



# The Court Report

MARCH 2013

## The Extraordinary Chambers in the Courts of Cambodia

*Moving Forward Through Justice*



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## US\$35.4 Million Budget Endorsed for 2013

Donor countries of the Extraordinary Chambers in the Courts of Cambodia have endorsed this year's revised budgetary requirement of US\$35.4 million to sustain the ongoing trial and the investigation in two more cases. This amount represents a significant reduction from the previously approved budget.

According to the revised two-year budget document for 2012-2013, which was approved by the Group of Interested States in late February, the court now has a projected budget of US\$9.4 million for the national component and another US\$26 million for the international side for 2013. The total of US\$35.4 million is US\$6.2 million less than previously endorsed.

The scaled-down projection for 2013 reflects the latest operational requirements for the ECCC. While a number of posts were reinstated to en-

able the Office of the Co-Investigating Judges to carry out investigations in Case 003 and Case 004 after the arrival of a new international co-investigating judge, many international posts for other offices have been eliminated or nationalised.

The Defence Support Section, in particular, will have fewer expenses this year than in years past. Since her release last September, the accused Ieng Thirith requires a minimum level of legal representation. The two cases currently under investigation are also expected to require fewer of the Defence Support Section's resources.

The revised judicial calendar in the budget document projects hearings of the first trial in Case 002 to end in 2013 with a trial judgment expected in mid-2014 and an appeal judgment in

*Article continues on page 2*

**NEWSFLASH:** One of the accused in Case 002, Ieng Sary, died on 14 March in a hospital in Phnom Penh. The trial proceedings against him have been terminated. Report on Ieng Sary's death to follow.

## Budget ...continued from page 1

2016. The second trial in Case 002 is projected to commence in the beginning of 2015, with an appeal judgment expected by mid-2019. These timelines will have to be amended as the severance order of Case 002 has been invalidated and a revised severance order is now expected. Investigations in the two remaining cases are projected to end by the end of 2014.

The ECCC has thus far spent US\$173.3 million since its inception in 2006. If the court spends the full projected amount this year, a total estimate of expenditure by the end of 2013 would be US\$208.7 million.

## U.K. Pledges £1.4 Million to ECCC



British Foreign Secretary William Hague

The United Kingdom has pledged a new contribution of £1,400,000 (approximately US\$2.2 million) to the international component of the Extraordinary Chambers in the Courts of Cambodia, which is currently trying three senior leaders from the Khmer Rouge regime.

The UK's Foreign Secretary, William Hague, announced the pledge in a written ministerial statement issued on 25 February. "The UK is committed to supporting the Court and our planned contribution will provide a measure of stability in this difficult period," the statement said with reference to the ECCC's current funding problems. Mr Hague also noted that the importance of the court's work, saying that it is "one of the most significant tribunals of its kind since Nuremberg."

"On behalf of the ECCC, we would like to express our gratitude to the British Government for its generous and continuous support," Acting Director of the Office of Administration Tony Kranh and Deputy Director Knut Rosandhaug said in a joint statement.

The UK is among the top donors to the court and, with this new pledge, will have contributed over US\$10 million dollars since the court's inception.

This new pledge came around the same time as the approval of the revised budget for 2012-2013.

## Director Calls For National Side Support

Acting Director of Administration Tony Kranh called for donors to come forward with new financial contributions to support the work of the Extraordinary Chambers in the Courts of Cambodia, according to a statement issued on 26 February.

"I welcome the endorsement of the revised budget, and strongly appeal to the international donor community to provide necessary support to the ECCC," his statement reads. "The national component has not received any new pledges for 2013."

According to the Office of Administration, the national component has received pledges of a total of only US\$2.5 million against the US\$9.4 million requirement for this year. Included in the US\$2.5

million is US\$1.8 million from the Cambodian government for the ECCC's operational costs plus another US\$800,000 from Germany for the Victims Support Section.



Acting Director of Administration Tony Kranh

Due to the financial constraints, none of the national staff from drivers to judges have received their salaries since last November, nor have they had their contracts renewed.

## ECCC Expenditures

Year	International	National	Total
2006	\$7.6 million	\$1.7 million	\$9.3 million
2007	\$11.8 million	\$3.7 million	\$15.5 million
2008	\$20.5 million	\$4.9 million	\$25.4 million
2009	\$22.3 million	\$5.9 million	\$28.2 million
2010	\$22.8 million	\$7.9 million	\$30.7 million
2011	\$22.9 million	\$9.1 million	\$32.0 million
2012	\$23.3 million	\$8.9 million	\$32.2 million
Total expenditure 2006-2012	\$131.2 million	\$42.1 million	\$173.3 million
Revised Budget 2013	\$26.0 million	\$9.4 million	\$35.4 million
Total estimated expenditure 2006-2013	\$157.2 million	\$51.5 million	\$208.7 million

Figures are all exclusive of contingency.

