	6	0.2	1	7.2	5
6	UK	5.4	5	1.5	4	6.9	4
7	Cambodia	-	-	6.2	17	6.2	4
8	UN Trust Fund	-	-	5.4	14	5.4	3
9	Norway	4.0	3	-	-	4.0	3
10	EU	-	-	3.8	10	3.8	2
	Others/interests	14.9	12	1.2	3	15.9	10
	TOTAL	120.4	100	37.1	100	157.4	100

Note: Data as of 31 March 2012, exclusive of outstanding/tentative pledges and Cambodia's in-kind contribution of \$8.2 million

## Reserve International Co-Investigating Judge to Resign in May

Swiss judge Laurent Kasper-Ansermet will step down as international reserve co-investigating judge of the Extraordinary Chambers in the Courts of Cambodia effective on 4 May.

Mr. Kasper-Ansermet assumed his office as a reserve judge shortly after former International Co-Investigating Judge Siegfried Blunk resigned last October. Since then he ordered to reopen and continue the judicial investigation in the court's much contested third and fourth cases, commonly known as Cases 003 and 004, against five unnamed suspects. Resuming the field investigation, he also informed the suspects of their rights and was to conduct interviews with civil parties.

However, his authority to investigate these two cases has been "constantly contested" by his counterpart, National Co-Investigating Judge You Bunleng, said Judge Laurent Kasper-Ansermet in a press release issued on 11 March. Judge You Bunleng has reiterated that any actions taken by the Swiss judge would be invalid unless he is appointed by the Cambodian Supreme Council of Magistracy as a full standing judge. The Supreme Council had re-

jected to appoint him as an investigating judge in January.

Mr. Kasper-Ansermet stated that his national colleague's opposition led to "a dysfunctional situation" within the ECCC and that "the present circumstances no longer allow him to properly and freely perform his duties".

Responding to the resignation, United Nations Secretary-General Ban Ki-Moon has initiated a process to select a new international co-investigating judge and a reserve co-investigating judge in accordance with the 2003 agreement between the UN and the Cambodian government to govern their cooperation to run the court.

His spokesperson stated in a 30 March statement that it is crucial for the Cambodian government to "extend full cooperation to the new judges" and reiterated that the supreme council "promptly" appoints them. "It is essential that the judicial process in relation to Cases 003 and 004 be brought back onto a positive course," the statement reads.

## Hearings Resume in Case 002

The second stage of the first trial in Case 002, concerning three former Khmer Rouge leaders Nuon Chea, Ieng Sary and Khieu Samphan, has begun with the questioning of Kaing Guek Eav alias Duch, who was convicted of crimes against humanity and grave breaches of the Geneva Conventions of 1949 in the ECCC's Case 001. The Closing Order in Case 002 charges the three with crimes against humanity, grave breaches of the Geneva Conventions of 1949, and genocide.

The Trial Chamber has split Case 002 into a series of separate trials, each concerning a different portion of the Closing Order. The first trial focuses on the forced movement of the population phases one and two – from Phnom Penh in April 1975, and then from the Central,

Southwest, West and East Zones from 1975-1977— and is limited to crimes against humanity. It also considers the roles of the Accused in relation to regime policies relevant to all the charges.

During the first two segments of the first trial, from 5 December 2011 to 16 February 2012, the Trial Chamber heard evidence regarding the historical background of Democratic Kampuchea and the roles of the Accused. For the second segment of the trial which began on 12 March, the Trial Chamber plans to examine the administrative and communications structures of Democratic Kampuchea and some elements of the roles of the Accused. (See more photos on pg. 6-7)



*Convicted Duch testifies as a witness in the trial against three other Khmer Rouge leaders*

## Prosecutors Initiate Duch Sentencing

A witness for the ongoing trial against three former Khmer Rouge leaders, convicted Kaing Guek Eav alias Duch will remain detained at the detention center for the Extraordinary Chambers in the Courts of Cambodia, according to a 7 March request by co-prosecutors for the enforcement of sentence.

