



The Court Report

DECEMBER 2011

The Extraordinary Chambers in the Courts of Cambodia

Moving Forward Through Justice

First Trial in Case 002 Begins



Monks and members of the public watch the responses on 23 November.

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More than three decades after the atrocities took place, the Extraordinary Chambers in the Courts of Cambodia officially opened the first trial in Case 002 on 21 November, inviting the prosecutors to make their opening statements and present their case.

The co-prosecutors laid out how millions of Cambodians suffered from crimes allegedly committed by the three leaders of the Khmer Rouge regime on trial. The Accused and their lawyers then made responses to the charges.

Observers have said the trial of the Khmer Rouge leaders in Case 002 is one of the most significant trials in international criminal justice due to its complexity and the magnitude of the crimes being adjudicated. It is the first international criminal case in which civil parties have been allowed to join the trial and request reparations.

In Case 002, three former leaders are accused of

genocide, crimes against humanity and grave breaches of the 1949 Geneva Conventions: former deputy secretary of the communist party Nuon Chea, former minister of foreign affairs Ieng Sary and former head of state Khieu Samphan. The fourth defendant, Ieng Thirith, was severed from the case on 17 November after the Trial Chamber found her unfit to stand trial due to dementia.

Following the Trial Chamber's order in September that Case 002 be severed into a series of shorter trials, this first trial will consider the roles of the Accused in all the policies described in the indictment in order to provide a foundation for all the charges. It will focus, however, on the forced movement of the population phases one and two – first from Phnom Penh, and then from other urban centres – and related crimes against humanity.

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Ieng Thirith Declared Unfit for Trial

Following medical experts' findings that the accused Ieng Thirith suffers from dementia, the Trial Chamber of the Extraordinary Chambers in the Courts of Cambodia on 17 November found her unfit to stand trial and ordered to release her.

In response, the co-prosecutors filed an immediate appeal against Ieng Thirith's unconditional release on the following day.

The 79-year-old accused is a former minister of social action and a co-defendant accused of genocide and other crimes in Case 002 along with her husband and former minister of foreign affairs Ieng Sary, former deputy secretary of the Communist Party of Kampuchea Nuon Chea and former head of state Khieu Samphan.

Mrs. Ieng Thirith was first examined by a geriatrician from New Zealand in June and underwent a follow-up examination by four court-appointed psychiatrists in September. All experts confirmed and testified in public

hearings that she had been suffering cognitive impairment, most likely from Alzheimer's.

In its decision, the Trial Chamber unanimously found her unfit to stand trial and ordered a severance the charges against her from the ongoing Case 002. However, the five-member chamber could not agree on "questions regarding her continued detention and conditions of release," according to a press release issued by the chamber. The national judges considered it possible to order the accused to be hospitalized or to be imposed coercive measures, while the international judges considered the court to lack any basis for such an order, the release states.

Due to the lack of agreement on the imposition of conditions of release, "the Trial Chamber unanimously agreed that only available remedy in the circumstances was release," the press release says.

Co-Prosecutors Chea Leang and Andrew Cayley filed an immediate appeal, requesting

to annul the unconditional release order and to amend the order by ordering the accused to remain in detention and undergo medical and other remedial treatment, subject to review in six months.

(Editor's Note: The Supreme Court Chamber has granted the appeal and has set aside the Trial Chamber decision. Mrs. Ieng Thirith will remain detained and undergo medical treatment, subject to review in six months' time.)



Ieng Thirith at her fitness hearing in September.

Opening Statements begin (continued from front)

Later trials will examine the other charges and allegations, including genocide, forced labor, and more.

National Co-Prosecutor Chea Leang depicted what types of crimes took place and how millions of Cambodians endured forced labour, torture and inhumane conditions before perishing. From the mass evacuation of the capital Phnom Penh beginning on 17 April 1975 to the torture and execution at security prisons around the country to genocide against the Cham Muslim and the ethnic Vietnamese, she illustrated how a series of crimes were committed under the regime.

"Democratic Kampuchea...was one of the most brutal and horrific regimes in modern history," concluded Ms. Chea Leang after speaking almost all day.

International Co-Prosecutor Andrew Cayley then took the floor to discuss the roles and relations of the Accused in the general policies described by Ms. Chea Leang. "The Accused are thieves of time and common murderers of an entire generation of Cambodians," Mr. Cayley argued.

"They robbed decades of development and prosperity from this country. No one has been left unhurt or unaffected by what these three elderly men have done."

While counsel for Nuon Chea did not make a response, Nuon Chea read out a nearly two-

hour long statement, maintaining that he was a patriot trying to protect his country from aggression. "I devoted myself to fight for my country," said Mr. Nuon Chea, who told the tribunal that Vietnam, not the Khmer Rouge, was responsible for the crimes committed.

Counsel for Ieng Sary also did not make a response, though the accused read a short statement arguing that he should not be prosecuted due to the Royal Pardon and Amnesty he received 1996. He has said he will not testify.

