



The Court Report

JANUARY 2012

The Extraordinary Chambers in the Courts of Cambodia

Moving Forward Through Justice

Evidence Hearing in Case 002 Begins



Members of the public observe the hearing of evidence on 5 December 2011.

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The Extraordinary Chambers in the Courts of Cambodia has officially begun hearing evidence in the first trial of Case 002 concerning three senior leaders of Khmer Rouge.

During the first two weeks of evidence hearings, 5-16 December 2011, the three accused – former deputy secretary of the Communist party Nuon Chea, former head of state Khieu Samphan and former Minister of Foreign Affairs Ieng Sary – as well as two civil parties and one witness all took the stand.

The trio is indicted for genocide against the Cham Muslims and the Vietnamese, crimes against humanity and grave breaches of the 1949 Geneva Conventions.

Individual testimonies were spread out over the two weeks. Ill health prevented some of those scheduled to answer questions from doing so con-

tinuously, and as did technical difficulties with a videolink used to communicate with Mr. Long Norin, a witness in Banteay Meanchey province.

Accused Nuon Chea was the first to take the stand, appearing in the dock on 5, 6, 13, 14 and 15 December to recount his recollection of events leading up to the Democratic Kampuchea period.

The 85-year-old, who was second-in-command after the late Pol Pot, said that Vietnam “controlled everything” during the period led to the Khmer Rouge regime and was responsible for atrocities.

“These war crimes, crimes against humanity and genocide were not committed by the Cambodian people,” Nuon Chea said. “It was the Vietnamese who killed Cambodians.”

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Accused, Witness Take the Stand (continued from front page)



Monks and members of the general public observe the hearing of evidence on 5 December.

He explained that he joined the resistance as a student after he witnessing the oppression of Cambodian people by the colonialist French and the powerful, and wished to build an independent nation free from social injustice. He said, however, that he was disappointed to see the Vietnamese dominance in the communist movement in the Indochina region. He said that Vietnam sponsored a resistance movement, invaded Cambodia in 1979 and installed a client regime.

“I don’t want the next generation to misunderstand history. I don’t want them to believe the Khmer Rouge are bad people, are criminal,” Nuon Chea said. “Nothing is true about

that.”

Ieng Sary and Khieu Samphan both took the stand on 13 December only. Ieng Sary answered a few biographical questions about himself and read a statement explaining that he would exercise his right not to respond to the charges against him.

Khieu Samphan also said he would exercise his right to remain silent, and answered some biographical questions and read a statement. He traced his involvement with communism and explained that he never proposed to eliminate currency or evacuate cities in his dissertation. He claimed that he joined the Communist Party of Kampuchea for his own safety, rather than out of ideological conviction. Finally, he claimed he was merely a figurehead and did not have decision-making power as Deputy Prime Minister.

Civil Parties Klan Fit and Romam Yun answered questions on 6 and 7 December, respectively, both explaining their roles within the Khmer Rouge regime as well as about the policies and administrative structure with which they were familiar.

Witness Long Norin testified by videolink from his home in Banteay

Meanchey province on 7, 8, 14 and 15 December, answering questions about his involvement in the Khmer Rouge regime, and in particular about his alleged work with accused Ieng Sary. However, Mr. Long Norin had trouble answering questions and said he found it difficult to remember facts about events that took place so long ago.

Hearing of evidence resumes on 10 January 2012.

For further details on the testimony given in December, see the special Trial Monitoring section on pg. 4-5.



Students line up to enter the public gallery on 5 December.

Treatment Ordered for Ieng Thirith



Ieng Thirith at her fitness hearing in September.

On 13 December 2011, the Supreme Court Chamber of the Extraordinary Chambers in the Courts of Cambodia granted an appeal from the Co-Prosecutors, setting aside the Trial Chamber’s 17 November order to unconditionally release the accused Ieng Thirith.

With a supermajority decision, the Supreme Court Chamber found that the Trial Chamber must exhaust all available measures that could help the accused to become fit to stand trial. The decision was adopted in light of the possi-

bility, albeit slight, of a meaningful improvement in the mental health of the Ieng Thirith, as determined by the medical experts appointed by the Trial Chamber.

The 79-year-old Ieng Thirith is the former Minister of Social Action and was 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.

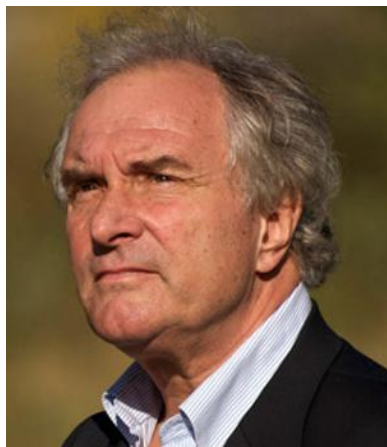
Mrs. Ieng Thirith was first examined by a geriatrician from New Zealand in June 2011 and underwent a follow-up examination by four court-appointed psychiatrists in September 2011. The experts confirmed and testified in public hearings that she was suffering from dementia, likely due to Alzheimer’s disease. The Trial Chamber unanimously found her unfit to stand trial, stayed the proceedings against her, severed her from the charges in

Case 002 and ordered her unconditional release.