Duch was found guilty of crimes against humanity and grave breaches of 1949 Geneva conventions for his role as head of Phnom Penh's security prison S-21 where at least 12,000 prisoners there died of torture, inhuman conditions and execution in the late 1970s. He was sentenced to life imprisonment by the Supreme Court Chamber in its appeal judgment on 3 February. By law, the sentence must be initiated by the prosecutors.

In their request for the enforcement of the sentence, Co-Prosecutors Chea Leang and Andrew Cayley expressed concerns that his transfer to a prison would complicate his participation as a witness in the trial proceedings in the Case 002 first trial and requested that he be continuously detained at the ECCC detention center while he serves as a witness and until an appropriate prison for him would be found.

Duch began his testimony at the trial hearing on 19 March.





## Study Tour in Partnership With Peace Corps

In a small village in Kampong Cham, Cambodia, hundreds of people were gathered on a field standing, squatting, and perched on motorcycles, all watching silently as films about the Khmer Rouge regime and the Extraordinary Chambers in the Courts of Cambodia played across a large projection screen.

Screenings like this happen once or twice a week in villages throughout the Kingdom of Cambodia, organized by the ECCC in partnership with Bophana Audiovisual Resource Centre. The screenings are often followed by a Khmer Rouge Tribunal Study Tour the following day, when around 300 villagers or students are given the opportunity to travel to Phnom Penh to visit Tuol Sleng Genocide Museum, the Choeung Ek Killing Fields, and the ECCC premises, where they receive a briefing.

This particular Kampong Cham event was a little different however. The event was organized by Samantha McSparrin, an American Peace Corps volunteer working as an English teacher who contacted the ECCC after reading about the trial in a newspaper and later discovering the court's outreach tours programme online. She thought a study tour would be a good opportunity for her students to learn more about their country's history. She said that many of her students, along with many Cambodian youth seemed to know very little about the Khmer Rouge regime, and had she had received similar feedback from her volunteer coworkers. So Ms. McSparrin contacted the Public Affairs Section, and soon the arrangements were made.

"The young people, they don't understand. They can't believe that these things really happened," said Sophan Roth, an NGO worker in the village, after the screening.

The day after the film screening, a group of senior high school students and their teachers awoke before dawn and boarded the buses for Phnom Penh. The excitement among the students was almost palpable, as they chattered enthusiastically and sang karaoke as the bus bumped its way into the city. The first stop was Tuol Sleng Genocide Museum, where students wandered through the museum rooms silently in twos and threes, examining the photos and empty cells. Several students scribbled notes for a class discussion the next day, while others had to look away from some of the more graphic photos in the museum.



*School children in Kampong Cham reading about the ECCC*

"It's very important for us to know about the trial, because most people don't know; they were born after the Pol Pot regime," said one of the teachers at the village school. "They can ask questions, learn more, and they can tell everyone what happened."

The buses then traveled to the Killing Fields at Choeung Ek, where students roamed the grassy area as their teachers talked to them about the Khmer Rouge. Several students said later that although the tour was an emotional experience overall, they were especially distressed by a site where Khmer Rouge guards murdered very young children by hurling them against the trunk of a tree.

Finally, the group boarded the buses for their last stop at the ECCC premises. After arriving at the court and having lunch, the students received a briefing by the Chief of Public Affairs, Mr. Dim Sovannarom. He described to them the structure and aims of the ECCC, explaining the progression of Cases 001 and 002. This was followed by a question and

answer session, during which students inquired about various issues relating to the court. The class applauded after each question was asked, and then listened earnestly for the answers.

Pauline, a senior student, said at the end of the tour that she had learned a lot about the Khmer Rouge and the ECCC. "I think the court is bringing justice with international standards," she said. She had watched the television programs about the trial in Case 001, of Kaing Guek Eav alias Duch, and said now that she knew more about the ECCC; she would continue to follow the coverage more closely.

The ECCC has enjoyed a close partnership with American Peace Corps since early 2011. As part of their induction programme, new Peace Corps volunteers now receive a briefing on the history and function of the Khmer Rouge trials and the ECCC's outreach programme.