On the third day, the Accused Khieu Samphan told the tribunal that the charges against him are based on guesses, generalization and bias. He criticized the co-prosecutors for using evidence from books and newspapers, and said he was merely a nominal head of state and did not bear responsibility for the crimes committed by the Khmer Rouge.

The UN High Commissioner for Human Rights Chief Navi Pillay said she welcomed the opening of the trial. "This is another historic day for the people of Cambodia, many of whom have waited a long time to see the start of this trial, and who can at last begin to hear evidence of the atrocities committed all across the country over 30 years ago," Ms. Pillay said.

Visitors from Cambodia and abroad expressed similar sentiments. Kris A. Baleva,

head of Programs for Cambodia at the Asian International Justice Initiative said she is looking forward to seeing how the severance of Case 002 will affect the conduct of the trial. "Survivors have waited for so long to hear the story from the Accused, and now is an excellent opportunity to unearth parts of the truth that has eluded Cambodia for over 30 years," she said.

"I am now happier than ever because the truth is finally being unearthed," said Mr. Seng Chon, 69, who traveled hours on a bus provided by the court from his home in a southeast province. "I believe this court will bring justice to victims because there is international participation. I believe that the court will not be outsmarted by those Khmer Rouge leaders."

After a 2003 agreement between the UN and the Cambodian government, the ECCC was set up by law as a domestic court with international participation and assistance to bring to trial senior leaders and those most responsible for crimes committed during the four-year Democratic Kampuchea regime in the late 1970s. Between 1975 and 1979, at least 1.7 million people are believed to have died of starvation, forced labour, torture and execution.

Duch's Appeal Judgment to be Rendered on 3 February



Kaing Guek Eav listens at his appeal hearing on 30 March 2011.

The appeal judgment in the case concerning Kaing Guek Eav alias Duch will be rendered on 3 February at 10 a.m., the Supreme Court Chamber of the Extraordinary Chambers in the Courts of Cambodia announced on 17 November.

Duch, the 69-year-old former head of S-21, an infamous Khmer Rouge security prison in Phnom Penh, was tried in 2009 for charges under both national and international laws. On 26 July 2010, he was found guilty of crimes against humanity and grave breaches of the 1949 Geneva Conventions and sentenced to serve 35 years in prison. The Trial Chamber also awarded reparations to admitted civil

parties.

However, the defence, co-prosecutors and some civil parties appealed against the trial judgment.

The Supreme Court Chamber held public hearings on the appeals from 28 to 30 March 2011, with 2,900 visitors following the proceedings at the court building, and has been drafting the appeal judgment.

Further information about the judgment pronouncement will follow in due course.

UK Officials Visit ECCC

Officials of the British foreign office on 16 November made a courtesy visit to the Extraordinary Chambers in the Courts of Cambodia to get updated information on the work of the court, following a close observation of a court study tour for villagers to an infamous former security prison.

Mr Bill Longhurst, Deputy Head of East Asia and Pacific Department of the UK Foreign and Commonwealth Office, visited the court along with new UK Ambassador Mark Gooding and held a series of meetings with court officials, including Acting Director of Administration Tony Kranh and his deputy Knut Rosandhaug as well as Co-Prosecutors Chea Leang and Andrew Cayley. The two visitors learned about the current status of the cases before the ECCC as well as challenges the court faces as it opens the trial in the court's most complex case.

A day earlier, Mr Longhurst joined the Khmer Rouge tribunal's study tour group from Kampong Thom province as they visited the Tuol Sleng Genocide Museum, the former security prison S-21, to get a sense of what actually took place during the Democratic



Mr Mark Gooding (L) and Mr Bill Longhurst (R) speak with ECCC officials.

Kampuchea regime and to learn how the tour participants made the most of the opportunity.

The UK government is one of the major donors to support the tribunal.

Japan Pledges US \$2.9 Million to ECCC

The Japanese government has pledged US\$2.925 million for the Extraordinary Chambers in the Courts of Cambodia as the court's second case concerning three Khmer Rouge leaders went on trial last week.

In its announcement of the new pledge, the Embassy of Japan stated that the contribution will be made to the international component of the ECCC in order to "support the judicial process of the Khmer Rouge tribunal" just as the first trial of Case 002 is beginning, with the appeal judgment of the first case scheduled for 3 February next year.

Japan is the single largest donor to the court and has so far donated a total of US\$70.57 million, nearly half of the total budget.

"We would like to express our sincere gratitude for the Government of Japan for its continued, consistent and significant support for the ECCC at a time when the court moves forward with the opening of the second trial," said Acting Director of Administration Tony Kranh and Deputy Director Knut Rosandhaug. "This generosity and continuous support is essential for the court to successfully complete its mandate."

The pledge is expected to be disbursed shortly.

Human Rights Professionals Explore ECCC

A group of professionals working in human rights, peace and security visited the ECCC on 15 November. The 27 visitors were participants in the Swedish International Development Cooperation Agency (SIDA) Advanced International Training Programme.