## Donor Contributions

No.	Donors	International	%	National	%	Total	%
1	Japan	\$62.6 million	46	\$16.1 million	38	\$78.7 million	44
2	Australia	\$14.2 million	10	\$3.2 million	7	\$17.3 million	10
3	United States	\$13.7 million	10	—	0	\$13.7 million	8
4	Germany	\$9 million	7	\$2.6 million	6	\$11.6 million	6
5	United Kingdom	\$6.4 million	5	\$1.5 million	4	\$7.9 million	4
6	France	\$7.4 million	5	\$233,281	1	\$7.6 million	4
7	Cambodia	—	0	\$7.4 million	17	\$7.4 million	4
8	UN Trust Fund (30 countries)	—	0	\$5.4 million	13	\$5.4 million	3
9	Norway	\$5 million	4	—	0	\$5 million	3
10	European Union	—	0	\$4.9 million	12	\$4.9 million	3
	Others	\$18.6 million	14	\$1.1 million	3	\$19.7 million	11
	TOTAL	\$137 million	100	\$42.4 million	100	\$179.4 million	100

Data as of 28 February 2013, exclusive of outstanding and tentative pledges and Cambodia's in-kind contribution of \$9.5 million.

## Co-Investigating Judges Announce Status of Case 003

The Co-Investigating Judges of the Extraordinary Chambers in the Courts of Cambodia issued a joint statement on 28 February concerning the status of Case 003.

In it, the National Co-Investigating Judge announced that the case file had been forwarded to the Co-Prosecutors after the completion of investigation while the International Co-Investigating Judge announced that the investigation remains open and called for witnesses and victims to come forward with information on the alleged crimes.

According to the joint statement, National Co-Investigating Judge You Bunleng, with a

recorded disagreement, sent the case file back to the Co-Prosecutors for final submissions (forwarding order).

He noted that on 29 April 2011, he and his former international counterpart, Siegfried Blunk, had notified the parties and their lawyers that the investigation had been concluded. Furthermore, the national Judges noted that International Co-Prosecutor Andrew Cayley, under a disagreement with National Co-Prosecutor Chea Leang, had filed his response submission to the forwarding order with the co-investigating judges.

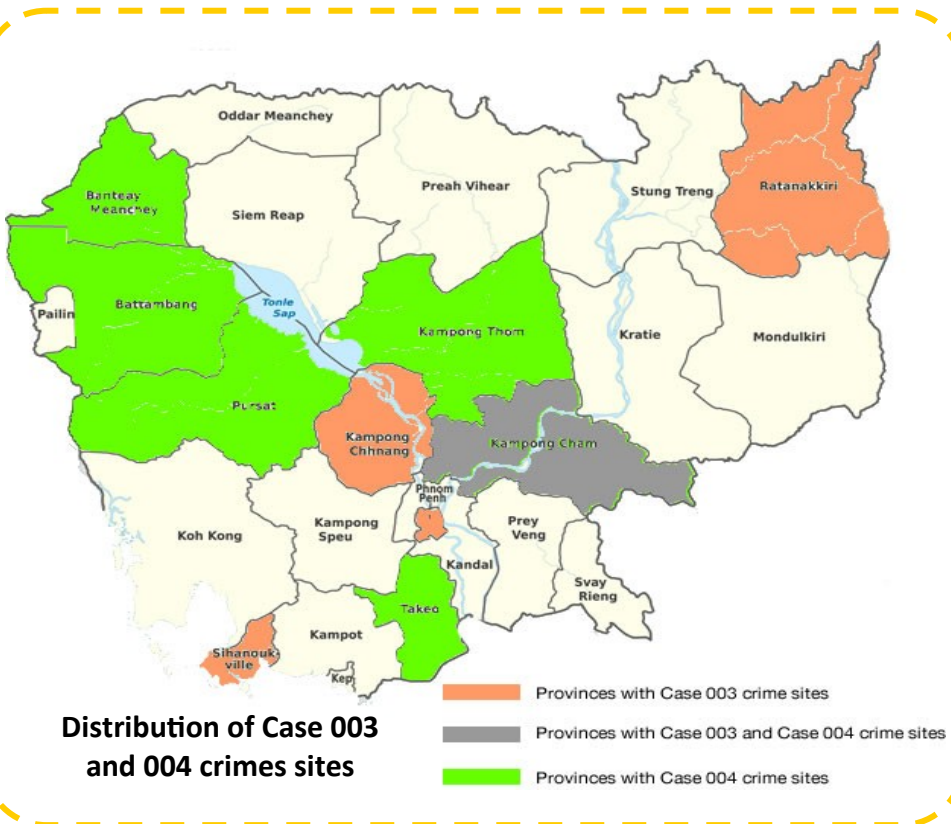
In contrast, International Co-Investigating Judge Mark B. Harmon stated that Case 003 remains open and the investigation into alleged crime sites and episodes continues. He further disclosed details of the scope of investigation for the first time and called for witnesses and victims to assist the investigation.