## International Visitors Learn About the Work of the Court

As part of the ECCC's continuing efforts to educate the public on its mandate and work, numerous student and professional groups were welcomed for educational tour programs at the court during the month of March.

Among the visitors was a group of students from the Georgetown University School of Foreign Service in Qatar, UAE. Their visit to the court was part of a study-tour programme entitled, "Zones of Conflict, Zones of Peace", which focuses on "the goal of better understanding both causes of conflict, and the difficult process of reconciliation". In past years this program has brought students to Palestine and Israel, Rwanda, and Bosnia and Herzegovina. With their trip to Cambodia and the ECCC the 2012 programme students hoped to gain knowledge and insight into the

effect of the Khmer Rouge period on modern Cambodian life, and ways in which survivors and society at large are working to cope and rebuild. In addition to a briefing by Public Affairs staff, they were given a presentation by Nisha Valahbji of the Defense Support Section and Sarah Andrews of the Office of the Co-Prosecutors, both Georgetown alumni.

Another large group visit consisted of participants in the Advanced International Training Programme in Human Rights, Peace and Security, sponsored by the Swedish Development Cooperation Agency (SIDA). Incorporating mid-career professionals from Cambodia, Colombia, Sierra Leone, Liberia and Timor Leste, this programme focuses on cooperation between civil society and states in developing countries, with an eye towards institutional reform and capacity develop-

ment.

The hope of the programme is that by observing nation-building efforts in transitional societies such as Cambodia, participants will develop skills which will allow them to contribute to peace-building and strengthening of human rights in their home countries.

At the court, SIDA programme attendees were briefed by representatives from the Public Affairs Section and the Office of the Co-Prosecutor, followed by a question and answer session during which the ECCC representatives fielded inquiries about participation of civil parties in ECCC trials, the integration of international standards into the Cambodian legal system, and plans for the legacy of the tribunal after the completion of its cases.

## Lead Co-Lawyers Visit Kraing Ta Chan Prison

On 25 March the Lead Co-Lawyers for the Civil Parties joined local NGO Youth For Peace to visit the Kraing Ta Chan site, the location of one of the largest Khmer Rouge security centers of the 'South Zone', in Takeo Province. The security center allegedly claimed over 1000 lives.

The Lead Co-Lawyers were given the opportunity to learn about the memorial and the ongoing conservation of the area. While at the site they also visited the local library and several other places where group discussions had been organized.



Civil Party Lead Co-Lawyers visit Kraing Ta Chan memorial

## VSS hosts Regional Civil Party Forum in Kampong Speu

On 16 March the Victims Support Section of the Extraordinary Chambers in the Courts of Cambodia hosted a Regional Civil Party Forum for Case 002 in Kampong Speu. The forum was organized for 205 Civil Parties in Case 002 out of 3,864 CPs admitted by the Pre-Trial Chamber and Office of the Co-Investigating Judges of the ECCC.

The Civil Parties of Kampong Speu, Kampot, Kandal, and Prey Veng provinces have been waiting for their crimes to be heard in court, and the forum was a way to bridge the gap between their provinces and the ECCC

proceedings. While the VSS distributed informative materials such as books, statements of apology and acknowledgements of responsibility made by KAING Guek Eav (Duch), Civil Party lawyers met with their clients and explained the current situation of their cases along with recent developments in the ECCC proceedings.

The VSS believes the forum has increased the Civil Parties' knowledge of the ECCC's recent events and processes, and most importantly: all the CP's met in groups with their legal representatives and were able to ex-

change views and voice any concerns they had.

A CP from Kampong Speu Province said that "I had never met my lawyer before so I was so happy to meet them. I received a lot of new information from her and want to see her again."

Another CP from Kampot province said "we will receive justice from the trial in the near future. I am so proud with the activities of VSS for hosting this forum and providing us the opportunity to discuss our concerns."