The participants work in human rights and related fields in a range of countries: Cambo-

dia, Colombia, Liberia, Sierra Leone and Timor Leste. During the visit, they received a briefing and asked questions of court officials, discussing the ECCC's finances as well as its similarities and differences from other mixed tribunals.

Case 002

The first trial of Case 002, concerning three senior leaders of the Khmer Rouge regime, began on 21 November with powerful opening statements by the co-prosecutors describing the crimes for which the Accused are indicted as well as their roles and responsibilities in these crimes. The accused and their lawyers then made their responses.

PROSECUTORS: Opening statements

While Co-Prosecutor Chea Leang laid out crime episodes the Trial Chamber would hear during the course of mini trials in the coming months and years, her international counterpart, Mr Andrew Cayley, illustrated how he believes the three Accused – Nuon Chea, Ieng Sary and Khieu Samphan—were involved in those crimes as a joint criminal enterprise, a doctrine that considers each member of the group responsible for crimes committed by the group in furtherance of a common plan. Here is a summary of what the co-prosecutors argued to be the crime base, the roles of the Accused and the policies of the Khmer Rouge regime.

Crime base

- Forced movement of the population: Shortly after the Khmer Rouge toppled the Khmer Republic regime on 17 April 1975, more than two million city dwellers in Phnom Penh were forced to move to rural areas. Similar forced evacuations took place from other urban centres across Cambodia.

- Five forced labour sites: People were forced to work day and night in inhumane conditions at labour camps and agricultural cooperatives. Episodes at five sites, such as the Srae Ambel Salt fields in Kampot and the Kampong Chhnag Airport, will be prosecuted.



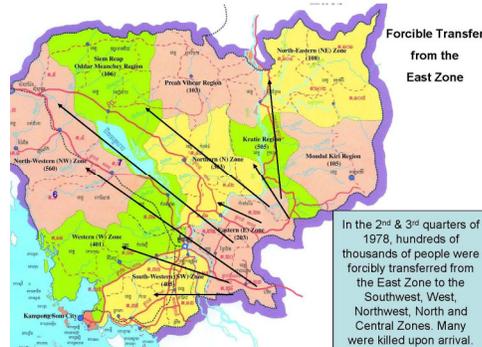
Forced labor at canal worksite.

- Persecution of the Buddhists: The regime instituted a country-wide campaign of suppression of the Buddhist religion, disrobing monks and banning Buddhist rituals and ceremonies.
- Forced marriage: Hundreds of thousands of men and women were forced to marry by “Angkar” and suffered rape, torture, murder or other inhumane acts on a mass scale.
- Crimes at 11 security centres: The regime is believed to have established more than 200 security centres across Cambodia

where “enemies” were arrested, tortured and executed. Crimes committed at 11 of those, including S-21 in Phnom Penh, will be prosecuted.

- Genocide of the Cham and the Vietnamese ethnic groups: Cham people in Kampong Cham and the Vietnamese in Prey Veng and Svay Rieng were subject to systemic extermination ordered by the regime leadership, the prosecution says.
- Crimes during the armed conflict with Vietnam: The regime staged incursions into Vietnam, resulting in the deaths or disappearance of more than 30,000 people and the displacement of 400,000 more. Many of the victims were transferred to S-21 for interrogation and execution.

- Third forced movement and purge of the East Zone: In the latter half of the Democratic Kampuchea regime, a massive purge took place in the East Zone, resulting in up to 250,000 deaths and the forced transfer of nearly its entire population to other parts of the country.



Phnom Penh, 17 April 1975

Images on pg. 4 are from the co-prosecutors' opening statements presentation.

Common criminal plan of the CPK

All three accused are believed to have participated in the designing and implementation of the following core policies:

- Forced movement from urban to rural areas
- Forced labour in worksites and cooperatives
- Use of violence to smash enemies through a nationwide network of reeducation or security offices
- Persecution of Buddhists, Cham and Vietnamese
- Forced marriage

The prosecution claimed that these policies were derived from the CPK leadership, in which the three Accused were deeply involved. “None of the Accused here even soiled his own hands with blood, but each of them, either alone or together and with others now long dead, set in motion strictly enforced plans and policies which unleashed an ocean of blood in this country,” said Mr Cayley.

Roles of the Accused

“These accused were the driving force behind this criminal enterprise and its active and willing participants,” Ms. Chea said. “They must bear criminal responsibility for each and every crime with which the Closing Order charges them.” The co-prosecutors allege the Accused held the following positions in the regime:

Nuon Chea: President of the People’s Representative Assembly, Deputy Secretary of the Communist Party of Kampuchea Standing Committee charged with responsibility for party affairs and the political education and training of its cadres.

Ieng Sary: Deputy Prime Minister for Foreign Affairs, one of only five full-rights members of the CPK Standing Committee.

Khieu Samphan: Chairman of the State Presidium, Head of State, member of the CPK Central Committee, a de facto member of the CPK Standing Committee, the political chairman of office 870 and responsible for overseeing commerce matters throughout the country.