But in its review of the Trial Chamber’s decision, the Supreme Court Chamber directed the Trial Chamber to request, in consultation with appropriate medical and psychiatric experts, additional treatment for the Ieng Thirith that could help improve her mental health to the extent that she becomes fit to stand trial. Such treatment is to be carried out in a hospital or other appropriate facility in Cambodia. Within six months after treatment begins, Ieng Thirith will undergo a medical, psychiatric and/or psychological expert examination, after which the Trial Chamber will determine the accused’s fitness to stand trial without delay.

The Supreme Court Chamber decided that the accused should be provisionally detained in the ECCC Detention Facility until arrangements for her treatment are finalized.

Reserve Judge Laurent Kasper-Ansermet Assumes Duties



International Co-Investigating Judge Laurent Kasper-Ansermet.

After arriving in Phnom Penh in early December, Reserve Judge Laurent Kasper-Ansermet has now assumed his duties to lead the international team in the Office of Co-Investigating Judges.

A Swiss national, Judge Kasper-Ansermet was first appointed as reserve co-investigating judge a year ago and took over the office after previous Co-Investigating Judge Siegfried Blunk left the Extraordinary Chambers in the Courts of Cambodia in mid-October.

Judge Kasper-Ansermet was most recently a member of the Swiss Expert Pool for Civilian Peace where he advised the Prosecutor's office in the Special Court for Sierra Leone. Prior to this he served as the Head of the Paris office for the Inquiry Commission into the United Nations Oil-For-Food Programme.

He has more than 18 years' experience serving as a prosecutor, investigating judge

and judge in Geneva, Switzerland, focusing particularly on complex financial crimes and corruption. He also has several years of experience in the banking sector and obtained his law degree from the University of Geneva in 1978.

Judge Kasper-Ansermet issued a public statement on 6 December, declaring a full commitment to his mandate to "undertake any necessary investigative/judicial actions" and vowed to keep the public informed of major developments in Cases 003 and 004 under his care.

In his response, though, national Co-Investigating Judge You Bunleng publicly stated that Judge Kasper-Ansermet should have been officially appointed before commencing his duties as a reserve judge, and that any procedural action taken by him would be legally void.

The UN Secretary-General has recommended Judge Kasper-Ansermet to replace his predecessor, but Cambodia's Supreme Council of Magistracy has not yet convened to discuss the appointment.

US Officials in Foreign Policy Visit ECCC

Senior officials of American foreign policy on 16 December made a courtesy visit to the Extraordinary Chambers in the Courts of Cambodia to gain first-hand knowledge of the tribunal dealing with atrocities allegedly committed in the 1970s.

Ms. Sharon Waxman, deputy to Undersecretary of State for Democracy and Global Affairs Maria Otero, and her senior advisor Mr. Douglas Grob, held a joint meeting with Acting Director of Administration Tony Kranh and his deputy Knut Rosandhaug, after touring the courtroom with one of the largest public galleries in the world.

The two were briefed on the progress the

court has made over the last five years, including the successful completion of the Case 001 trial and the commencement of the Case 002 trials, and challenges it faces in the long run. The visitors also met with international Co-Prosecutor Andrew Cayley to discuss the importance of the tribunal to Cambodian society as well as to international criminal justice as a whole.

Ms. Waxman and Mr. Grob, who support the work of the undersecretary in US foreign policy and budgets on matters pertaining to conflict, democracy and migration, among others, in the region, were here in Cambodia to assess bilateral cooperation.

Judicial Officers from South Korea Visit Tribunal

A three-member delegation from the Korean Red Cross paid a courtesy visit to the Extraordinary Chambers in the Courts of Cambodia on 19 December.

Mr. Hyo-hun Shin, former ambassador to Australia and legal advisor to the president of the Red Cross, Mr. Jang-hie Lee, a professor in humanitarian law, and Ms. Eun-jung Ma, a legal officer to the humanitarian organization, came to the court to see how the court has been operated and made impacts in the society.

After walking through the courtroom, the trio met with President of the Pre-trial Chamber, Judge Prak Kimsan, to discuss the achievements and a number of challenges the court still faces.

PTC Judge Chung Chang-ho of the Republic of Korea hosted the visit.



The U.S. delegation meets with ECCC officials.

These pages summarize the testimony given during the first weeks of evidence hearings in Case 002, from 5-16 December 2011.

Editor's Note: While all efforts are made to provide a neutral summary, the only way to get a complete picture of the testimony is to read the transcripts, available on the ECCC website at: <http://www.eccc.gov.kh/en/Case002-Transcripts/en>

Nuon Chea, defendant: 5, 6, 13-15 December 2011



Nuon Chea in court on 14 December 2011.