According to Judge Harmon’s statement, Case 003 involves members of the Revolutionary Army, Navy and Air Force of Democratic Kampuchea. They allegedly committed crimes against humanity, grave breaches of the 1949 Geneva Conventions and national crimes of murder and torture during the Khmer Rouge regime from April 1975 to January 1979.

In particular, it is alleged in the prosecution’s submission made in September 2009 that the army, navy and air force purged divisions of the military, unlawfully arresting and detaining, torturing, murdering and forcing individuals into hard labour. Victims of the purges included workers, fishermen, those identified as “traitors” to the Khmer Rouge and foreign nationals captured in waters or kidnapped from border areas. Some of the alleged crimes took place during incursions into Vietnam in late 1977 and 1978.

Judge Harmon says these alleged crimes were committed not only off the coast of Cambodia but also in nine other crime sites (see table).

For more information on the crime sites or victim participation in the Case 003 proceedings, please contact the Victims Support Section (office phone: 023 861 893 or helpline: 097 742 4218) or the Office of Co-Investigating Judges (office phone: 023 219 841, ext. 6103 for Khmer; office phone: 023 861 566 for English).



### Case 003 Crime Sites

#	Site	Commune	District	Province
1	S-21 Security Centre, Phnom Penh			Phnom Penh
2	Stung Tauch execution site		Ponhea Krek	Kampong Cham
3	Kampong Chhnang Airport Construction Site	Krang Leav	Rolea P'ier	Kampong Chhnang
4	Division 801 Security		Veun Sai	Rattanakiri
5	Stung Hav Rock Quarry worksite			Kampong Som
6	Wat Enta Nhlen Security Centre and execution site (also known as Wat Kroam)			Kampong Som
7	S-22 Security Centre, Phnom Penh		Mean Chey	Phnom Penh
8	Durian Plantation, Ream Village	Ream	Prey Nub	Preah Sihanouk
9	Bet Trang worksite	Bet Trang	Prey Nub	Preah Sihanouk

## Supreme Court Ruling Invalidates Case 002 Severance



Members of the public attend a hearing in Case 002.

The Supreme Court Chamber of the Extraordinary Chambers in the Courts of Cambodia issued a ruling on 8 February invalidating a severance order issued by the Trial Chamber to sever Case 002 into smaller trials.

The ruling was in a decision on an appeal by the prosecution concerning the scope of trial. The Supreme Court Chamber declared the severance invalid, finding that the original severance order issued in September 2011 and related subsequent decisions “lacked clarity and reasoning” and that the Trial Chamber decided the severance and the scope of the first trial “without having given the parties sufficient opportunity to be heard”.

The Supreme Court Chamber suggested that if the Trial Chamber chooses to reassess the severance, it should invite submissions

from the parties to consider “all relevant factors and legitimate interests”.

Case 002 concerns three elderly accused – Nuon Chea, Khieu Samphan and Ieng Sary – all of whom are charged with genocide, crimes against humanity and grave breaches of the 1949 Geneva Conventions.

This ruling came 17 months after the Trial Chamber initially severed the case and 14 months after the first trial began. At that time, the Trial Chamber acknowledged that a trial of such complexity and scope could take as long as ten years—too long, considering the advanced age of the many victims, civil parties, and the accused. The Trial Chamber severed the case into separate trials and decided to commence with the forced movement of population, proceeding thereafter with the remainder of the indict-

ment in chronological order.

As the prosecution and victims feared that the first trial might be the only one to take place, given the poor health of the aged accused and financial pressures facing the court, they requested that the Trial Chamber expand the scope of trial to make it more representative. In response to these submissions, the Trial Chamber last October eventually declined to expand the scope of the first trial as fully as requested, on grounds that further extensions of the scope would “risk a substantial prolongation of the trial”. This prompted an appeal from the prosecution, which, in turn, led to the Supreme Court Chamber’s recent ruling.