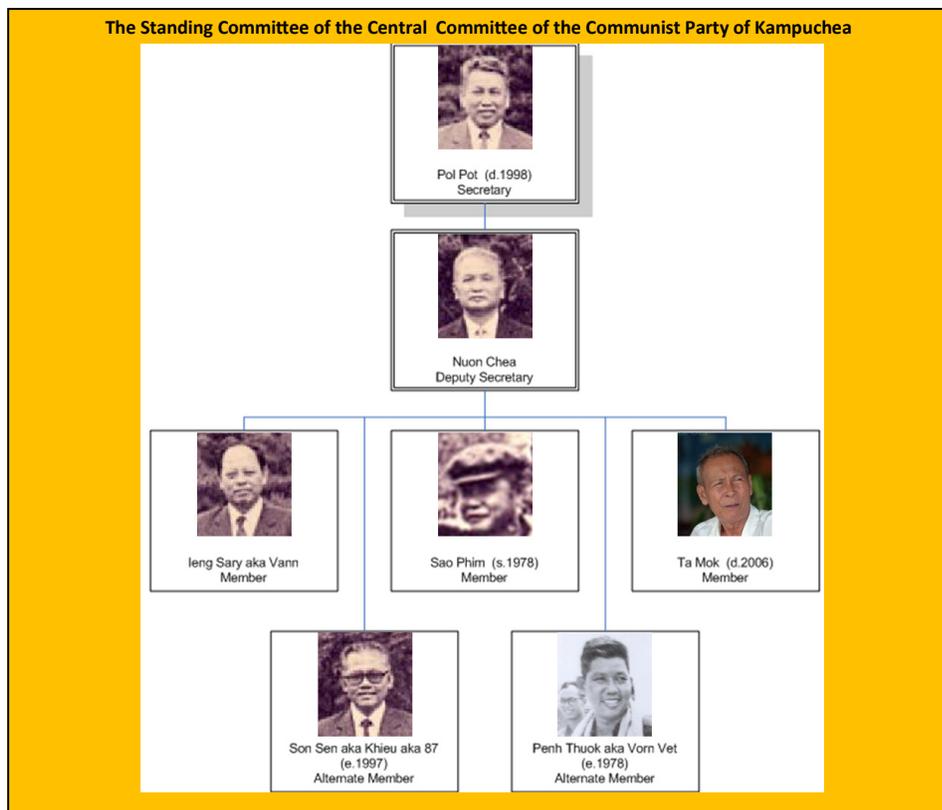


Chart above is from the co-prosecutors’ opening statements presentation.

DEFENSE: Responses

In response to the prosecutors’ opening statements, all three charged persons took the opportunity to express their position in court. While Nuon Chea and Khieu Samphan disputed the accusations against them, Ieng Sary questioned the legality of trial against him at this stage.



Nuon Chea

“Whatever have been indicated in the opening statements are not true. My position in the revolution is to serve the interest of the nation and the people,” said Nuon Chea in his response. “Oppression, injustice had compelled me to devote myself to fight for my country. I had to leave my family behind to liberate my motherland from colonialism and aggression and oppression by the forces, by the thieves who wished to steal our land and wipe Cambodia off the face of the world.”



Ieng Sary

Instead of responding to the opening statements, Ieng Sary read a short statement arguing that the proceedings against him be put on hold until legal issues in relation to the 1996 Royal Pardon and Amnesty given to him is resolved. “With the deepest respect, I am troubled by the Trial Chamber’s refusal to grant a stay until the Supreme Court Chamber rules on this matter,” he said.



Khieu Samphan

Criticizing the co-prosecutors’ statements as “guesswork” and made up of “peremptory claims,” Khieu Samphan claimed that he was not responsible for any crimes laid out by the prosecutors. “I continue to hope that this trial will at least give me an opportunity to explain to the Cambodian public how it is possible for me to have occupied an official senior position in Democratic Kampuchea without having been a part of the decision-making process and without having been informed of all that was happening in our country.”

Voices of the People: Opening Statements of Case 002



Visitors enter the court.

It's important that there be equality, that [the Civil Parties] are having their voices heard. It's important for Civil Parties to hear all the crimes recognized and to hear the crimes they have suffered

After prosecutors' opening statements, I'm eager to hear how [the Accused] can defend against the strength of evidence.

They were the leaders, like the head of the family, so how could head of the family do not know what happened in the house? If they did not know, then how could my children die? They should have admitted their mistakes.

I feel sorry for what happened during Khmer Rouge time, and I feel sorry that I served them. I was forced by bad leaders to do what I had done to people.

-Anonymous, 72, former deputy commune chief from Banteay Meanchey province

It is like a tree, it starts from the trunk then the branches will be what the trunk provides. [The Accused] were the trunk, so they designed the branches. They cannot blame the branches. The trunk comes first, then the branches come later. They cannot blame the lower ranking ones.