Accused Nuon Chea, 85, was the first to be called upon by the Trial Chamber to testify during the hearing of evidence. He answered questions about his background, the positions he held in the communist movement and what he knew of party structure and policy.

have devoted myself to serving the country."

On the armed struggle, Mr. Nuon Chea said that:

- The party statute was adopted at the first party congress in 1960 based on the principle of "democratic centralism".
- The revolution was a political struggle in the beginning, and the Revolutionary Army of Kampuchea (RAK) came into existence only in January 1968.
- RAK was funded through contributions from party members and received some arms from China.
- Prior to the RAK, a Secret Defence unit protected cadres on mission and smashed spies if circumstances required.

On his biographical background, Mr. Nuon Chea said that:

- In 1950, he joined the Communist Party of Thailand.
- Upon returning to Cambodia, he joined the Indochinese Communist Party and founded the Khmer Revolutionary People's Party in 1951 as a branch of the ICP.

On the establishment of the Communist Party of Kampuchea (CPK) and his roles, he said that:

- In 1960, he, Tou Samouth and Saloth Sar alias Pol Pot founded the Khmer Worker's Party to free themselves from Vietnamese control, and later changed the name to CPK.
- He was Deputy Secretary of KWP from the beginning.
- He was responsible for education, but not military matters.

Blaming Vietnam for the atrocities in the 1970s, Mr. Nuon Chea said: *"Accusations or charges against me are not correct, it's not right, because I*

On the forced evacuation of Phnom Penh population, Mr. Nuon Chea said that:

- The final decision was made at an extraordinary meeting of the party's Central and Standing Committees in 1974.
- The committees determined that people had to be evacuated to avoid further loss of life.
- People were moved to cooperatives in provinces where they received three meals daily and desserts once a week.

He denied allegations of food shortage, saying that some cooperatives had insufficient food because of "bad elements" who wanted to destroy the party. They were later eliminated, Mr. Nuon Chea said.

The questioning of Mr. Nuon Chea by civil party lawyers and the defence lawyers continues when the hearing resumes in January.

Long Norin, witness: 7,8, 14, 15 December 2011

Mr. Long Norin, aged 73, from Malai, Banteay Meanchey province, testified before the Trial Chamber from his home through audio and video link, due to his frail health.

On his biographical background, Mr. Long Norin said that:

- He studied in Czechoslovakia and worked in Beijing, where he met Ieng Sary.
- He then continued to Hanoi where he worked for the radio for the United Front of Kampuchea.
- The radio station was managed by Ieng Thirith and broadcast messages to Cambodia and abroad from the resistance movement leaders based inside Cambodia.
- At the behest of accused Nuon Chea and Khieu Samphan, Mr. Long Norin went to Preah Vihear to find out what the people there needed, and returned to Phnom Penh around 20 April 1975, after receiving orders to do so.

On his work (in typing and passport preparation) at the Foreign Ministry, Mr. Long Norin said that:

- Accused Ieng Sary was in charge of the Foreign Ministry, and he had been told that the accused ordered that no one in the ministry should be taken away, and no decisions were to be made when he was away from the ministry.
- When staff from the ministry started to disappear, he was told they had been sent to study. After a while he realized that they had not been sent to study but rather that they had been sent to do labour or to S-21.

Mr. Long Norin had difficulty answering questions and was confronted with several inconsistencies between his testimony and an interview he gave to court investigators in 2007. When asked, he said no one had tried to influence his testimony. But he acknowledged that the many years that have passed may have created some confusion about the facts about which he was questioned.

Ieng Sary, defendant: 13 December 2011

Accused Ieng Sary, was called to the dock for the first time on 13 December and informed of his rights. After answering a few biographical questions about himself, Mr. Ieng Sary, aged 86, read a short statement indicating that he would not answer further questions:

"Mr. President, Your Honours, I'd like to use my right to remain silent, not to respond to any questions at this time. This right is mentioned in the Internal Rules and in Article 36 and 38 of the Constitution of the Kingdom of Cambodia, and I am exercising this right during the entire trial proceedings, and I do not intend to respond to any question."



Klan Fit, civil party: 6 December 2011

Mr. Klan Fit, aged 65, is from Ta Lav Village in Rattanakiri. During his testimony, he answered questions from the Co-Prosecutors and Civil Party lawyers.

On his involvement with the Khmer Rouge, Mr. Klan Fit said that:

- He joined the Khmer Rouge before the Lon Nol coup. He delivered messages, organized meetings and built houses.
- He was later appointed commune chief of 6 villages and became involved in economic matters, education, and protection.
- He attended two meetings presided over by Ieng Sary.
- After the Khmer Rouge took control of Phnom Penh, Mr. Klan says he was invited twice to come to Phnom Penh for political training conducted by Nuon Chea.
- In 1976 he was appointed Deputy Secretary of District 21 in the Northeast Zone, administering 6 communes. Mr. Klan Fit was responsible for educating people about farming.

