



The Court Report

FEBRUARY 2012

The Extraordinary Chambers in the Courts of Cambodia

Moving Forward Through Justice

ECCC Visitors Surpass 100,000



Commune council members examine the photographs at Tuol Sleng Genocide Museum during a study tour in Jan. 2011.

Over 100,000 visitors have visited the Extraordinary Chambers in the Courts of Cambodia since its first trial commenced in February 2009 – an important milestone in the life of the court. With more than 44,500 visitors in 2011, the total number of persons who have visited the court from 30 March 2009 to 31 December 2011 comes to over 111,500.

“[The court] has had, I think...a very significant impact on exposure and outreach to the Cambodian people,” said David Scheffer, newly appointed Special Expert to the ECCC, at a press conference on 25 January. “The attendance in the courtroom has broken all records. The image and the reality of justice is being brought to the Cambodian people through this process.”

These numbers include the 18,600-plus visitors

to public hearings and the roughly 26,000 participants in the ECCC Study Tour Programme.

Twice a week, the ECCC brings people from all over Cambodia for a one-day educational programme, including visits to Tuol Sleng Genocide museum, the Choeung Ek Killing Fields Memorial Site and the ECCC. When visiting the ECCC, participants receive a briefing from Public Affairs Section staff, and then are given a chance to put forward any questions they have about the ongoing court proceedings. Since the inception of the Study Tour Programme in 2009, visitors have come from all 24 provinces in Cambodia.

“A lot of my relatives were killed by the Khmer Rouge. Visiting the court makes me happy and I hope that the court will bring justice to Khmer

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ECCC draws over 100,000 visitors (continued from front)

Rouge victims because so many people were killed and died of starvation,” said Mork Yoeung, a resident of Banteay Meanchey who attended a study tour in August 2011.

In 2011, the ECCC began an effort to bring village leaders on the study tours in order to reach “multipliers,” or people who are influential at the grassroots level.

“Seeing the court doing important work, I think I am, as a survivor, not the only one that feels excited,” said Hao Phalla, a member of Potahoa Commune in Svay Rieng who was on the first study tour for commune leaders. “I believe even those who died during the KR are excited to know that their younger generation is seeking justice for their souls.”

Last year the court also began collaboration with American Peace Corps volunteer teachers to bring their Cambodian students to the court and case related sites through the ECCC study tours.

The ECCC also conducts a variety of other outreach projects. In partnership with Bophana Audiovisual Resource Center, Public Affairs frequently holds community video screenings in the provinces, featuring the ECCC-produced educational videos and the case-related documentary “About My Father” by Bophana Center.

In addition, staff present lectures at schools in Phnom Penh and elsewhere, working to educate Cambodian youth on Khmer



Film screening in Banteay Meanchey province, June 2011.

Rouge history and the ECCC (see related story, pg. 6). More than 55,000 rural Cambodians as well as nearly 52,000 Cambodian students have participated in the video screenings and school lectures, respectively.

ECCC staff also make themselves available for educational briefings and diplomatic meetings, which have drawn over 2,500 visitors, primarily from abroad. Official visitors and delegations to the ECCC in 2011 hailed from countries like Australia, Austria, France, Israel, New Zealand, the Republic of Korea, the United Kingdom, the United States, and more.

In addition to these more regular events, the ECCC held a public forum on 26 August. Over 200 monks, police and members of the general public gathered in Battambang’s Samlot district for this event, during which court staff made informational presentations and attendees had the opportunity to ask questions.

The ECCC will, subject to sufficient funding, continue its study tour programme as well as provide free transport to trial hearings for groups from all over Cambodia in 2012.

	Public Hearings (people/days)	KRT Study Tours (participants/ tours)	Court Visits (people/ groups)	VIP Visits (people/ delegations)	Video Screenings (viewers/ screenings)	School Lectures (students/ schools)
2009	31,349/77	3,018/10	N/A	N/A	N/A	4,000/1
2010	3,326/5	29,307/80	1,780/69	151/23	31,118/71	16,100/5
2011	18,612/24	25,920/76	447/38	119/32	23,991/56	31,620/13
TOTAL	53,287/106	58,245/166	2,227/107	270/55	55,109/127	51,720/19

Co-Investigating Judges Get into Public Row

The relationship between the national and international reserve co-investigating judges of the Extraordinary Chambers in the Courts of Cambodia has remained shaky, as the status and legal capacity of the reserve judge have been subject to differing views.

Swiss judge Laurent Kasper-Ansermet, a reserve judge who took office on 1 December after German judge Siegfried Blunk resigned, publicly stated on 9 January that “he regrets that the National Co-Investigating Judge does not agree to release information about important decisions” made by him related to Cases 003 and 004 concerning five unidentified suspects. The ECCC internal rules require

the co-investigating judges to take joint action to release case-related information.