Following the Supreme Court Chamber ruling, the Trial Chamber promptly held a three-day hearing on 18, 20 and 21 February, outlining a number of issues for the parties to address in the light of the Supreme Court Chamber decision. While the prosecution requested that Phnom Penh’s security prison S-21 be added to the first trial, two defence teams countered that they no longer supported the notion of severance at all and requested that the indictment be tried in its entirety.

The Trial Chamber is expected to issue a revised decision on severance once it has heard the testimony of medical experts on the fitness to stand trial of the accused later this month.

## American Bar Association Meets With ECCC Officials

A delegation from the American Bar Association gained a new understanding of the challenges and complexity of the Khmer Rouge trials after a 22 February visit to the Extraordinary Chambers in the Courts of Cambodia.

The four-member delegation, headed by the association’s incoming president, James Sikenat, spent a half day at the ECCC meeting with several of the court’s senior judges and lawyers.

Trial Chamber President Nil Nonn greeted the delegation and explained the importance of addressing Khmer Rouge crimes and working together with international colleagues. The visiting American judges and lawyers subsequently met with investigating judges and international judges of the Pre-trial and Su-

preme Court Chambers and lead co-lawyers of civil parties to discuss the challenges they face.

“We were deeply impressed with the dedication, commitment and professionalism of everyone with whom we met, judges, lawyers and staff alike,” wrote Elizabeth Stong, a member of the delegation, upon

her return to New York. “The work of every court is important—but the work of the ECCC is historic.”

The delegation was in Phnom Penh for five days for diplomatic meetings with the Cambodian government and bar association leaders to discuss future cooperation.



The co-investigating judges meet with members of the American Bar Association.

## Case 002

## Evidence Hearing

In February, the Trial Chamber of the Extraordinary Chambers in the Courts of Cambodia sat for five days in Case 002 concerning former Khmer Rouge leaders Nuon Chea, Khieu Samphan and Ieng Sary, all of whom are accused of crimes against humanity, grave breaches of the 1949 Geneva Conventions and genocide.

Two of the five days were devoted to hearing evidence in the first trial of Case 002, primarily focusing on crimes against humanity allegedly committed during two phases of forced movements of population – from Phnom Penh in 1975 and from other regions in the two following years. To date in 2013, the chamber has been able to hear evidence for a total of only four courtroom days, due to the combined impact of the health of one or more accused.

Nuon Chea was once again hospitalised from 2 to 19 February, requiring the Trial Chamber to postpone the testimony of international experts. Nuon Chea nonetheless consented to a limited continuation of proceedings in his absence, namely document hearings and the hearing of Civil Party Mr Pin Yithay, which took place on 5 and 7 February respectively. As the accused Nuon Chea did not waive his right to be present for any further witnesses, the chamber adjourned proceedings the week of 11 February.

Fourteen months into the first trial of Case 002, the Supreme Court Chamber issued a decision on 8 February invalidating the Trial Chamber's earlier order severing proceedings. In order to minimize further delay to proceedings, the Trial Chamber held a three day hearing on 18, 20 and 21 February on the issue of severance, outlining a number of issues for the parties to address in the light of the Supreme Court Chamber decision.

### Pin Yathay, Civil Party

Testified 7 February



Mr Pin, 68, who worked for the Ministry of Public works as an engineer before the Khmer Rouge took power, testified about evacuating Phnom Penh with his family and the living conditions in the various camps where he was transported after leaving the city. Additionally, he was questioned on sections of the book he wrote about his experience during the Khmer Rouge era.

### Document Hearing

5 February

The Trial Chamber continued the document hearing on 5 February, in which key documents concerning the role of the accused Khieu Samphan in the Khmer Rouge regime were put before the chamber. The court documents presented include passages from books authored by Khieu Samphan, media articles and an excerpt from the documentary *Pol Pot and Khieu Samphan Facing Genocide*. The defence teams were granted the opportunity to comment on the documents presented by the co-prosecutors.

### Severance Hearings

18, 20, 21 February

Following the Supreme Court Chamber ruling invalidating the severance order in Case 002, which divided this case into a number of smaller, more manageable trials, the Trial Chamber held a three-day hearing in late February where the co-prosecutors, the civil party lead co-lawyers and the defence teams were given the opportunity to present their position on the severance of Case 002. While the co-prosecutors requested that Phnom Penh's security prison S-21 be added in the first trial, two defence teams countered that they no longer supported the notion of severance at all and requested that the indictment be tried in its entirety.