On the administrative organization in his area before and after the Khmer Rouge took nationwide control in 1975, Mr. Klan Fit said:

- The administrative structure was: group, village, commune, district, sector and zone.
- There were no cooperatives in his area before 1976.
- From 1976 they were ordered to eat communally and were banned from practicing religion and believing spirits.

Mr. Klan Fit is scheduled to continue his testimony in January.

Romam Yun, civil party: 7 December 2011



Mr. Romam Yun, aged 70, is from Ka Chut Village, Andoung Meas District, Rattanakiri. He testified before the Trial Chamber regarding his position in the Khmer Rouge as well as policies of the regime.

On his involvement in the Khmer Rouge, Mr. Romam Yun testified that:

- When he first joined the revolution he was a messenger.
- One of the persons he delivered messages to was called Van, who Mr. Romam said was in the zone committee for the Northeast Zone. He did not know Van by any other name.
- He was appointed village chief, responsible for farming and local issues.
- Later he was promoted to commune chief and then to district chief.
- He cannot remember how many meetings he was asked to attend
- At the meetings, discussion topics included: farming, health issues, proper conduct, how to manage people and how to solve problems.
- People who deviated from the plans were accused of being enemies.

"Sometimes those people were imprisoned or detained and sometimes they were taken out into the forest. They might have been killed in the forest, because they were mad because we could not meet the plan," Mr. Romam Yun said.

Mr. Romam Yun said he had only heard about the evacuation of Phnom Penh and relocation of village people, but never witnessed them himself. He also said that as minority people they maintained their religion.

Mr. Romam Yun will be called to finish his testimony at a later date, at which point defence teams will have the opportunity to put questions to him.

Khieu Samphan, defendant: 13 December 2011

Although former Head of State Khieu Samphan, aged 80, wished to exercise his right not to answer questions related to the charges against him, he answered a few biographical questions and read a statement related to some points in the Closing Order..



In his statement, Khieu Samphan said that:

- He did not go by alias "Khang" and had never met with accused Kaing Guek Eav alias Duch, former head of S-21, during the period of Democratic Kampuchea, contrary to Duch's assertion.
- When he went to Paris in 1953, he met with Mr. Ieng Sary, not with Mr. Saloth Sar alias Pol Pot, who had already left for Cambodia.
- Soon after joining the Circle of Marxists in Paris, he left for Montpellier to study. He started regularly attending meetings only after he returned to Paris three years later to prepare his dissertation on economics.

"In my dissertation, I did not mention anywhere that we would eliminate currency; or I did not propose the eliminations of private ownership as well, and there was nowhere that I mention the evacuation of people from the city," Mr. Khieu Samphan told the court.

He also said that:

- He joined the French Communist Party in 1955, believing that fighting colonialism with the party would expedite Cambodia's independence;

- when he returned to Cambodia in 1958, he had no agenda and no contact with the CPK.
- As Secretary of State at the Ministry of Commerce, he worked on an economic reform plan with Son Sann, then Director of the National Bank, but didn't implement the plan as he lost his seat at an election.
- He fled to the forest in 1967 after he was threatened with arrest and brought to the military court with "false allegations" that he was a ringleader for a rebel group in Samlot.

Khieu Samphan told the court that after he fled to the forest, he joined the Communist Party of Kampuchea (CPK) in 1969 for his own safety, rather than his belief in the "struggle." He claimed that he learned of the formation of the Royal Government of National Union of Kampuchea through the radio and was not aware of his appointment as Deputy Prime Minister and Minister of Defence.

He reiterated that he had no decision-making power, calling himself "Deputy Prime Minister for nothing and Minister of Defence for nothing. He said he became a candidate member of the CPK Central Committee only because he was responsible for liaising with then-Prince Norodom Sihanouk.

"In fact, I had no influence whatsoever for the military. I did not even have smallest unit of soldiers under my command," Mr. Khieu Samphan said.

Before ending his remarks, the 80-years-old accused said he believed that many Cambodians supported the resistance movement at that time because they were "clean people" and *tired of the cruelty, crimes and anarchic activities during the Lon Nol time."*

Case 002 in the Media

This page brings together information on various media programmes— radio, television, publications and online media — that cover the Case 002 trial proceedings.

Television

Facing Justice is a weekly Khmer TV report that presents a summary of courtroom highlights and provides straightforward explanations of complex legal issues. Has English subtitles.



- ◆ Broadcast every **Monday on CTN from 3pm-3:30pm**, and repeated on **Thursday from 4:30pm** on the same channel.
- ◆ May also be viewed online at: www.krtrialmonitor.wordpress.com
- ◆ Sponsored by US Department of State; produced by Asian International Justice Initiative (AIJI) in collaboration with Khmer Mekong Films

CTN often provides live coverage, especially in the mornings, with explanations given by court officials and experts.