In response, Judge You Bunleng criticized Judge Kasper-Ansermet for releasing his press statement on a national holiday, accusing him of ill intentions to conceal the news from the national side. Judge You Bunleng reiterated in his countering press release issued the same day that Judge Kasper-Ansermet has no legal accreditation to undertake any procedural action or measure or to issue public information without a formal appointment. He further challenged that the Swiss judge acted as an “outreach officer” rather than a “judicial one” and expressed his disappointment with

the working manners of the reserve judge, the statement reads.

This public disagreement is not the first between the two judges. They exchanged statements in December in which Judge You declared that any procedural actions taken by Reserve Judge Kasper-Ansermet would be invalid, while the Swiss judge announced the full assumption of his office.

The relationship between the two judges has seemed deadlocked after the Supreme Council of the Magistracy of Cambodia decided not to appoint the Swiss judge to the position of International Co-Investigating Judge. (See related article, pg. 3)

New UN Special Expert on KR Tribunal Visits Cambodia

The newly appointed UN expert on the Khmer Rouge tribunal, Mr. David Scheffer, said he would work together with the government and other stakeholders to “look towards the efficient and credible functioning of this court” at a 25 January press conference held at the end of his first official visit to Phnom Penh following his appointment.

Mr. Scheffer replaced Mr. Clint Williamson, another American diplomat who served as the expert on the tribunal to advise UN Secretary-General Ban Ki-moon for one year until last September.

After the appointment on 18 January, Mr. Scheffer flew into Phnom Penh on 22 January and met with Deputy Prime Minister Sok An, court officials and representatives of the donor community and civil society to discuss a variety of issues the court faces.

Mr. Scheffer, a law professor at Northwestern University and former U.S. Ambassador-at-Large for War Crimes Issues from 1997 to



David Scheffer speaks at the 25 January press conference.

2001, was involved in the negotiations leading to the establishment of the Extraordinary Chambers in the Courts of Cambodia as well as other four war crimes tribunals — the International Criminal Tribunal for the former Yugoslavia, the International Criminal Tribunal for Rwanda, the International Criminal Court and the Special Court for Sierra Leone.

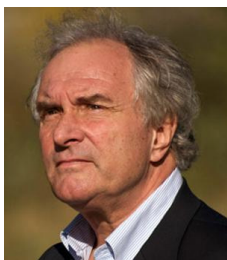
He recalled that the negotiations over the establishment of the ECCC was “perhaps the toughest one” among the five in which he was involved, and acknowledged challenges in running the ECCC, a hybrid court. “It remains

very difficult process, because we are marrying domestic and international processes together in this court,” he said to the media.

Mr. Scheffer became Special Expert at a critical moment for the court: the first trial of the court’s second case, considered one of the world most complicated cases, is just beginning and the court’s third and fourth cases are still in the investigating phase, but voluntary funds to support the tribunal is fast running out.

“My job now in this capacity is to look towards the efficient and credible functioning of this court, recognizing very well the difficulties that are out there,” Mr. Scheffer said. “It’s part of my job to ensure that we can continue to gain [financial] support from the international community through the donor governments for this exercise, and I’ll do everything I can to achieve that.”

Appointment Stalled due to Opposing Views on ECCC Agreement



International Reserve Co-Investigating Judge Laurent Kasper-Ansermet.

The Cambodian government and the United Nations, signatories of the 2003 Agreement on the Extraordinary Chambers in the Courts of Cambodia that governs the framework of co-operation, are deadlocked about the appointment of Swiss judge Laurent Kasper-Ansermet.

On 13 January, the Supreme Council of the Magistracy convened to discuss a request by UN Secretary-General Ban Ki-moon to appoint the Swiss judge as International Co-Investigating Judge, and decided not to appoint him, according to a summary report of the meeting of the supreme council dated on 13 January.

The supreme council said his posting of a number of documents concerning the ECCC on Twitter, a microblogging site, would violate the Code of Judicial Ethics, the ECCC Internal Rules and other legal principles. The summary particularly notes his tweets concerning the circulation of the names of five unidentified suspects in cases under judicial investigation as well as those criticizing the handling of

cases by his international predecessor and national counterpart.

The supreme council’s decision was later conveyed to the UN Secretary-General, who had nominated the Swiss judge in 2010 as a reserve and requested Cambodia to appoint him as a regular judge when German judge Siegfried Blunk resigned last October.

In response, a spokesperson for the Secretary-General issued a statement on 20 January, calling the rejection a “breach” of the agreement, which stipulates that “in case there is a vacancy or a need to fill the post of the international co-investigating judge, the person appointed to fill this post must be the reserve international co-investigating judge” (Article 5 of Agreement).