# Photo Gallery

## Case 002

## Evidence Hearing

After a three-week recess, the Trial Chamber of the Extraordinary Chambers in the Courts of Cambodia resumed on 12 March hearings of evidence in the first trial in Case 002 concerning three Khmer Rouge leaders – Nuon Chea, Ieng Sary and Khieu Samphan.

The first trial focuses on the forced movement of the population from Phnom Penh in April 1975 and then from the other regions during 1975-1977 and related crimes against humanity.

In March, the chamber began examining the administrative and communications structures in the Communist Party of Kampuchea and some elements of the roles of the accused. After spending a few days examining evidential documents, the chamber called former S-21 chairman Kaing Guek Eav, alias Duch, to testify in court. He was previously sentenced by the Supreme Court Chamber in Case 001 to life imprisonment for crimes against humanity and grave breaches of the 1949 Geneva Conventions.

During the 11 trial days in March, more than 5,800 visitors attended the public hearings to closely observe the proceedings.

The following are some of pictures taken in the courtroom during March proceedings.



Former S-21 chairman Kaing Guek Eav, alias Duch (front), who was previously sentenced to life in prison in Case 001, enters the courtroom as a witness in Case 002 on 20 March.



Civil Party lawyers wait for the opening of hearing sessions on 19 March.



Accused Khieu Samphan, former Head of State, sits in the courtroom on 12 March.



Accused Nuon Chea, former Deputy Secretary of Communist Party of Kampuchea, reads his written statement on 19 March.

**Editor's note:** The Trial Monitoring section with summaries of the proceedings is put on hold until further notice. Transcripts of the public hearings are available on the ECCC website at: [www.eccc.gov.kh/en/Case002-Transcripts/en](http://www.eccc.gov.kh/en/Case002-Transcripts/en).



Former Foreign Affairs Minister Ieng Sary (center) and his defence lawyers confer before the session starts on 20 March.



## Activities Behind the Scene

**ECCC**

From public interaction through community outreach to maintenance of court buildings, the work at the Extraordinary Chambers in the Courts of Cambodia is not limited to judicial activities. Here are some examples of ECCC non-judicial activities.



Laborers work on the roof of the courthouse in preparation for the upcoming rainy season during the trial recess, which ended on 9 March.



International students receive a presentation on the work of the court during their visit on 5 March.



A group of young people brought by an ECCC partner, Youth for Peace, listen to presentations on the work of the court on 16 March.



High school students in Kampong Cham hold up the Introduction to the Khmer Rouge Trials booklet during an outreach event on 9 March.

## Visitors to Hearings

The first trial of Case 002 in the Extraordinary Chambers in the Courts of Cambodia has drawn a great deal of public interest. In March alone, nearly 6,000 people visited the court to observe the public hearings. Among them were 4,811 Cambodians escorted by the ECCC's free transport from across the country. Also 362 Civil Parties, victims who seek reparations, attended the proceedings. In total, the court has received around 26,500 visitors to the hearings since the Opening Statements in November 2011. The ECCC will continue to provide free transport for Cambodians.

DATE	PUBLIC VISITORS			JOURNALISTS		NGO	CIVIL PARTY	VIP	TOTAL
	National		Int'l	National	Int'l				
	PAS	Others							
12/03/2012	250	8	4	12	5	9	32	0	320
13/03/2012	510	26	5	15	5	7	23	0	591
14/03/2012	350	4	9	13	7	5	32	0	420
15/03/2012	660	2	8	17	4	6	32	0	729
19/03/2012	300	4	13	30	13	6	34	2	402
20/03/2012	560	73	31	38	13	6	34	3	758
21/03/2012	370	4	4	20	14	9	35	0	456
26/03/2012	300	3	12	22	7	5	35	9	393
27/03/2012	400	15	12	17	8	4	35	9	500
28/03/2012	260	2	13	20	5	3	35	1	339
29/03/2012	851	3	15	19	4	3	35	0	930
<b>Total March</b>	<b>4811</b>	<b>144</b>	<b>126</b>	<b>223</b>	<b>85</b>	<b>63</b>	<b>362</b>	<b>24</b>	<b>5838</b>

Every month, each section of the Extraordinary Chambers in the Courts of Cambodia compiles a summary of their activities to inform the general public on the latest developments of the court. The following are updates from each section on the activities of **March 2012**. *For decisions and orders, please refer to page 10.*

## Pre-Trial Chamber

During the reporting period, the Pre-Trial Chamber (PTC) disposed of a number of procedural and other case-management matters.