I came here because I want justice. I want to hear who is right, who is wrong; who is good, who is bad. Don't blame a good person for a bad thing. The accused refused to admit. They should know because of the people that died; who were the leaders. I need to hear those leaders admit what they had done.

-ORN Chha, 70, civil party from Steung Treng

I look forward to seeing how the severance of Case 002 will affect the conduct of the trial. It's definitely an interesting development that may contribute significantly to [international criminal law] jurisprudence.

Its effect on many aspects of the case—inter alia, the hearing of testimony, appeals (particularly on the capacity of the defense teams to respond to appeals before the Supreme Court Chamber and the 2nd trial before the Trial Chamber, in the event the 1st trial is appealed), and on the reparations awards—remains to be seen.

We are hopeful that the severance of Case 002 will indeed expedite the trial without compromising the rights of the parties.

-Kris A. Baleva, Head of Programs for Asian International Justice Initiative

I'm quite surprised by the number of persons present. There are a lot of young people, and it's really important for them to hear what happened.

- Delphine Carlens, Program Officer for International Federation for Human Rights



Monks collect ECCC informational materials.

What happened already happened, but I want [Nuon Chea] to take responsibility in all that happened: suffering, pain, tear, cries, fear that resulted from family separations, starvation, labor, torture, and killing. I want him to admit that he knew all of that happened. That's all I want.

-NGIN Nath, 55, Takeo Province

When they talked about forced marriage, I tried to swallow back my tears. It brought me back past memories of when they killed my husband and forced me to marry another man in the same village.

My husband was caught stealing cow bones. They butchered a cow that day; my husband was so hungry, he asked them for the fleshless bones, but they did not give. At night he went to the communal kitchen and tried to steal the bones. They caught him, tied his hands behind his back and took him away. My second child just started learning to walk, and she lost her father.

-CHAN Nary, 57, civil party from Steung Treng

I feel as if I'm on the wings of history, like I'm observing something unique. It's so interesting to hear from the accused and get such very different perspectives.

-Inger Agger, psychologist, Denmark



Visitors line up outside the court.

Civil Parties Gather for Memorial Ceremony

Civil parties in Case 002 gathered on 20 November for a ceremonial event at Choeung Ek, the day before opening statements began. In the presence of Buddhist monks, with the Choeung Ek stupa looming behind them, about 160 civil parties from Cambodia and abroad gathered to hear testimonials and pray before for the souls of the dead.

Several civil society organizations, who have been working to support victims' participation since the establishment of the ECCC, partnered to organize the event, including the Cambodian Human Rights and Development Association (ADHOC), Avocats Sans Frontieres -France (ASF-France), Cambodian Defenders Project (CDP), Cambodian Human Rights Action Committee (CHRAC), Transcultural Psychosocial Organization (TPO), Khmer Institute of Democracy (KID), Ksaemksan Victims Association, and Legal Aid of Cambodia (LAC).

The event provided civil parties with a public platform to express the harm and loss they suffered as well as their expectations for the Case 002 proceedings. In his opening statement, Mr. Thun Saray, President of ADHOC and Chairman of CHRAC, stressed that the purpose of the ceremony was "to



Ceremony in front of Choeung Ek stupa.

give the voice to victims represented as Civil Parties to tell their stories, concerns and suggestions on the way towards justice."

Six civil parties spoke at the event. "I was separated from my family members to live in fear and threats," 60-year-old Yin Sam On

said. 80-year-old Chum Mey, one of only two living survivors from the notorious S-21 prison, said he wanted to "remind the victims and ask them to push this trial to find justice for those who were killed by the Khmer Rouge." He added that he could barely sleep the night before, when he heard that these leaders were to appear before the tribunal.

The NGO partners who organized the event emphasized that victims' rights should not be abrogated by a rigid interpretation of the ECCC's Internal Rules. Victims stated that their participation as Civil Parties is of major importance to Case 002 proceedings and expressed their wish to participate more actively. The Civil Parties also said they were disappointed that no time was allocated to their lawyers for opening statements. The views and concerns of the Civil Parties should be an integral part of the trial proceedings, they said, to preserve strong participatory rights. Civil Parties expressed the hope that they will have a chance to present their stories to give the full picture in open court.

ECCC Launches Weekly Radio Show: "Khmer Rouge on Trial"

The Extraordinary Chambers in the Courts of Cambodia launched a weekly radio show, "Khmer Rouge on Trial," on Thursday 24 November. It will air every Thursday evening from

5:15 – 6:15 pm on AM 918 KHZ and FM 105.75 MHZ.

The radio programme provides an opportunity for the public to interact with court

officials and deepen their understanding of Case 002, the trial of three Khmer Rouge leaders — Nuon Chea, Ieng Sary and Khieu Samphan. They are indicted for genocide, crimes against humanity and grave breaches of the 1949 Geneva Conventions.

Each show will present highlights from the week's hearings, and featured guest speakers from the court will break down major developments in the proceedings. Listeners are also invited to call in and ask questions or express their opinions.