The spokesperson further stated that the UN thoroughly reviewed the ethical concerns raised by the Cambodian government and the supreme council and found them groundless. “The United Nations continues to support Judge Kasper-Ansermet and Cambodia should take immediate steps to appoint him as International Co-Investigating Judge,” he stated in the release.

The Cambodian side interprets the agreement as not guaranteeing automatic replacement of a judge by a reserve. Rather, the government says, the position requires an official appointment by the supreme council.

These opposing views over the ECCC’s Agreement became clear once again when Deputy Prime Minister Sok An and UN special expert David Scheffer met on 24 January. After meetings, the two issued a joint statement about their discussions, confirming that they had “differing views on the interpretation of the ECCC Agreement”.

Despite the supreme council’s rejection, Mr. Scheffer publicly stated that Judge Kasper-Ansermet has “clear authority to fulfill his duties in this country” without a formal appointment and does not require his counterpart’s cooperation to conduct investigation. Judge You Bunleng, meanwhile, has been stating that any actions taken by Judge Kasper-Ansermet without a formal appointment would be legally invalid.

The co-investigating judges have concluded judicial investigation in the first two cases with indictments of five persons — one of whom was convicted while three others are currently on trial. The judges are now seised with two more cases, known as 003 and 004.

Editor’s Note: International judges of the Pre-Trial Chamber issued a judicial opinion on the status and role of a reserve co-investigating judge before the February edition goes to press. Details will be reported in the March edition of the Court Report.

2000 Phnom Penh students learn about the ECCC

On 6 January, over 2,000 students from Chba Ampov High School in Phnom Penh learned about the Khmer Rouge trials by directly interacting with court representatives.

The students, from 10th to 12th aged 14 to 19, gained insight into the context in which the Khmer Rouge came to power and about the crimes committed during Democratic Kampuchea. The lecture, conducted by the Public Affairs Section of the Extraordinary Chambers in the Courts of Cambodia, also discussed the history of the ECCC, from when Cambodia first solicited the United Nations in 1997 to when it was established in 2006.

Although most of the students knew the



Students take notes on the presentation.



ECCC Press Officer Neth Pheakra speaks with students at Chbar Ampov High School.

names of the five accused in Cases 001 and 002 -- Ieng Sary, Ieng Thirith, Khieu Samphan, Nuon Chea and Kaing Guek Eav – learning about them with the ECCC provided an opportunity to learn about the defendants' alleged roles in Democratic Kampuchea and the charges they face. To convey their message, ECCC staff members used large posters, photographs and booklets about the trials.

Hearing about the atrocities of the past triggered many reactions among the young Cambodians, leading to an intense Q&A session where they asked:

"Why did Khmers kill other Khmers?"

"Why did so many people die?"

" Why did the Khmer Rouge destroy the schools and the pagodas?"

The students took notes and pictures to tell

their friends about what they had learned that day. Two weeks later, as a follow-up, 300 students came to the ECCC on 19 January to attend a hearing in Case 002.

The school lecture was part of the court's outreach programme, which aims to inform the Cambodian public about Khmer Rouge trials. This programme is especially dedicated to reaching Cambodian youth who were born after the regime was toppled, and shedding light on the darkest chapter of their country's history.

Khmer Rouge history was only introduced to the history curriculum in 2009, after the ECCC had already started trying its first case, concerning Kaing Guek Eav alias Duch. It has now become part of high school textbooks, three decades after the Khmer Rouge regime swept to power and devastated the country.

International College Students Make a Study Visit

A mixed group of students from South Korea and the US visited the Extraordinary Chambers in the Courts of Cambodia on 19 January to gain first-hand knowledge of the war crimes tribunal through briefings and observation of the trial proceedings.

The group consisted of 40 students and five professors from Handong International Law School of South Korea and Calvin College in the US. The two schools have been enjoying exchange programmes over the years, and have jointly conducted a study tour to the ECCC every year for the last few years.

The students first listened to a briefing of

the workings of the court from a Public Affairs officer before receiving a presentation from South Korean Judge Chang-ho Chung of the ECCC's Pre-Trial Chamber. During a question-and-answer session, the students posed a number of questions, on topics ranging from finances to the particular challenges of a hybrid court.

"It was a great experience to visit ECCC and hear about the Court," said Chan-wook Park, a law student from South Korea. "This experience reminds me of my motto as a lawyer: 'Do justice, love mercy and walk humbly with your God.'"



WE WANT (U) TO KNOW – A Participatory Film Project



Realizing the limitations of existing education and information about Cambodia's transitional justice process, the Transcultural Psychosocial Organization Cambodia (TPO) and the International Center for

Conciliation – Cambodia (ICfC) will be hosting screenings of the film *We Want (U) to Know* in rural Cambodian communities and local universities, having received funding from Movies that Matter from January to June 2012.