At the conclusion of the reporting period, the PTC remained seised of two applications and two appeals in Case 003, in addition to two applications in Case 004. The pending appeals relate to Civil Party applications in Case 003 that were rejected by the Co-Investigating Judges. The other pending matters remain before the PTC for its consideration and are confidential in nature at the date of this Report.

## Supreme Court Chamber

### Case 001

During March 2012 the Supreme Court Chamber (SCC) continued to finalize the editing and translation of the full reasons for its Appeal Judgment, a summary and the disposition of which were issued at a public hearing on 3 February 2012.

### Case 002

The SCC issued final decisions on two immediate appeals before it. The Chamber continued to work on its decisions in two other immediate appeals, and continued to finalise the full reasons for its decision in another immediate appeal. (*see decisions on page 10*).

## Office of the Co-Prosecutors

### Case 002

The Office of the Co-Prosecutors (OCP) continued to litigate Case 002 through filings, including a response to Nuon Chea's application for summary action

against Prime Minister Hun Sen, and a response to Nuon Chea's request to hear additional witnesses on historical background.

The OCP also continued to litigate Case 002 in Court, as the Chamber moved into the next segment of hearings regarding administrative and communication structures, and some aspects of the roles and functions of the accused.

The OCP made oral submissions in court on substantive and procedural issues, and placed documents before the Trial Chamber and argued their relevance and reliability.

The OCP also responded to the Defence team's objections to documents, made arguments regarding expert testimony by video link and examined Kaing Guek Eav as a witness.

### Case 003

The OCP continues to analyze the evidence in and monitor the progress of Case File 003.

### Case 004

The OCP continues to analyze the evidence in and monitor the progress of Case File 004.

### Outreach

Members of the OCP participated in many outreach activities to inform organizations and the public about the work of the OCP this month: OCP representatives attended and spoke at a workshop on gender sensitivity in transitional processes in Cambodia; briefed students and professors from Georgetown University School of Foreign Service in Qatar; met with senior Australian government officials who were visiting the ECCC; met with students and professors from Northwestern University School of Law (Chicago, Illinois, USA) who were visiting the ECCC; met with students and professors from Gothenburg University (Sweden) who were visiting the ECCC; and, met with a group from the US Holocaust Memorial Museum (Washington, D.C.) who were visiting the ECCC.

## Defence Support Section

The Defence Support Section (DSS) continued to provide legal support and administrative and technical assistance to the Defence teams.

On 2 March, the Khieu Samphan Defence Team (KSDT) filed a 'Response to the Co-Prosecutors' Request for Notice to be Given to Accused Khieu Samphan on the Consequences of a Refusal to Respond to Questions at Trial', submitting that the Co-Prosecutors' (OCP) interpretation of ECCC jurisprudence – that any statement made by Khieu Samphan during the trial was an express waiver of his right to remain silent – is wrong and at odds with Internal Rule 21 and international jurisprudence.

On 7 March, the Nuon Chea Defence Team (NCDT) filed 'Comments on Civil Party Lead Co-Lawyers' "Urgent Letter to the Trial Chamber Requesting Appropriate Measures to Secure the Temporary Segregation of Witness Kaing Guek Eav from his Fellow Detainees", 5 March 2012'. The NCDT voiced concerns about the presence of Duch at the ECCC Detention Facility and supported the measure to separate Duch from the accused persons in Case 002 because their client, Mr. Nuon Chea, "fears threats against his life by the hypocrite witness."