- ◆ Covers the trial three times **daily** during news programming: **10am, 13:20pm, and 6:45pm**

Other TV stations (like **APSARA TV, Bayon, TVK, TV9**) frequently run brief spots on the trial, and regularly broadcast longer pieces.

Web and Social Media

Radio Free Asia provides live broadcasts of every public hearing of the trial:

- ◆ <http://www.rfa.org/khmer/video?param=value&storyId=KHM-120711-W>

AIJI publishes weekly reports on the trial proceedings available at: www.krtrialmonitor.wordpress.com

It also produces real-time trial updates and discussion from its monitoring project on Facebook and Twitter:

- ◆ www.facebook.com/krtrialmonitor
- ◆ [www.twitter.com/KRT_Monitor](https://twitter.com/KRT_Monitor)



Documentation Center of Cambodia (DC-Cam) posts trial footage, oral histories and other multimedia on www.cambodiatribunal.org.

Publications

KRT Watch

- ◆ Newsletter published every six weeks by Cambodian Human Rights Action Committee (CHRAC), primarily in Khmer. Available at: www.chrac.org

DC-Cam produces a monthly Khmer publication on the Case 002 trial proceedings, entitled "Observation," as well as regular thematic reports online.

Radio

Programme	Channel	Day	Time	Description
Facing Justice	RNK: AM 918Mkz and FM 105.75	Mon.	5:15 to 6:00pm	Co-produced by AIJI. Call-in show where listeners can ask experts their questions about the tribunal.
KRT Watch	FM 102	Wed.	5:30-6:00pm	Call-in show, 1st and 3rd weeks of the month. Rebroadcast at same time during 2nd and 4th weeks of the month.
ADHOC-KRT program	Radio FM 105	Wed.	7:30 to 8:30am	ADHOC-produced show discusses new developments at the ECCC featuring different speakers from NGOs, the ECCC, civil party lawyers, and more. Listeners can call and ask questions. The programme is rebroadcast to five provinces: Kampot, Kampong Thom, Pursat, Svay Rieng and Siem Reap.
Khmer Rouge on Trial	RNK: AM 918Mkz and FM 105.75	Thurs.	5:15 to 6:15pm	ECCC-produced show features court officials and provides opportunities for listeners to call in, express their views and ask questions.
Truth	Radio FM 102 MHz	Fri.	10:50 to 11:50am	Produced by Women's Media Center.

Voices of Women during the Khmer Rouge Regime

Shortly before the Vietnamese troops toppled the Khmer Rouge Regime in 1979, Ms. Net Savoen said, she was taken to be killed with around 30 other women. Before the executions, all of them were beaten and gang-raped, including Ms. Net Savoen. She said she was left to die among a pile of dead bodies but managed to survive. More than 30 years later, she found the courage and strength to publicly tell her story as one of four testifiers at the Women's Hearing on Sexual Violence during the Khmer Rouge Regime hosted by Cambodian Defenders Project (CDP) on 7 and 8 December 2011, in Phnom Penh.

The Women's Hearing, which gave survivors of the Khmer Rouge regime the opportunity to testify before a national and international panel was the first of its kind in Cambodia. Intended as complementary truth-telling transitional justice mechanism to ECCC, the Women's Hearing seeks to address issues beyond the current criminal proceedings at the hybrid-international court. This year's topic was focused on sexual violence, in particular rape, an issue that is not covered by the scope of the trial. Future Women's Hearings will continue to shed light on other spe-

cific experiences of women during Democratic Kampuchea.

Another testifier during the Women's Hearing, Mr. Kong Vanna, revealed his experience of having witnessed the rape of his sister by several Khmer Rouge soldiers. Up until today, he is haunted by a feeling of guilt of not having been able to interfere. For him the participation in the Women's Hearing was a channel to commemorate his sister and honor her memory in public. Attended by civil parties, international and national organizations, donors and Cambodian students, the Women's Hearing also served the purpose of contributing to the historic record of the past.

The acknowledgement by the audience and the recognition of her suffering by the panel gave Ms. Leang Korn, another testifier of the Women's Hearing, an unprecedented feeling of relief and empathy. As a survivor of rape during the Khmer Rouge regime, she said she had to face stigmatization and ostracism from her community, which eventually forced her to leave her family and live in a different province.

Her experience prompted the panel members Ms. Ly Vichuta, Ms. Chim Manvy, Ms. Sylvia Marcos and Ms. Heisoo Shin to include

a recommendation to the Royal Government of Cambodia in their panel statement after the hearing. They called for protection against discrimination and stigmatization through raising awareness among the general public and in school education. This statement includes factual and legal findings as well as recommendations to the Cambodian government, the ECCC, the United Nations and civil society.



Testifier with psychological support speaking before the panel. From left: Sylvia Marcos (Mexico), Heisoo Shin (South Korea), Ly Vichuta (Cambodia), Chim Manavy (Cambodia).