Movies that Matter, an initiative of Amnesty International, seeks to support films with a focus on human rights. *We Want (U) to Know* was realized in 2009 when civil society organizations, in cooperation with the filmmaker Ella Pugliese and with financial support of GIZ/ZFD, implemented a participatory film project. Providing an alternative to the centralization and 'one-way' flow of most media in the context of the Khmer Rouge Tribunal, the project offered Khmer Rouge survivors and their descendants a chance to get deeply involved in the filming process, from conception to production. The project initiated a dynamic process of engagement and dialogue and culminated in the realization of the 90-

minute documentary film *We Want (U) to Know* in 2009 (Khmer language, English subtitles), and eventually the 54-minute version in 2011.

We Want (U) to Know explores the consequences of trauma and silence, perceptions on justice and reconciliation, including highly sensitive topics, such as the relationship between ex-Khmer Rouge and their victims, and how difficult it is for the young generation to really understand and believe what happened during the time of the genocidal regime. The film further informs about Khmer Rouge history through an easy-to-understand method by using archive material and a Khmer narra-

tor. Featuring "re-enactment" scenes of Khmer Rouge crimes, the film allows the audience to identify with the actors, to share their own experiences and to work toward a collective memory of Cambodia's violent past.

More information on the film and outreach program can be found at:

<http://www.facebook.com/wwu2k>
<http://www.we-want-u-to-know.com>

A trailer of the film can be viewed at:

http://www.youtube.com/watch?v=5YOD8nugnRy&feature=player_embedded



Thnol Lok: Grandma Nhan at work © Leah Roth-Howe

TVK Hosts ECCC Roundtable

Shortly before the pronouncement of the appeal judgment in Case 001 against Kaing Guek Eav alias Duch, former chief of S-21 Security Center, National Television of Kampuchea (TVK) organized a round-table discussion with ECCC officials to inform the public of the history of Case 001 and discuss the parties' expectations for the Supreme Court Chamber's appeal judgment.

The programme was broadcast on 30 January from 5:30pm to 6:30pm and rebroadcast on 31 January and 1 February from 8:00am to 9:00am.

The panelists on the show were: Ms. Chea

Leang, National Co-Prosecutor, Mr. Kang Ritheary, defense lawyer for Duch, Mr. Chum Mey and Mr. Bou Meng, Civil Parties in Case 001 and the only two living survivors of S-21, and Mr. Dim Sovannarom and Mr. Lars Olsen, Public Affairs Section.

The discussion focused on the history of Case 001, the term of punishment requested for Duch by the Office of the Co-Prosecutors, victims' expectations on Civil Party status applications and collective reparations, and public information dissemination. Duch's voice was also represented at the roundtable, by his Cambodian lawyer.

The roundtable discussion was part of the media campaign to inform the public about the process of the Extraordinary Chambers in the Courts of Cambodia. It is one of several programmes that keep the public informed about the process, including a radio talk show, a daily TV program on the ECCC judicial proceedings, printed media, and other information materials produced by the Public Affairs Section of the ECCC, such as booklets, brochures, stickers, posters, magazines, and handouts.

These pages summarize the testimony given during the last month of hearings in Case 002, from 10-31 January 2012.

(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>)

Prak Yut, witness: 25-26, 30 January 2012

Ms. Prak Yut, aged 67, was called before the court as a witness and testified to her experiences as a mid-level Khmer Rouge official.

Ms. Prak Yut was questioned on the chain of command within the ranks of Khmer Rouge officials, the general authority structure of Democratic Kampuchea, the issuing of reports to the upper echelons, and her knowledge of education and security centers.

On her personal history within the regime, Ms. Prak Yut said:

- She became a member of a sector committee in Kampot in 1973, and was promoted to district secretary of Kampong Cham in 1977.
- Her duties were to educate people on building canals and dams, and to reeducate people convicted of “minor wrongdoings.” She denied direct knowledge of executions, and although she said she saw urban evacuees passing through her area, she stated that she did not pay much attention to them because she was “committed to assisting [her] own people.”

On communication between upper and lower echelons, she stated:

- Any decisions regarding executions were made by members of the higher echelons.
- She had heard the names Khieu Samphan, Nuon Chea, and

leng Sary during the DK era, but never met them and had no knowledge of their duties at that time.

On the arrest of her husband, about which she was informed in advance by her superior, she stated:

“When it comes to the arrest of my husband, although I knew that, I just kept mum. I could not protest and I had to follow the instruction provided to me. If I told my husband about this and he escaped, I would be in big trouble... I dared not to say anything before Angkar.”