The Trial Chamber is expected to issue a revised decision on severance once it has heard the testimony of medical experts on the issues related to the fitness to stand trial of the accused later in March. (See related article on page 9)

### Nuon Chea Re-admitted to Hospital

Former Deputy Secretary of the Communist Party, Nuon Chea, was returned to the Khmer Soviet Friendship Hospital on 2 February for observation after an episode of low blood pressure. He had just returned from the hospital two days earlier, following an 18-day hospitalisation. He remained in hospital until 19 February.

## Visitor Statistics

Public interest in the ongoing trial of the three accused former Khmer Rouge leaders remains high. By the end of February, the Trial Chamber concluded 158 trial days, where a total of 52 witnesses, experts and civil parties have testified. At this time, a total of 74,185 persons have attended the trial hearings in Case 002, 82% of whom were Cambodian nationals brought to the court by the ECCC's free transportation services.

DATE	PUBLIC VISITORS			JOURNALISTS		NGO	CIVIL PARTY	VIP	TOTAL
	National		Int'l	National	Int'l				
	PAS	Others							
05/02/13	284		3	5	4	3	23		322
07/02/13	251	6	3	7	1	3	27		298
18/02/13	542	2	7	8	6	3	15	2	585
20/02/13	181	34	8	6	6	2	12	1	250
21/02/13	187		1	3	3	2	12		208
<b>Sub-Total:</b>	<b>1445</b>	<b>42</b>	<b>22</b>	<b>29</b>	<b>20</b>	<b>13</b>	<b>89</b>	<b>3</b>	<b>1663</b>
<b>Total: Day 1- Day 158</b>	<b>61,119</b>	<b>1,794</b>	<b>2,012</b>	<b>1,915</b>	<b>1005</b>	<b>876</b>	<b>5,134</b>	<b>330</b>	<b>74,185</b>

## Public Affairs Meets Takeo Students



Students at Samdech Hun Sen High School attend a presentation by the ECCC's Public Affairs Section.

In an effort to reach out to Cambodian youth, members of the Public Affairs Section of the Extraordinary Chambers in the Courts of Cambodia traveled to Takeo Province on 15 February to educate high school students about the work of the court.

More than 3,000 high school students and local youth gathered at Samdech Hun Sen High School for a presentation by the court. Chief of Public Affairs Dim Sovannarom delivered a lecture on the history of the court, beginning with the initial agreement between the United Nations and Cambodian government and continuing up through the present day. Mr Dim also spoke in detail about Case 001, which resulted in a life sentence for former S-21 head Kaing Guek Eav, alias Duch, and ongoing Case 002 concerning

Nuon Chea, Ieng Sary and Khieu Samphan. The presentation concluded with a question and answer session. The students did not run out of questions, although many of them had been sitting in the hot sun for nearly two hours.

Mr Dim says he was impressed with the students' enthusiasm and knowledge. Outreach trips of this sort have been going on for years, Mr Dim says, but, as recently as 2009, certain student participants demonstrated a low level of knowledge about the Khmer Rouge tribunal. By contrast, he says, the group at Samdech Hun Sen High School was able to identify all the defendants, report their roles, and generally answer the ECCC representatives' questions.

Following the presentation, the ECCC outreach team handed out leaflets containing the summary judgment in Case 001, among other educational materials. They also distributed ECCC caps and t-shirts to an enthusiastic audience.

The students were further invited to participate in the court's study tour programme, which consists of guided visits to S-21, Cheung Ek Killing Fields and the ECCC. The court provides free transport for large groups of Cambodians.



Students await the start of the presentation.

## Former UNTAC Commander Visits ECCC

Lt. Gen. John Sanderson of Australia, former commander of the military component of the UN Transitional Authority in Cambodia, visited the Extraordinary Chambers in the Courts of Cambodia on 5 February to gain the first-hand knowledge of the work of the tribunal.

Lt. Gen. Sanderson and Australian Ambassador Penny Richards met with international Co-Prosecutor Andrew Cayley, his deputy Bill Smith, who is an Australian national, and Trial Chamber Judge Silvia Cartwright to learn how the tribunal brings justice to Cambodians. He then toured the court building, viewing the main courtroom from the large public gallery and walking over to a "guardian spirit," The Lord of the Iron Staff statue.

Lt. Gen. Sanderson praised the court's outreach efforts upon learning that more than 180,000 visitors have come to the court over the last four years.

The former UNTAC commander was in Cambodia for a few days to attend the state funeral of the Late King Father Norodom Sihanouk. UNTAC had administered the implementation of the 1991 Paris Peace Agreement, in which then-Prince Sihanouk played an important role.