On 9 March, the Ieng Sary Defence Team (ISDT) responded to the Co-Prosecutors' Notice to the Trial Chamber and Parties Regarding Testimony of TCE-38 and TCE-44, submitting that the Trial Chamber should not allow witness TCE-38 to testify via video-link on the grounds that it would violate Mr. Ieng Sary's fundamental fair trial right to confront TCE-38 in Court. The ISDT requested that the Trial Chamber order the OCP to desist from conducting any further *ex parte* communications with TCE-38; reject the OCP's request for TCE-38 to testify via video-link, or authorize ISDT members to travel to TCE-38's location to conduct his examination. Further addenda were filed on 15 March contain-



ing international jurisprudence on this topic.

On 16 March, the NCDT submitted a Request to Hear Defence Witnesses and to Take Other Procedural Measures in Order to Properly Assess Historical Context before the Trial Chamber. The NCDT requested the Trial Chamber to examine witnesses and documentary evidence in order to examine: a) the extent and effects of USA bombings of Cambodia from 1965 until 1973, b) the starvation and hunger in large areas of Cambodia in the period leading up to April 1975, including an assessment of the number of refugees in Cambodia and their causes of displacement, c) availability of food in Cambodia prior to April 1975, d) state of Cambodia's health care system in April 1975, and e) an assessment of the availability of foreign humanitarian aid in the 1970-1975 period. Citing the failure of the Office of the Co-Investigating Judges (OCIJ) and the OCP to properly investigate the broader context of the DK regime, the NCDT submitted that "This *de facto*, court-sanctioned, impossibility for Nuon Chea to effectively present his defence amounts to a violation of his right to a fair trial".

## Victims Support Section

### Legal Work

The Victims Support Section (VSS) received and processed 160 new applications applied to join Case 004, and assisted Avocats Sans Frontières in submitting the French translation of the summaries of victim information forms in Case 002 to the Trial Chamber.

The Section received 14 requests of supplementary information related to Civil Party (CP) applications in Case 003 and Case 004 from the Office of the Co-Investigating Judges, and forwarded them to CPs' lawyers for collecting information from their clients.

The VSS's lawyers carried out legal research, checked and reviewed the documents of witnesses and experts, and prepared questions asked to the accused during the trials. They also met with their



*Civil Parties with their Lawyers at Kampong Speu Forum*

clients who were selected to give testimony in the courtroom. In addition, they represented their CPs during the trials of Case 002.

### Reparation and Non-Judicial Measures Team of the VSS

The Reparation and Non-Judicial Measures (R&NJM) Team of the VSS has been continuing to organize three different Sub-Working Groups on a regular basis with participation of Lead Co-Lawyers, representative CP lawyers, intermediary organizations and victims associations. Held throughout March, these meetings aimed to update all relevant stakeholders on the R&NJM-Roadmap of the VSS, to work on the description of requested reparation projects, to coordinate involvement and to seek support of various partners.

### Mapping and Development of Non-Judicial Measure Projects

The VSS together with intermediary organizations have been updating a list of NGO projects related to reconciliation and justice initiatives for victims of the Khmer Rouge Regime.

There is a great number of NGO projects (completed, current and planned projects) which are beneficial to all victims and which could be regarded as NJM projects as per the Mandate of the VSS. VSS together with stakeholders are formalizing the process of recognition of current NJM projects and further development of new NJM projects.

## CP Lead Co-Lawyers Section

The Lead Co-Lawyers and Civil Party lawyers were involved in the substantive hearings regarding the administrative structures, communications and role of the accused in Case 002. Many preparation meetings were organized to ensure effective participation of CP's in the hearings. During the trial a number of CP's were present, both in the courtroom and the public gallery, which enabled the Civil Party lawyers to meet with their clients and inform them of the judicial process.

In order to have projects of reparation for the interests of the CP's, the LCL and Civil Party lawyers had regular meetings with their clients, the Victim Support Section (VSS) and many intermediary organizations on issues related to reparation projects.

The preparation for the single reparations submission describing the specific awards sought and the mode of implementation is a long and difficult task which requires ongoing consultation and commitment between the Lead Co-Lawyers and the CP's themselves.