Ms. Prak Yut was confused about some dates, and there were some discrepancies between her court testimony and statements she previously gave to investigators. In those situations, she typically deferred to her original statement. Upon questioning, counsel for Nuon Chea said Ms. Prak Yut seemed reluctant to testify about certain former Khmer Rouge officials, and suggested that she might have been influenced by outside forces regarding her testimony. In response, Ms. Prak Yut stated:

“I come to this Court under no threat. I am here to tell the events that I can recall, and nobody has threatened me not to speak anything.”

Nuon Chea, defendant: 10-12, 30-31 January 2012



Accused Nuon Chea, aged 85, was questioned on such topics as his motivations for joining the Communist Party, the creation of the Khmer Rouge regime's armed forces, the elimination of currency, and the existence of security centers prior to the establishment of Democratic Kampuchea in April 1975.

On the recruitment and gathering of forces, Mr. Nuon Chea said:

- The regime focused its revolution in the countryside because people there were poor and easily indoctrinated.
- The regime did not create guerilla forces of its own accord; rather, “it was the people themselves that organized into groups to protect themselves.”

Discussing the regime's decision to evacuate Phnom Penh, Mr. Nuon Chea said:

- The CPK central committee “did not think about” the fate of hospitalized patients during the evacuation, because they were consumed by the threat of attacks by U.S. or Vietnamese forces, as well as food shortages.

On the elimination of currency, he stated:

- Eliminating currency was not the goal, but as bartering was sufficient at that time, there was no need for currency.

- The party believed that if they “temporarily stopped the use of money,” they would be able to avoid the problem of American and Vietnamese spies recruiting or influencing Khmer Rouge cadres through monetary bribes.
- Similarly, the party established cooperatives to avoid the oppression of the people by landlords imposing high-interest loans, and to prevent the Vietnamese forces from taking food produced by the people.

Mr. Nuon Chea refuted statements made by the co-prosecutors a number of times, denying that he ever stood in for Pol Pot when the Khmer Rouge leader fell ill, and saying he had no involvement in military matters. He denied knowledge of administrative and military affairs as a whole, stating that he was only in charge of education and propaganda.

Mr. Nuon Chea repeatedly questioned the validity of copied documents put before him in court, requesting to see the originals before commenting. Although the Trial Chamber ruled the copies to be valid and adequate for court purposes, Mr. Nuon Chea said:

“How could I believe 100 percent in the court if I am not shown the original document?...I insist again and again that...the original document be shown to me.”

Romam Yun, civil party: 10 January 2012

Mr. Romam Yun, a former Khmer Rouge official aged 70, continued his testimony as a civil party, which began in December 2011. He was questioned about his duties as deputy chairman of his sector and the flow of information between upper and lower echelons of the Khmer Rouge.

When asked about the situation of the communes, he replied:

"Some people were hanging themselves because they could not really stand the situation. People at the sector zone or provincial level only pretended to say that people in the community were having decent lives, having enough food to eat but, in reality, it was not true."

Ieng Sary, defendant



Accused Ieng Sary, aged 86, former Deputy Prime Minister and Minister in Charge of Foreign Affairs, continued to exercise his right to remain silent over the course of the January court hearings. Mr. Ieng Sary made a statement to this effect when he was first called to the dock in December, and has indicated on numerous occasions through counsel that he will not address the court or make statements until the conclusion of the trial proceedings.

Vanthan Dara Peou, witness: 23-25 January 2012

Mr. Vanthan Dara Peou, aged 40, was called before the court as a witness based on his position as Deputy Director of the Documentation Center of Cambodia (DC-Cam). DC-Cam, a repository for historical documents dating from the Khmer Rouge era, has so far provided the ECCC with approximately 500,000 pages of documents.

Mr. Vanthan Dara Peou was questioned on topics such as the procedures for gathering and processing documents, the education and training of DC-Cam staff, DC-Cam's procedures for authenticating documents, and sources of financial support for the organization.

On the topic of DC-Cam goals and procedures, Mr. Vanthan Dara Peou said:

- The main objectives of DC-Cam are to "search for the truth"

regarding the Khmer Rouge era, to encourage education, to make historical materials available to researchers, to help survivors gain justice and trace their lost relatives, and to promote national reconciliation.

- DC-Cam staff simply gather information and do not analyze documents. Rather, he said:

"It is up to those who would use the documents to analyze and judge them."

Defense counsel argued that Mr. Vanthan Dara Peou did not provide enough detail about DC-Cam in his testimony and called for Youk Chhang, the director of DC-Cam, to testify in February. Jasper Pauw, co-defense counsel for Nuon Chea, stated, "If Youk Chhang is not heard by your Trial Chamber, then our position is that all evidence stemming from DC-Cam cannot be considered to be authentic and reliable, and must therefore be called inadmissible."