If you have questions about the trial or the proceedings in general, please call one of the following numbers:

- 092 929280;
- 092 929281;
- 097 8282918; and
- 097 8282919.



From left: ECCC Public Affairs Officer Huy Vannak and Radio National of Kampuchea hosts record "Khmer Rouge on Trial."

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 **November 2011**. For decisions and orders, please refer to page 10.

Pre-Trial Chamber

During November, the Pre-Trial Chamber (PTC) was seised of 1 application and 5 appeals in case 003, in addition to 1 application and 2 appeals in Case 004. The Pre-Trial Chamber has issued its considerations in 2 appeals and continued its deliberations in the remaining appeals and applications.

Appeals and Applications:

Case 003

On 2 November, the PTC issued its *Considerations of the Pre-Trial Chamber regarding the international co-prosecutor's appeal against the decision on time extension request and investigative requests regarding case 003*. Please see pg. 10 for details on this order.

On 15 November, the PTC issued its *Considerations of the Pre-Trial Chamber regarding the International Co-prosecutor's appeal against the decision on re-filing of the investigative requests*. Please see pg. 10 for details on this order.

Supreme Court Chamber

Case 002

During November the Chamber continued to work on its judgment on the appeals against the Trial Judgment.

Case 002

During November the Chamber continued to receive filings and to work on a confidential immediate appeal. The Chamber was also seised of a request by the Co-Prosecutors to stay the Trial Chamber's order to release the Accused, Ieng Thirith, from the ECCC Detention Facility, together with the Co-Prosecutors immediate appeal against such release order. The President of the Supreme Court granted the stay on 19 November, and on 21 November granted the Co-Prosecutors leave to

file supplementary written appeal submissions. The timing of the Supreme Court's decision on the immediate appeal is governed by Internal Rule 82(6).

On 28 November, the Chamber received notice of Ieng Sary's immediate appeal against the Trial Chamber's decision to exclude an armed conflict nexus requirement from the definition of crimes against humanity. The timing of the Chamber's decision on this appeal is governed by Internal Rule 108(4)(bis).

Defence Support Section

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

Case 002

On 4 November, the Nuon Chea Defence Team submitted a Request for Information related to *ex parte meetings* between Judge Cartwright, Andrew Cayley and/or Knut Rosandhaug. On 21 November, the Nuon Chea Defence Team made an urgent application for the disqualification of Judge Cartwright.

On 18 November, the Ieng Sary Defence Team similarly requested an investigation into the *ex parte* communications. This request was reiterated in court on 21 November, and formally repeated on 24 November.

On 4 November, the Ieng Sary Defence Team filed its Request to Stay the Commencement of the Trial Proceedings until the Final Determination of Ieng Sary's Preliminary Objections Regarding the Royal Pardon and Amnesty and *Ne Bis in Idem*. The Ieng Sary Team filed its Appeal against the Trial Chamber's Decision on Ieng Sary's Preliminary Objections on 5 December.

On 14 November, the Nuon Chea Defence Team filed its Objections, Observations, and Notifications Regarding Various Documents to be put before the Trial Chamber.

On 14 November, the Ieng Thirith Defence Team filed its Objections to the Co-



The Cambodian and United Nations flags.

Prosecutors' and Civil Parties' Lists of Documents to be used at First Phase of Trial.

On 14 November, the Khieu Samphan Defence Team filed its Objections to the Co-Prosecutors' and Civil Parties' Lists of Documents to be used at First Phase of Trial.

On 25 November, International Co-Lawyer for Nuon Chea, Michiel Pestman, filed his Response to the Co-Prosecutors' Opening Statement, not having been permitted to deliver it in court.

On 25 November, the Ieng Sary Defence Team filed its Appeal against the Trial Chamber's decision on Co-Prosecutors' Request to Exclude the Armed Conflict Nexus Requirement from the Definition of Crimes against Humanity.

On 28 November, the Ieng Thirith Defence Team filed its Response to the Co-Prosecutors' Appeal against the Trial Chamber's decision to order the immediate and unconditional release of Ieng Thirith.

Cases 003 and 004

The DSS continued to monitor closely the developments in Cases 003 and 004, and to work to ensure that the rights of the suspects are upheld in conformity with the highest international standards and best practices.

Victims Support Section

Legal Work

The Victims Support Section continued to receive Civil Party applications and processed them into the database. We also assisted the Avocats Sans Frontières-France in filing French translation of these applications to the TC and assisted a Civil Party lawyer in verifying her client's status.

Outreach

The Outreach Team participated in a ceremony prior to opening statements in Case 002, co-organizers by CHRAC, ADHOC, ASF, CDP, DC-Cam, CHRAC, KID, Ksem Ksan, LAC and TPO at Choeng Ek, where approximately 200 CPs participated. For more information, see story on pg. 3.

On 18 November, VSS and the Lead Co-Lawyers co-organized a pre-hearing information meeting for lawyers and 100 civil parties at Toul Kork Building Center in Phnom Penh.