Victim-Perpetrator Dialogue Project



Grandma and Aunt, participants in the VKRD project, react to video messages from Grandpa, a former Khmer Rouge cadre responsible for many of the arrests of lost relatives during the Khmer Rouge period in an area of Kampot province. (Photo: Yourn Sarath)

In early December 2011, the International Center for Conciliation Cambodia (ICfC) and the Transcultural Psychosocial Organization Cambodia (TPO) held a joint workshop entitled "Victim and Former Khmer Rouge Dialogue & Second Generation Effects of the

Khmer Rouge Period." The workshop aimed to spur discussion and issue recommendations on how future NGO projects, reparations, and non-judicial measures can be designed so that they engage former Khmer Rouge cadres in the transitional justice process.

There remains a gap in the knowledge of how to do this, as evidenced by the project on dialogue between victims and direct alleged perpetrators as well as research on second-generation effects.

And, as coping with political violence is centrally linked to how the concepts of reconciliation and justice are culturally constructed, culture must be taken into account when designing projects in the future in order for them to be meaningful and engaging to participants.

The dialogue project was the result of a collaboration between ICfC and TPO, funded by GIZ, that aimed to understand and rebuild the fragmented relationship between direct perpetrators and their victims, using video conversations to communicate before face-to-face confrontation.

Research on second-generation effects of the Khmer Rouge period, conducted by TPO in collaboration with Dr. Nigel Field, a professor of psychology at Palo Alto University. They found that while open communication about the Khmer Rouge period between parents and children causes psychological stress in the offspring, open communication has favorable effects on children's knowledge about the Khmer Rouge and creates positive attitudes towards the Khmer Rouge tribunal.

For more information on the Victim-Former Khmer Rouge Dialogue Project, please contact ICfC to receive a copy of the report. By mid-2012, ICfC will change its name to Karuna to signal its official registration as a local Cambodian organization. Karuna, a Sanskrit word used in both Buddhism and Hinduism, translates to compassionate action aimed to heal.

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

Pre-Trial Chamber

During this reporting period, the Pre-Trial Chamber (PTC) was seized of one application and five appeals in case 003, in addition to one application and two appeals in Case 004. The Pre-Trial Chamber has issued its considerations in one application and continued its deliberations in the remaining appeals and applications.

Appeals and Applications:

CASE 003

On 15 December, the PTC issued its *'Decision on Defence Support Section request for a stay in Case 003 proceedings before the Pre-Trial Chamber and for measures pertaining to the effective representation of suspects in case 003'* (see pg. 10 for decision).

Supreme Court Chamber

In Case 001, the Chamber continued to work on its judgment on the appeals against the Trial Judgment.

In Case 002, on 13 December the Chamber issued its decision on the Co-Prosecutors' immediate appeal against the Trial Chamber's order to release Ieng Thirith from the ECCC Detention Facility. By supermajority opinion, the Chamber set aside the Trial Chamber's release order and directed the Trial Chamber to:

- Request, in consultation with appropriate medical expert(s), additional treatment for Ieng Thirith which may help improve her mental health such that she could become fit to stand trial, to be carried out in a hospital/other appropriate facility in Cambodia and payable by the ECCC;
- Order that Ieng Thirith undergo a medical, psychiatric, and/or psychological examination by an expert(s) to determine whether she is fit to stand trial, within six months from the commencement of the additional treatment;
- Determine without delay Ieng Thirith's fitness to stand trial after receipt of the expert examination;
- As long as Ieng Thirith remains de-



The Cambodian and United Nations flags.

tained, to carry out her detention in a hospital or other appropriate facility, as determined by the Trial Chamber; and

- To provisionally detain Ieng Thirith in the ECCC Detention Facility until necessary arrangements for the commencement of the additional treatment are completed.

In his separate dissenting opinion, Judge Jayasinghe would have upheld the Trial Chamber's decision to unconditionally release the accused.

Also during December, the Supreme Court continued to work on its decision on a confidential immediate appeal, and received pleadings in relation to Ieng Sary's immediate appeal, filed in November, against the Trial Chamber's decision to exclude an armed conflict nexus requirement from the definition of crimes against humanity. On 5 December, the Supreme Court received notice of Ieng Sary's immediate appeal against the Trial Chamber's decision on his Internal Rule 89 preliminary objections in relation to *ne bis in idem*, amnesty, and pardon. The timing of the Chamber's decision on this appeal is governed by Internal Rule 108(4) (bis).

Office of the Co-Investigating Judges

The International Reserve Co-Investigating Judge, Laurent Kasper-Ansermet, joined the ECCC on 1 December. He has since taken steps to ensure the effective functioning of his international team, including reviewing the staffing requirements for 2012 with a view to conducting further investigations in cases 003 and 004.

Office of the Co-Prosecutors

Case 002

The Co-Prosecutors participated in eight days of substantive hearings before the Trial Chamber this month, including direct questioning of Nuon Chea and civil parties/witnesses.