On the 16 March the National Lead Co-Lawyer gave a live interview on the 'Truth' radio program on FM 102, where he talked about the views of victims related to Case 002.

## Decisions/Orders

Versions of the decisions, orders, opinions and considerations, some of which are redacted, are available on the official ECCC website:

### Trial Chamber

#### 9 March 2012

Decision on Application for Disqualification of Judge Cartwright. The Trial Chamber rejects Nuon Chea Defence's application for the immediate and permanent disqualification of Judge Cartwright based on comments she made to the media, and an oral ruling that she made on the 30 January 2012. Having examined the totality of the material referenced in the Application, the Chamber concludes that it is inadequate to displace the presumption of Judge Cartwright's impartiality.

#### 13 March 2012

Decision on Nuon Chea Defence request for an investigation regarding inconsistencies in the audio and written records of witness testimonies taken by the Office of the Co-Investigating Judges. The Trial Chamber has concluded that the Nuon Chea Defence has failed to show sufficient grounds to initiate proceedings pursuant to Internal Rule 35 against any named or unnamed Co-Investigating Judge or staff member, and rejects the request.

### Supreme Court Chamber

#### 19 March 2012

Decision on Ieng Sary's Appeal Against the Trial Chamber's Decision on Co-Prosecutors' Request to Exclude Armed Conflict Nexus Requirement from the Definition of Crimes Against Humanity. The Chamber finds the Appeal falls beyond the scope of Internal Rule 104(4)(a), which is limited to appeals from decisions which "have the effect of terminating the proceedings, and decides to reject the Appeal as inadmissible. The chamber also rejects the request for an oral hearing.

#### 20 March 2012

Decision on IENG Sary's Appeal Against Trial Chamber's Decision on IENG Sary's Rule 89 Preliminary Objections (*Ne bis in idem* and Amnesty and Pardon). Noting the jurisprudence of the Chamber establishing that Internal Rule 104 is not inconsistent with the equality of arms because the Accused will have an opportunity to appeal the findings in the Impugned Decision as a part of its appeal against the judgment, the Supreme Court Chamber decides (Judges Klonowiecka Milart and Jaysinghe Dissenting) to reject the Appeal as inadmissible.



## Upcoming Public Hearings (For an updated hearing schedule, visit <http://www.eccc.gov.kh/en/event/court-schedule>)

#### Trial Chamber Hearings:

12 March 2012 to 21 June 2012:  
Hearing of evidence in Case 002  
(Monday-Thursday, 9:00-16:00,  
except public holidays)

#### Khmer New Year

The Trial Chamber will also not sit from  
Wednesday 11 April till Tuesday 17 April.  
Hearings will resume on Wednesday 18  
April and continue till Friday 20 April in that  
week.

#### May Judicial Recess

The Chamber will recess from Monday 7  
May until Wednesday 16 May, inclu-  
sive. The Trial Chamber will resume sitting  
on Thursday 17 May and will also sit on  
Friday 18 May.



## Outreach Activities

**1 March 2012** TPO, CDP and VSS host a Forum Theater in Kandal for villagers to increase their knowledge about forced marriage and rape during the Khmer Rouge regime.

**1 March 2012** US Holocaust Memorial Museum visits the ECCC

**2-4 March 2012** YFP hosts an art workshop/exhibition in Kampong Chhnang and Takeo, for participants to explore feelings about the KR and reconciliation.

**5-6 March 2012** YFP leads trips for students, victims and local authorities to mass killing sites in Kampong Chhnang and Takeo.

**7 March 2012** VSS/ OCP workshop on their baseline study 'Gender Sensitivity in Transitional Processes in Cambodia'

**6-9 March 2012** Kampong Speu local facilitators assist ICfC staff and villagers to understand past memorialization and current needs.

**9-11 March 2012** YFP hosts an art workshop and exhibition in Kampot, for participants to explore their feelings about the Khmer Rouge and reconciliation.