Lt. Gen. John Sanders in the public gallery as part of his ECCC tour

## ADHOC: Aging CP Representatives Voice their Concerns

Many civil parties are finding it difficult to fulfill their role without material support as they age and become more prone to illness and immobility, said civil party representatives during a regional training workshop by the Cambodian Human Rights and Development Association (ADHOC) held in Siem Reap on 20-21 February.

About 70 civil party representatives and their lawyers gathered in the workshop to discuss the progress of the court proceedings at the Khmer Rouge tribunal and obstacles ahead on the road towards justice. Through talks and group discussions, the civil party representatives expressed that civil parties are now more than ever concerned about the lack of financial and medical support for them as age-related illnesses and financial hardship are diminishing their chances to fulfill the role and obligations as civil parties in the trials.

Many of the representatives stated that they understood that proper medical assistance must be given to the accused as elements of fair trial standards, but they found it difficult to understand why the victims are



*Victims' representatives and lawyers meet for training hosted by ADHOC in Siem Reap.*

denied such rights without a clear explanation.

They also brought an attention to the victims' wishes that the court establishes a simple and practical mechanism to transfer their rights as civil parties to their next of kin in case of illness and death.

ADHOC is an independent nongovernmental organization advocating the protection

and promotion of human rights in Cambodia. With its KRT project, ADHOC assists more than 1,700 civil parties across from Cambodia, including Rattanakiri, Mondulakiri and Oddar Meanchey, who participate in the proceedings in Case 002 concerning the three elderly accused Nuon Chea, Khieu Samphan and Ieng Sary.

## AIJI Launches KRT Student Monitor Internship

The Asian International Justice Initiative (AIJI), an international trial monitoring group that produces daily reports on the trial proceedings at the Khmer Rouge tribunal, launched a new pilot internship programme in February as part of its efforts to build local capacity in trial monitoring and outreach.

The KRT Cambodian Monitor Internship is a three-month placement open to any Cambodian university student studying law or political science. It will provide an opportunity for college students to gain practical court

monitoring experience. It is mainly designed to equip them with skills in monitoring trial proceedings, writing a report in English and Khmer and disseminating information through Internet-based media.

Following the conclusion of the recruitment process in February, AIJI now boasts five eager new intern monitors from Pannasastra University of Cambodia (PUC) and the Royal University for Law and Economics (RULE) who will assist AIJI to monitor Case 002 at the Extraordinary Chambers in the

Courts of Cambodia. They are currently undertaking a comprehensive pre-internship training which will cover a broad range of topics necessary to prepare them for their role as KRT Intern Monitors. They will be ready to start work in mid-March.

Aviva Nababan, AIJI's Head of Programs for Cambodia, says interns utilize social media to disseminate developments, live tweeting ECCC proceedings and posting updates to the KRT monitors' Facebook page during hearings. After each week of note-taking, the interns post summary reports in both English and Khmer to a dedicated website <http://krtmonitor.org/>.

Ms Nababan says the internship programme is still in a trial phase. Should it prove successful, AIJI will seek to formalize its arrangement with PUC and RULE, providing a steady stream of trial monitors until the ECCC's work is done.

AIJI has been a leading monitoring group to observe trials at the ECCC and produce daily reports for the public since the ECCC's first case concerning Kaing Guek Eav, alias Duch.



*Cambodian law students undergo training for AIJI's Khmer Rouge tribunal monitor internship.*

Every month, each section of the Extraordinary Chambers in the Courts of Cambodia compiles a summary of its activities to inform the general public on the latest developments of the court. The following are updates from each section on the activities of **February 2013**. For decisions and orders, please refer to page 10.

## Pre-Trial Chamber

During the reporting period, the Pre-Trial Chamber was seized of two appeals in Case 003 and one appeal in Case 004. The Chamber also disposed of a number of procedural and other case management matters.

At the conclusion of the reporting period, the Pre-Trial Chamber had handed down its considerations on the two appeals related to Civil Party applications in Case 003.

On 28 February, the Defence filed a confidential *Appeal Against Constructive Dismissal of Urgent Motion Requesting Order for Access to the Case File* in Case 004.

## Supreme Court Chamber

On 8 February, the Supreme Court Chamber delivered its Decision on the Co-Prosecutors' appeal against the Trial Chamber's decision denying, in part, a request to expand the scope of Case 002/01. As more amply discussed in the "Decisions/Orders" section of this Court Report, the Supreme Court Chamber admitted the Immediate Appeal, declared invalid the Severance of Case 002 and annulled the Trial Chamber's Impugned Decision.