Klan Fit, civil party: 10-11 January 2012

Mr. Klan Fit, a former Khmer Rouge official aged 65, continued his testimony as a civil party. He was questioned about topics including his recruitment into the revolutionary forces, CPK administration and party meetings, and his observation of evacuated populations.

In his testimony, Mr. Klan Fit stated:

- He joined the revolutionary movement out of fear, because he was "afraid of Angkar."
- He had personally encountered Pol Pot, Ieng Sary and Nuon Chea while involved in the revolutionary movement.
- He was arrested by Khmer Rouge forces in 1979 along with civil party Romam Yun, and later sent to Wat Sleng where he was forced to farm until Vietnamese forces arrived.

When asked why he wanted to speak before the court, he replied:

"I want to tell the court that everything I did, I did on orders by those senior people, not on my own initiative."

Khieu Samphan, defendant: 12, 16 January 2012



Accused Khieu Samphan, aged 80, former Khmer Rouge head of state, was questioned by Trial Chamber Judge Jean-Marc Lavergne on 12 and 16 January, regarding the historical background of Democratic Kampuchea.

Mr. Khieu Samphan had previously stated in December that he would not respond to questioning until the prosecution has presented the entirety of their evidence against him, and reiterated that he had the right to remain silent during the examination into the historical background of the regime. However, under questioning by Judge Lavergne, he made the following statement about his membership in the CPK Central Committee:

"I was tolerated. I was...not supposed to be members of that, because I was from the feudal class and I was not in line with the views of the party."

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 **January 2012**. 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 two applications and two appeals in Case 004. Throughout the month of January the Pre-Trial Chamber has continued to deliberate on these appeals and applications.

Supreme Court Chamber

Case 001

During January, the Chamber continued to work on its judgment on the appeals against the Trial Judgement.

Case 002

On 13 January the Supreme Court Chamber rendered its decision on IENG Sary's Appeal Against the Trial Chamber's Order Requiring his Presence in Court. The Appeal was dismissed as inadmissible since it did not fall within the Chamber's limited jurisdiction for immediate appeals under Rule 104(4).

On 30 January the Supreme Court Chamber issued its summary on the Immediate Appeal by NUON Chea Against the Trial Chamber's Decision on Fairness of Judicial Investigation. The Appeal was rejected, thereby upholding the Trial Chamber's decision not to investigate the allegations of interference with the administration of justice raised by the Defence. (For details, see pg. 10.)

Also during January, the Chamber continued to work on the following immediate appeals: (a) 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 and (b) 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 Cambodian and United Nations flags.

IENG Sary has lodged two further immediate appeals: On 5 January – against the Trial Chamber's Decision on Motions for Disqualification of Judge Silvia Cartwright; and on 20 January – against the Trial Chamber's Decision on its Senior Legal Officer's Ex Parte Communications.

The timing of the Chamber's decision on these appeals is governed by Internal Rule 108(4)(bis).

Office of the Co-Prosecutors

Case 002

The Co-Prosecutors made a number of filings before the Trial and Supreme Court Chambers, including: responding to Ieng Sary's Appeal against the Trial Chamber's decision on motions for disqualification; responding to the Ieng Sary appeal against the Trial Chamber's decision requiring the Accused to be physically present to hear charges; responding to a request by the Nuon Chea Defence for a list of documents provided by DC-Cam that are contained in the Co-Prosecutors' list of documents related to the first phase of the trial; and, filing a request to include additional crime sites within the scope of the first trial in Case 002, including additional execution sites and the S-21 Security Centre, arguing that the inclusion of these sites would be in the inter-

ests of justice and promote the overall efficacy of the proceedings.

The Office of the Co-Prosecutors also engaged in 13 days of trial activity, which included questioning of the Accused Nuon Chea and Khieu Samphan, questioning of Trial Chamber witnesses, arguing for the admissibility of documentary evidence, and questioning of Vanthan Dara Peou and Youk Chhang from DC-Cam in relation to documentary evidence.

Outreach

On 26 and 27 January, Sarah Andrews and Salim Nakhjavani served on the panel of judges for the final and preliminary rounds, respectively, of the Cambodian Client Counseling Competition, organised by the American Bar Association and the East-West Institute, and held at the Royal University of Law and Economics.

Defence Support Section

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

On 5 January, the Khieu Samphan Defence Team filed its Objection To The Admissibility Of The Other Parties' Remaining Document Lists For The First Four Segments Of The First Trial, stating that it is impossible for Khieu Samphan to review and file objections to the thousands of documents listed by the other parties in the short deadline set by the Trial Chamber.

The Nuon Chea Defence Team also filed its objections, stressing the Chamber should accept for consideration only those documents whose authenticity has been sufficiently established.