**12-13 March 2012** YFP leads trips for students, victims and local authorities to mass killing sites in Kampot.

**Mid-March 2012** CDP broadcasts a radio show about gender-based violence.

**14, 19 March 2012** TPO/CDP host a Forum Theater in Kampong Speu.

**19-22 March 2012** Facilitators and villagers will discuss current needs for memorialization and future steps in ICfC's Community Memory Initiatives Project.

**20 March 2012** ICfC/TPO screen "We Want (U) to Know" in Kampong Speu.

**27 March 2012** ICfC, TPO screen "We Want (U) to Know" and hold a discussion on transitional justice in Cambodia for 40-50 Norton University students.

**29 March 2012** TPO and CDP host a Forum Theater in Kampong Speu.

**29 March 2012** The CDP and WMC host a live radio show 'Women during the Khmer Rouge Regime'.

**2-12 April 2012** Inviting Civil Parties to attend Evidence Hearing Case 002 at the ECCC

**5 April 2012** VSS/ECCC, in corporation with TPO and CDP hold a workshop on "Gender Sensitivity in Transitional Justice and Gender Thematic" at the Imperial Garden Hotel.

**6 April, 2012:** PAS arrange guest speaker for CTN wrap up Case 002 hearing and Duch' testimonies.

**9 April, 2012:** Pas arrange guest speaker for Bayon TV on wrap up Case 002 hearing and Duch' testimonies.

**May 2012** Meeting/Regional Civil Party Forum for 200 CP's of Case 002, venue / date TBC



Students from Siem Reap province visiting the court.

## ECCC Outreach

The Extraordinary Chambers in the Courts of Cambodia now hosts a **weekly radio show, 'Khmer Rouge on Trial'**, airing every Thursday evening from 5:15 – 6:15 pm, on AM 918 KHZ and FM 105.75 MHZ. Each show presents highlights from the week's hearings, and featured guest speakers from the court break down major developments in the proceedings. Listeners are also invited to call in and ask questions or express their opinions.

In addition, the Public Affairs Section hosts **Khmer Rouge Tribunal Study Tours** from Monday to Thursday, bringing groups of 300-500 villagers from areas throughout Cambodia to attend the ongoing hearings of Case 002 and have a guided tour of the Tuol Sleng Genocide Museum, and a visit the Choeung Ek Killing Fields. During the trial recess, the Public Affairs Section conducted **school visits** to give briefings and held **community video screenings** across Cambodia.

ECCC OUTREACH CALENDAR						
March– May 2012						
SUN	MON	TUE	WED	THU	FRI	SAT
18	19 Hearing 002: Study Tour	20 Hearing 002: Study Tour	21 Hearing 002: Study Tour	22 Hearing 002 /Radio show	23	24
25	26 Hearing 002: Study Tour	27 Hearing 002: Study Tour	28 Hearing 002: Study Tour	29 Hearing 002: Radio show	30	31
1	2 Hearing 002: Study Tour	3 Hearing 002: Study Tour	4 Hearing 002: Study Tour	5 Hearing 002 /Radio show	6	7
8	9 Hearing 002: Study Tour	10 Hearing 002: Study Tour	11 Hearing 002: Study Tour	12 Hearing 002/Radio show	13 Public Holiday	14
15	16 Public Holiday	17	18 Hearing 002: Study Tour	19 Hearing 002: Radio show	20 Hearing: 002	21
22	23 Hearing 002: Study Tour	24 Hearing 002: Study Tour	25 Hearing 002: Study Tour	26 Hearing 002: Radio show	27	28
29	30 Hearing 002: Study Tour	1 Khmer Public Holiday	2 Hearing 002: Study Tour	3 Radio show	4	5
6	7 Khmer Public Holiday	8	9 Khmer Public Holiday	10 Radio show	11	12
13	14 Public Holiday	15 Public Holiday	16	17 Hearing 002: Radio show	18 Hearing 002	19



# Find out more about the **Extraordinary Chambers in the Courts of Cambodia**

“Everyone can be involved in the process”



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## The Court Report

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