This session provided information on the commencement of Case 002 and helped Civil Parties better understand the recent changes to the proceedings, including the severance order in Case 002, and the possibility of their names being provided to the Trial Chamber to give testimony.

Approximately 100 civil parties attended, coming from 18 provinces of Cambodia such as: Battambang, Kampong Cham, Kampong Chhnang, Kampong Speu, Kampong Thom, Kampot, Kandal, Kratie, Phnom Penh, Prey Veng, Pursat, Rattanak

Kiri, Siem Reap, Preah Shihanuk, Stung Treng, Svay Rieng, Koh Kong and Takeo provinces.

After attending the pre-hearing session and directly participating in the first week of hearings in Case 002, those attendees were invited again for a second session to examine their understanding and readiness for further participation in the hearing.

At this post-hearing information session, the 100 selected civil parties who are potentially important in Case 002 were broken up into small groups for closed door meetings and dialogue with their lawyers. They also had the opportunity to share their stories with other civil parties. In the afternoon, the attendees were taken to visit Tuol Sleng and the Killing Fields at Choeng Ek. A wrap-up followed and the attendees prepared themselves for attending the Case 002 evidence hearings from 5 December.

Non-Judicial Measures and Reparations

The VSS Reparations and Non-Judicial Measures (NJM) Program Manager continued to conduct field visits to eight former crime sites in five different provinces, including Pursat, Siem Reap, Kampong Thom, Rattanakiri and Kampong Cham Provinces, for the purpose of assessing the situation of crimes sites in Case 002 and the state of preservation and memorialization at those sites in relation to NJM and Reparation activities from 21-25 November.

During the visits, the team observed that 3 crime sites—Tuol Po Chrey Execution Site in Pursat, 1 January Dam Worksite in Kampong Thom and Wat Au Trakuon Security Centre in Kampong Cham are still owned by public authority. The other five crime sites, including the North Zone Security Centre in Siem Reap, Kroch Chhmar Security Centre, Trea Village Security Centre, Steung

Tauch Execution Site in Kampong Cham and Au Kanseng Security Centre in Rattanakiri are privately owned.

The VSS Reparations and Non-Judicial Measures Team (NJM) continued to coordinate a follow-up meeting on a possible NJM project in Tuol Sleng with Ksem Ksan and the Ministry of Culture and Fine Arts.

Civil Party Lead Co-Lawyers' Section

Legal representation

The Lead Co-Lawyers and the lawyers for the Civil Parties held a meeting on reparations on 2 November. At the meeting, the lawyers discussed further steps with regard to reparations and the involvement of the Victims Support Section and intermediary organizations.

On 21-23 November, the Lead Co-Lawyers for Civil Parties joined the opening statement hearings, where the Civil Parties were refused the opportunity to make opening remarks after they requested this to the Trial Chamber.

On 24 November, the Lead Co-Lawyers and Civil Party Lawyers held a meeting at the ECCC to reflect on and review the comments from the Lead Co-Lawyers and Civil Party Lawyers regarding the opening statement hearings.

To prepare for the hearings on the examination of evidence that would take place on 5 to 15 December, the Lead Co-Lawyers and Civil Party Lawyers organized meetings to discuss the relevant topics in the Scheduling Order of the Trial Chamber.

Outreach work

Several meetings were organized to share the experiences on how best to examine the civil parties, witness, accused and the experts. The speakers at these meetings were Banarbé Nekuie, a Civil Party Lawyer from Lawyers without Borders, France, Silke Studzinsky from CDP/LAC Lawyer team, Ny Chandy and Pich Ang from the Lead Co-Lawyers' Section.

On 4 November, the National Lead Co-Lawyers participated in a radio talk show on FM 102 about the substantive hearings.



Presenters at post-hearing information session.

Decisions/Orders

Pre-Trial Chamber

2 November 2011

Considerations regarding the International Co-Prosecutor's appeal against the decision on time extension request and investigative requests regarding case 003, whereby it declared that as it could not assemble the required majority of four votes to issue a decision on the Appeal, the Order of the Co-Investigating Judges shall stand. A redacted version of these Considerations is available on the website.

15 November 2011

Considerations regarding the International Co-Prosecutor's appeal against the decision on re-filing of the investigative requests whereby it declared that as it could not assemble the required majority of four votes to issue a decision on the Appeal, the Order of the Co-Investigating Judges shall stand. A redacted version of these Considerations is available on the website.

Trial Chamber

3 November 2011

Decision on Ieng Sary's rule 89 preliminary objections (Ne bis in idem and amnesty and pardon). The chamber dismisses the defence preliminary objection based on the 1996 Royal Decree, finds that the sentences pronounced by the 1979 People's Revolutionary Tribunal could not be subject to pardon, and declares the amnesty contained in the Royal Decree to be inapplicable to the charges of grave breaches of the 1949 Geneva Conventions, genocide and crimes against humanity in the Closing Order in Case 002.

stand trial, and dismisses the defence request for additional expertise. The chamber also directs the Nuon Chea defence team to prevent further unauthorized distribution or disclosure of the material.