The Co-Prosecutors filed eight submissions to the Trial Chamber, largely regarding admission of evidence and other trial-related matters. These included a consolidated response to defence objections on the admissibility of documents for trial and a detailed analysis of the reliability of 978 documents proposed for inclusion in the first phase of the trial. The Co-Prosecutors responded to, and rejected, various defence claims alleging that *ex parte* communications concerning the substance of Case 002 had taken place between the prosecution and the judiciary.

The Co-Prosecutors also responded to the appeal of the Defence for Ieng Sary to the Supreme Court Chamber on the question of whether crimes against humanity require a link to armed conflict, requesting the Chamber to reject the appeal as inadmissible at this stage of the proceedings.

Cases 003 and 004

The International Co-Prosecutor continued to monitor the status of the judicial investigations in accordance with his responsibilities under the Agreement,

ECCC Law and Internal Rules.

Outreach and Training

The International Co-Prosecutor made opening remarks at an ECCC Legacy Meeting convened by the Office of the High Commissioner for Human Rights, attended by several members of the Office of the Co-Prosecutors.

Cambodian interns completing terms of service within the Office had the opportunity to meet Australian Ambassador Penny Richards to share their experiences and reflections on this national internship programme, which is funded by the Australian government.

The Office also resumed its in-house continuing legal education series with a workshop for all legal staff and interns on the use of leading questions in witness questioning.

Defence Support Section

Case 002

On 1 December, the Nuon Chea Defence Team submitted a Request for Investigation Pursuant to Rule 35 Regarding Alleged Unauthorized Disclosure of Strictly Confidential Material to External Consultant by Nuon Chea Defence. A decision on the Request was rendered on 20 December.

On 5 December, the Ieng Sary Defence Team appealed the Trial Chamber's decision on Ieng Sary's Rule 89 Preliminary Objections (*Ne bis in Idem* and Amnesty and Pardon).

On 12 December, the Ieng Sary Defence Team submitted its request for leave to reply and reply to the Co-Prosecutors' response to Ieng Sary's appeal against the Trial Chamber's decision to exclude the armed conflict nexus from the definition of crimes against humanity.

On 14 December, the Ieng Sary Defence Team requested the Trial Chamber to direct the Trial Chamber Senior Legal Officer to maintain open and transparent communication with all parties regarding trial management issues.

On 16 December, the Ieng Sary Defence Team filed its objections to the admission of certain OCP documents for the first trial segment.

Cases 003 and 004

On 16 December, the Pre-Trial Chamber issued its decision on the "DSS Request for a Stay in Case 003 Proceedings Before the Pre-Trial Chamber and For Measures Pertaining to the Effective Representation of Suspects in Case 003", filed on 29 July 2011. The DSS Request submitted *inter alia* that DSS has standing to bring the request before the PTC; Art. 24 of the ECCC Law, read in conjunction with Rule 21(1) of the Internal Rules (IR) and the definition of 'suspect' in the IR Glossary, leaves no ambiguity as to the suspects' unconditional right to legal representation; pursuant to European Court of Human Rights jurisprudence, the suspects' situation satisfies the substantive concept of a 'charge' for the purpose of their right to representation being applicable; and the initial determination as to whether an individual is entitled to a lawyer falls within the autonomous mandate of the DSS and is not subject to administrative review. The PTC dismissed the DSS Request.

Victims Support Section

Legal Work

The team assisted Avocats Sans Frontières in filing French translations of Civil Party applications to the Trial Chamber, and compiled statistics related to female Civil Parties (CPs) and those who suffered gender-based violence during the KR regime for a joint project to be implemented by the Victims Support Section and its partners.

Outreach

VSS collaborated with intermediary organizations to bring almost 700 CPs to attend the evidence hearings from 5-15 December. "Why did they kill so many people? So far the leaders did not accept any responsibility for the genocide," said one CP. Another CP, Mrs. Chea from the United States, declared: "I pray to God that we will find the truth for the victims."

Non-Judicial Measures and Reparation

As scheduled, the Non-judicial Measures and Project Team finished their visits to the 21 crime sites in 13 provinces, having mapped which sites are preserved as public property and which are privately owned. They also attended events organized by the Transnational Psychosocial Organization and International Center for Conciliation at Sunway hotel, and appeared as guest speakers at Youth for Peace's workshop (YfP) at CJCC.

Interoffice Cooperation

VSS organized three reflection workshops between 21 and 29 December, aimed to enhance work efficiency and cooperation between VSS and intermediary organizations, the Lead Co-lawyers and the Civil Party Lawyers, in order to support victims of the Khmer Rouge regime and facilitate their participation in ECCC proceedings.

Participants were provided an opportunity to give input to broaden discussions among stakeholders and potential partners in order to reach a consensus on the future work plan that would align resources and provide assistance to better serve the civil parties.



Participants at a VSS Reflection Workshop.