The Ieng Sary Defence Team ("ISDT") filed its objections to documents submitted by the OCP, equally stressing that the Defence "objects to the admission of any document which is not demonstratively authentic or shown to be authentic by the party seeking

to introduce it.”

Also on 5 January, ISDT filed an appeal Against the Trial Chamber's Decision Denying His Right To Waive His Presence In the Courtroom During Trial And Denying His Constitutional Right To Assist In His Own Defence. It also filed an appeal Against the Trial Chamber's Decision on Motions For Disqualification Of Judge Cartwright.

On 20 January, ISDT filed an appeal Against The Trial Chamber's Decision Refusing Its Request For The Trial Chamber To Direct Its Senior Legal Officer To Maintain Open And Transparent Communication With All The Parties.

Courtroom

On 10 January, the Nuon Chea Defence referred to a statement made by the Prime Minister of Cambodia in early January 2012, in which he allegedly declared that Nuon Chea was guilty of genocide. The Nuon Chea Defence requested that the Trial Chamber officially condemn such statements.

Also on 10 January, Nuon Chea declined to comment on whether an electronic copy of a document was a correct statement of Communist Party of Kampuchea policy, requesting an original copy of the document for verification purposes. The Nuon Chea, Ieng Sary and Khieu Samphan Defence each submitted that the authenticity of copied documents needed to be ensured throughout the proceedings.

On 24 January, the Nuon Chea Defence requested that DC-Cam produce a list of documents that have been provided to the Office of the Co-Prosecutors and the Office of Co-Investigating Judges.

On 26 January, the Ieng Sary Defence requested that the Trial Chamber issue an order to all parties that they strictly abide by the parameters of the first trial in Case 002 as stipulated in the Trial Chamber's Severance Order of 22 September 2011.

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 practice.

Victims Support Section

Legal Work

The Victims Support Section continued to process applications in Case 004 and assisted victims in submitting documents to the Chambers and/or the Judicial Offices of the ECCC. In January, VSS received 247 Civil Party applications in Case 004 and 87 pieces of French translation of the summaries of Victim Information Forms of Case 002.

The Section also forwarded a Power of Attorney-cum-request for change of lawyer to the Trial Chamber, and assisted a lawyer's assistant in renewing her card and e-mail.

The lawyers of the VSS continued to review CPs' documents, carried out legal research and represented their CPs in the Courtroom.

Outreach

From 10 January to 2 February, VSS continued to collaborate fully with Intermediary Organizations to coordinate the attendance of nearly 350 Civil Parties (CPs) at the evidence hearings in Case 002. These CPs came from Kampot, Kampong Speu, Kampong Cham and Prey Veng.

As usual, 10 CPs had been coordinated to sit in the courtroom, while the rest sat in the public gallery.

Some Civil Parties commented that, based on their observations, the court is very special to them as this court follows the proper procedural timeframes, such as the time allocated for the Co-prosecutors to

deliver statements, and allowed the Defense and the accused to respond to the charges. They said they believed that justice is not forgotten.

Another Civil Party (CP) from Kong Meas district, Kampong Cham province, who lost his father and two brothers during the Khmer Rouge regime, said: "I received partial justice already when I saw Khieu Samphan, Nuon Chea, and Ieng Sary have been docked at court in front of Civil Parties and the national and international public."

Civil Party Lead Co-Lawyers' Section

The Lead Co-Lawyers and civil party lawyers were involved in the substantive hearings regarding the historical background of the Democratic Kampuchea regime as well as the week of hearings dedicated to the analysis of the admissibility of documentary evidence. On 24 January, the National Civil Party Lawyer gave an interview with CTN.

Pursuant to the ECCC Internal Rules, Cambodian and international civil party lawyers liaised in order to ensure the effective organization of Civil Party representation during the trial stage. To do so, many preparatory meetings were held between the Lead Co-Lawyers and the 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 about the judicial process.



Outside the courtroom at the ECCC.

Decisions/Orders

Supreme Court Chamber

13 January 2012

Decision on Ieng Sary's Appeal Against Trial Chamber Order Requiring His Presence in Court, whereby the Supreme Court Chamber rejects the appeal as inadmissible, as neither an error of fact or law nor an abuse of discretion on the part of the Trial Chamber can on its own constitute a knowing and willful interference with the administration of justice; and the substance of the appeal does not fall within the Chamber's limited jurisdiction for immediate appeals.

30 January 2012

Summary on the Immediate Appeal by Nuon Chea Against the Trial Chamber's Decision on Fairness of Judicial Investigation, whereby the Supreme Court Chamber rejects the Appeal, upholding the Trial Chamber's decision not to investigate the allegations of interference with the

administration of justice raised by the Defence. The Supreme Court found that, even though the Trial Chamber failed to address the entirety of the factual submissions before it, this mistake has not invalidated the impugned decision. While part of the allegations of interference has already undergone extensive litigation during the investigative stage, the others were considered devoid of impact on the fairness of the case presently before the Trial Chamber.