The Supreme Court Chamber continued its examination of (1) Ieng Sary's appeal against the Trial Chamber's oral decision to deny his right to be present in the courtroom and to prohibit him from being video-recorded in the holding cell; (2) Nuon Chea's appeal against the Trial Chamber's decision pertaining to an application for immediate action pursuant to Internal Rule 35 ("Rule 35 Appeal"); (3) Ieng Sary's appeal against the Trial Chamber's decision that he is fit to stand trial and its refusal to appoint an additional expert to assess fitness; and Ieng Sary's appeal against the Trial Chamber's decision on defence requests concerning irregularities alleged to have occurred dur-

ing the judicial investigation.

On 20 February, the Supreme Court Chamber became seized of a request by Khieu Samphan to receive all orders and decisions from the Supreme Court Chamber in the three official languages of the ECCC.

These appeals and request are currently under consideration. On 21 February, the Supreme Court Chamber issued an order for Nuon Chea to file a public redacted version of his Rule 35 Appeal.

## Office of the Co-Investigating Judges

During the month of February, the Office of the Co-Investigating Judges (OCIJ) continued to undertake their legal duties as stipulated in the Law and the Internal Rules.

The national co-investigating judge informed the public that, in Case 003, he sent a forwarding order to the Office of the Co-Prosecutors for final submissions pursuant to Rule 66(4), to which the international co-prosecutor responded under a disagreement recorded with the national co-prosecutor. However, on 28 February, the co-investigating judges issued separate statements regarding Case 003: the international co-investigating judge informed the public that Case 003 remains open and that investigations of the alleged crimes are proceeding; he identified numerous crime sites described in the Second Introductory Submission; and he invited potential witnesses, civil parties and complainants to apply for participation in the proceedings.

In the ongoing investigation in Case 004 (Third Introductory Submission and Supplementary Submission), four field missions were conducted in Anlong Veng, Battambang, Takeo, Siem Reap and Banteay Mancheay, in the course of which around 20 witnesses were interviewed by the international investigators.

In addition, the Analysts Unit (international component) has been supporting the preparation of field missions by con-

ducting in-house documentary research, as well as assisting in the witness interviews by the international investigators for both Cases 003 and 004.

The international component of the OCIJ continues to recruit staff to fill a number of vacant posts, in order to allow the office to effectively undertake its legal duties.

## Office of the Co-Prosecutors

### Case 002

The OCP continued to litigate Case 002 both in the courtroom and through written submissions to the Trial Chamber and Supreme Court Chamber. In court, the Co-Prosecutors and other OCP staff participated in three days of hearings regarding the scope of any severance of Case 002 that the Trial Chamber might implement following the Supreme Court Chamber's annulment of the prior severance.

Through filings, the OCP addressed a number of matters: a response to an Ieng Sary appeal regarding recording in the holding cell; requests to put evidence before the Trial Chamber; a submission on the value of Civil Party testimony; a response to defence teams' objections to the admission of certain documents; and a request to establish procedures for admitting documents not translated into all three languages.

### Case 003 & Case 004

The OCP continues to analyze the evidence in and monitor the progress of Case File 003 and 004.

## Defence Support Section

Nuon Chea spent all of February in hospital or resting in detention under doctor's orders. Ieng Sary observed most



of this month's proceedings from a holding cell. Khieu Samphan was in better health and was able to attend courtroom proceedings.

Ieng Sary's defence team appealed the Trial Chamber's 16 January decision to prohibit the video and/or audio recording of the accused in his holding cell. The defence argues that recording the accused would assist in assessing his ability to meaningfully participate in his defence and his fitness to stand trial.

All three defence teams presented arguments on how to move forward in light of the SCC decision invalidating the severance of Case 002. Counsel for Nuon Chea and Ieng Sary argued that the Trial Chamber should examine all of the allegations in the Closing Order, rather than adding a new crime site, the S-21 security center, as the prosecution suggests. Nuon Chea's international Co-Lawyer, Victor Koppe, noted that his team initially supported severance for the sake of efficiency, but that it is now apparent that the Closing Order is so complex that it should be examined in its entirety to allow the accused to fully to defend himself against all of the allegations therein. He further opined that an accused found guilty in one severed trial would not likely receive a fair trial in any subsequent trials, and cautioned the Trial Chamber against restructuring the case so as to simply render a guilty verdict as quickly as possible. Michael Karnavas, international Co-Lawyer for Ieng Sary, agreed with the Nuon Chea defence and urged the Trial Chamber to avoid "justice a la carte", questioning the SCC's reliance on ICTY jurisprudence.

Goran Sluiter and Mom Luch, Co-Lawyers for a suspect in Case 004, issued a press release, concluding that "If the ECCC lacks the financial resources to properly fund the defence team, then the case against [the suspect] should be dismissed."