Judicial Updates

Civil Party Lead Co-Lawyers' Section

Legal Representation

The Lead Co-Lawyers and civil party lawyers participated in the start of the substantive hearing from December 5 to 16 during which, amid the questioning of the accused and one witness, two civil parties from Ratanakiri Province were called to testify in relation to the historical background of the CPK prior to 17 April 1975.

Pursuant to the ECCC Internal Rules, the section liaised with the Cambodian and international civil party lawyers in order to ensure the effective organization of civil party repre-

sentation during the trial stage. To do so, many preparatory meetings were held between the Lead Co-Lawyers and Civil Party Lawyers.

During the trial a number of civil parties 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.

Outreach

The Lead Co-Lawyers and civil party lawyers also participated in a workshop organized by the Office of the High Commissioner

for Human Rights entitled "ECCC Legacy Meeting: Update on Activities and Plans for 2012" on 16 December.

They also participated in a reflection workshop on 22 December organized by the Victim Support Section to enhance the cooperation between civil party lawyers and VSS.

Staffing

In December, the section welcomed M. Balazs Maar as International Analyst Consultant and warmly thanked and wished good luck to Cambodian lawyer Ny Chandi, who served as case manager for more than one year.

Court Calendar

Decisions/Orders

Pre-Trial Chamber

15 December 2011

Decision on Defence Support Section request for a stay in Case 003 proceedings before the Pre-Trial Chamber and for measures pertaining to the effective representation of suspects in case 003', whereby the

Pre-Trial Chamber declares that the Request is inadmissible as it is not within the Pre-Trial Chamber's jurisdiction to make a determination. The matters of legal representation in an ongoing investigation rest directly with the Co-Investigating Judges. A redacted version of this Decision is available to the public.

Trial Chamber

2 December 2011

Decision on motions for disqualification of Judge Silvia Cartwright, whereby the Trial Chamber rejects Ieng Sary's request for investigation, rejects the Ieng Sary Defence's request that the international co-prosecutor be summoned, denies Nuon Chea's request for the immediate and permanent disqualification of Judge Cartwright, and denies Ieng Sary's request for a public hearing on the same matter.

20 December 2011

Decision on Nuon Chea defence request for internal Rule 35 investigation following unauthorized disclosure of confidential documents, whereby the Trial Chamber concludes the Defense made unauthorized disclosure of confidential or strictly confidential document; directs the Office of Administration to communicate the decision to the person who received the document; orders the request not to be translated or responded to; refers the matter for review to the Defence Support Section and recommends that remuneration to the Defence for costs associated with the preparation of the Request be withheld.

Supreme Court Chamber

13 December 2011

Decision on immediate appeal against Trial Chamber's order to release the accused Ieng Thirith, whereby the Supreme Court Chamber directs the Trial Chamber to: request additional treatment for Ieng Thirith, order the accused to undergo a medical examination within six months

from commencement of additional treatment; determine without delay Ieng Thirith's fitness to stand trial following the examination; detain the accused at the ECCC detention facility until treatment is arranged, when the accused should be detained in a hospital or other appropriate facility.

Upcoming Public Hearings

Pre-Trial Chamber Hearing

None scheduled

Trial Chamber Hearings:

10 January 2012 to 16 February 2012:
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

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.

6-9 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.

16 December 2011 Office of the High Commissioner on Human Rights leads *ECCC Legacy Meeting*.

3-5 January 2012 ICfC leads an intergenerational dialogue in Kampong Speu about Khmer Rouge history and concepts of justice.

12 January 2012 TPO and ICfC hold a screening of *We Want (U) to Know* at Kraing Tachan, Takeo. 50-60 rural Cambodians watch the film, followed by a discussion with 20-30 people on justice, the ECCC and methods of coping with the past.

10-16 January 2012 ICfC hosts a village dialogue in Stung Treng province, where 30 participants discuss justice through the court. ICfC staff provide villagers with information about the ECCC and a book from the court.

23 January 2012 TPO and ICfC hold a screening of *We Want (U) to Know* at Kraing Tachan, Takeo. 50-60 rural Cambodians watch the film, followed by a discussion with 20-30 people on justice, the ECCC and methods of coping with the past.



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-February

SUN	MON	TUE	WED	THU	FRI	SAT
11	12 Public holiday	13 Hearing 002	14 Hearing 002	15 Hearing 002	16 School visit: VIP visit	17
18	19 VIP visit	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 Study tour	6 School visit	7
8	9 Public holiday	10 Hearing 002	11 Hearing 002	12 Hearing 002: Study tour	13	14
15	16 Hearing 002	17 Hearing 002: Study tour	18 Hearing 002	19 Hearing 002: Study tour	20	21
22	23 Hearing 002	24 Hearing 002: Study tour	25 Hearing 002	26 Hearing 002: Study tour	27	28
29	30 Hearing 002	31 Hearing 002	1 Hearing 002	2 Hearing 002	3 Duch Appeal Judgment	4
5	6 Hearing 002	7 Hearing 002	8 Hearing 002	9 Hearing 002	10	11



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

“Everyone can be involved in the process”



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