The Supreme Court Chamber also reminded the Defence of its duty to respect judicial orders and classification of filings, and warned it against further unauthorized disclosure of classified information. Finally, the documents concerning this Appeal have been re-classified as public. Pursuant to Rule 108(4)(bis), full reasons will follow as soon as possible.



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:

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

Supreme Court Chamber Hearings:

None scheduled

Visitor information for public hearings

First come, first served

The public gallery has 482 seats, available for the general public, diplomats and media (advance accreditation required). Seats are distributed on a first-come, first-served basis on normal hearing days. Groups of more than five persons must register in advance.

Hearings start at 9:00 a.m.; visitors should arrive no later than 45 minutes before a hearing in order to leave sufficient time for registration and security check. Visitors must present a photo ID before entering the court.

Rules in the public gallery

Visitors are advised to maintain dignity and proper behaviour and wear appropriate clothing (no beachwear or shorts, flip flops, etc.). Clothing may not display slogans, or indicate their support for or be offensive to any party of the proceedings. No persons under 16 years of age will be admitted to the

court and persons 16 -18 will be admitted only with the guardianship of an adult. No mobile phones, large bags, food or drink are permitted in the main courtroom.

Language of proceedings

The court provides simultaneous interpretation of its proceedings in Khmer, English and French.

How to get to the court

The ECCC is located adjacent to the Royal Cambodia Armed Forces headquarters in Chaom Chau, 16 km from downtown Phnom Penh, on National Road 4. The Visitors Gate is at the eastern end of the compound. No public transportation is available, so visitors are recommended to take a tuktuk or taxi.

For more information on visiting the court, please e-mail pas@eccc.gov.kh.

Outreach Calendar

Outreach Activities

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. Fifty to sixty 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. Fifty to sixty rural Cambodians watch the film, followed by a discussion with 20-30 people on justice, the ECCC and methods of coping with the past.

7 February 2012 TPO holds a self-help group and client screening in Kampong Cham. Around 10 female Civil Parties from Case 001/002 participate and share their experiences.

8 February 2012 ICfC leads a workshop with indigenous people in Siem Pang district, Stung Treng. Sixty participants receive ECCC posters as well as information and updates on the ECCC.

9-10 February 2012 TPO holds a client screening in Battambang. Around 10 female Civil Parties from Case 001/002 participate and share their experiences.

10 February 2012 CDP holds a Civil Party Workshop in Phnom Penh. Thirty CDP clients attend the hearing and then meet a lawyer and a psychologist for an update.

13 February 2012 TPO and CDP hold a Forum Theatre in Kandal. Fifty villagers, including high school students, attend and are actively involved in a dialogue to better understand what happened during the Khmer rouge regime, in particular forced marriage and rape.

17 February 2012 TPO and ICfC hold a screening of We Want (U) to Know at the TPO office, Phnom Penh, for 60 students from Royal University Phnom Penh, Department of Psychology. The students ask questions about the film, Khmer Rouge history, the ECCC and the transitional justice process.

20 February 2012 TPO holds a screening of We Want (U) to Know in Kandal. Around 60 villagers attend and at least 25 villagers will mix with the younger generation for a dialogue after the screening. Young people become able to understand Khmer Rouge history and find ways to get engaged in community dialogue with the older generation.

End of February CDP broadcasts a radio show on women in the Khmer Rouge regime, followed by two re-broadcasts.

January—February 2012 ADHOC broadcasts its KRT program every Wednesday from 7:30 to 8:30 a.m. on SAMBOK Khmum Radio (BEEHIVE) Radio FM 105MHz.



Students from Siem Reap province visiting the court.

ECCC 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 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

January - March

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



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

“Everyone can be involved in the process”



National Road 4, Chaom Chau, Dangkao
PO Box 71
Phnom Penh, Cambodia

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



General

Tel: +855 (0)23 219 814
Fax: +855 (0)23 219 841

Press Inquiry

Tel: +855 (0)12 488 094
Tel: +855 (0)12 488 421

Court Visit

Tel: +855 (0)12 488 029

Victim Participation

Tel: +855 (0)23 214 291



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The Court Report

Publisher: DIM Sovannarom, *Chief of Public Affairs Section*
Editorial team: Yuko MAEDA, *Public Affairs Officer*; SANN Kalyan, *writer*; Gabrielle HUBLER, *consultant*,
Divya SUBRAHMANYAM and Kathleen KUEVER, *interns*
Legal Advisor: Lars OLSEN, *Legal Communications Officer*
Photographer: NHET Sok Heng, *TV/Radio Officer*

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