17 November 2011

Decision on Ieng Thirith's fitness to stand trial. The chamber finds the accused unfit to stand trial, orders the severance of the charges against her in Case 002 and declares the proceedings against her to be stayed. Further, in the absence of agreement on whether the chamber has the jurisdiction to impose conditions on her release, the chamber orders the release of the accused from the detention. (See more details on pg. 2)

15 November 2011

Decision on Nuon Chea's fitness to stand trial and defence motion for additional medical expertise. The chamber finds the accused to be fit to



A panoramic view of the main courtroom in the Extraordinary Chambers in the Courts of Cambodia.

(Photo: Meng Kimlong)

Upcoming Public Hearings

Pre-Trial Chamber Hearing

None scheduled

Trial Chamber Hearings:

10 January 2012 onward: Hearing of evidence in Case 002 (Monday-Thursday, 9:00-16:00)

Supreme Court Chamber Hearings:

3 February 2012: Pronouncement of appeal judgment in Case 001 (10:00)

Outreach Calendar

Outreach Activities

2 November 2011 CHRAC hosts live radio talk show on “The Principles of Independence of Judiciary.” (Rebroadcast 9 November 2011.)

3 November 2011 Psychological Outreach Program: TPO hosts a program in Takeo province where participants learn about the work of the ECCC and share strategies for coping with grief.

4 November 2011 Radio Show: TPO hosts a call in show called “Past in Presence” where listeners discuss their expectations for Case 002.

7-8 November 2011 Pre-hearing training for testifying civil parties.

16 November 2011 CHRAC hosts live radio show on “Women Hearing,” featuring a guest speaker from CDP (Rebroadcast 23 November 2011.)

18 November 2011 VSS organizes a pre-hearing information meeting for Civil Parties and their lawyers.

19-20 November 2011 Post-hearing training for testifying civil parties.

20 November 2011 Joint Ceremonial Event for Civil Parties ahead of commencement of Case 002 hearing.

21-23 November 2011 CHRAC monitors hearing of Case 002.

25 November 2011 CDP hosts a student forum at PUC for 60 participants to learn about the ECCC and sexual violence during the Khmer Rouge regime.

27 November 2011 Al Jazeera International interviews a CDP psychologist.

28 November-1 December 2011 ICfC leads a village dialogue on justice, memory and the ECCC in Kampong Speu province for 25 participants, and distributes ECCC outreach materials to villages.

2 December 2011 ICfC and TPO discuss the outcomes of their Victim-Former Khmer Rouge project.

2 December 2011 TPO and VSS broadcast a radio talk show about ECCC proceedings, on the topic ‘3 days became 3 years.’

4 December 2011 VSS organizes a post-hearing information meeting for Civil Parties and their lawyers.

7-8 December 2011 CDP hosts a women’s hearing on sexual violence during the Khmer Rouge regime for 100 participants.

7-9 December 2011 ICfC leads a village dialogue on justice, memory and the ECCC in Kratie province for 25 participants, and distributes ECCC outreach materials to villages.

12-15 December 2011 ICfC leads a village dialogue on justice, memory and the ECCC in Stung Treng province for 25 participants, and distributes ECCC outreach materials to villages.



Students from Siem Reap province visiting the court.

ECCC’s Outreach

The Public Affairs Section hosts Khmer Rouge Tribunal Study Tours every Tuesday and Thursday, bringing a group of 300 villagers from areas throughout Cambodia to have a guided tour of the Tuol Sleng Genocide Museum, a visit to the Choeung Ek Killing Fields, and briefings by court officials at the ECCC. On the night before each of these Khmer Rouge Tribunal Study Tours, PAS staff members stay over in the provinces and host Khmer Rouge-related film screenings in conjunction with the Bophana Audiovisual Resource Center.

PAS also visits high schools and universities to brief students on the work of the Khmer Rouge tribunal.

ECCC OUTREACH CALENDAR

December

SUN	MON	TUE	WED	THU	FRI	SAT
13	14	15 Study tour	16 Visit by UK delegation	17	18 School visit	19
20	21 Hearing 002: Opening Statements	22 Hearing 002: Opening Statements	23 Hearing 002: Opening State-	24 Hearing 002: Opening Statements	25	26
27	28	29	30	1	2	3
4	5 Hearing 002	6 Hearing 002	7 Hearing 002	8 Hearing 002	9	10
11	12 Public holiday	13 Hearing 002	14 Hearing 002	15 Hearing 002	16	17
18	19	20 Study tour	21	22 Study tour	23 School visit	24
25	26	27 Study tour	28	29	30	31
1	2 Public holiday	3	4	5	6	7
8	9 Public holiday	10 Hearing 002	11 Hearing 002	12 Hearing 002	13	14



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

“Everyone can be involved in the process”



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The ECCC welcomes visitors. For more information, contact: pas@eccc.gov.kh