## CP Lead Co-Lawyers Section

On 12 February, the Lead Co-Lawyers Section prepared and filed a submission to the Trial Chamber providing an update and details on the seven prioritized reparation projects concerning civil parties.

Lawyers for the civil parties continue to develop these projects in cooperation with the Victims Support Section and project partners.

On 14 February, representatives of the Lead Co-Lawyers Section attended a meeting with approximately 30 civil parties and NGO representatives, which was organized by the Transcultural Psychosocial Organization. In the meeting, civil party lawyers provided an update on the proceedings in Case 002, including a progress report on the design and development of civil party reparations projects. In addition, the civil parties had the opportunity to meet their lawyers, raise questions that they have and share their experiences under the Khmer Rouge regime.

On 15 February, the lead co-lawyers and civil party lawyers met to prepare for the upcoming submissions they will make on behalf of the civil parties—the Closing Brief and the Final Claim for Reparations.

On 22 February, the lead co-lawyers met with representatives of the American Bar Association and briefed them on the lead co-lawyers' system and reparations regime as a new phenomenon in international criminal law. The delegation took a particular interest in the reparation projects currently under development in Case 002.

On 25 February, the lead co-lawyers submitted a list of civil parties proposed by civil party lawyers to testify in the hearings on victim impact. These very important hearings will provide an opportunity for civil parties to express to the Trial Chamber and the public how their experiences under the Khmer Rouge have affected them.

On 28 February, the lead co-lawyers attended the Regional Forum on the Genocide Prevention at the Intercontinental Hotel in Phnom Penh. This is the fourth forum organized by the Office of the Council of Ministers of Cambodia, the Swiss Federal Department of Foreign Affairs (FDFA), the Ministry of Foreign Affairs, International Commerce and Religion of the Nation of Argentina, and the Ministry of Foreign Affairs and International Cooperation of the United Republic of Tanzania. The goal of this forum was to broaden the reach of genocide prevention in the Asian continent through the exchange of ideas and experiences throughout Asia and the world.

## Victims Support Section

### Legal Work

The Processing and Analysis Team (PAT) received power of attorney from an international civil party lawyer to represent five civil parties in Case 002, and filed it with the Trial Chamber. With relation to Case 004, PAT filed 25 civil party applications with the Office of Co-Investigating Judges, and assisted them in verifying the number of applications and legal representatives.

Court-funded CP lawyers represented their civil parties in the courtroom, attended meetings on reparations, and put their clients forward for the Transcultural Psychosocial Organization's workshop on psychological counseling and legal update. They also nominated seven civil parties to testify before the Trial Chamber about their hardship during the Khmer Rouge era.

### Outreach

In February 2013, VSS arranged for 66 civil parties to attend Case 002 hearings and meet their lawyers in person. Attendees hailed from Kampong Cham, Kampong Speu, Kampong Thom, Kampot, Kampong Chhnang and Kandal.

### Reparation and Non-Judicial Measures

Chief of VSS Mr. Im Sophea and the R&NJM Team met separately with officials from the Korean, German and U.S. embassies to discuss future support for the Reparation Programme.



"The Lord of the Iron Staff" statue at the ECCC.

## Decisions/Orders

Public versions of the decisions, orders, opinions and considerations, some of which are redacted, are available on the official ECCC website: [www.eccc.gov.kh](http://www.eccc.gov.kh).

### Pre-Trial Chamber

**13 February 2013:** *Considerations of the Pre-Trial Chamber regarding the Appeal Against Order on the Admissibility of a Civil Party Applicant*

The Pre-Trial Chamber issued its consideration whereby it declared that it could not assemble the required majority of four votes to issue a decision on the Appeal. A redacted version of these Considerations, which include the separate opinions of the five Judges, is available to the public.

**14 February 2013:** *Considerations of the Pre-Trial Chamber regarding the Appeal Against Order on the Admissibility of a Civil Party Applicant*

The Pre-Trial Chamber issued its consideration whereby it declared that it could not assemble the required majority of four votes to issue a decision on the Appeal. A redacted version of these Considerations, which include the separate opinions of the five Judges, is available to the public.

### Supreme Court Chamber

**8 February 2013:** *Decision on the Co-Prosecutors' Immediate Appeal of the Trial Chamber's Decision Concerning the Scope of Case 002/01 (E163/5/1/13)*

The Supreme Court Chamber of the Extraordinary Chambers in the Courts of Cambodia (ECCC) admitted an immediate appeal by the Co-Prosecutors against a decision of the Trial Chamber denying, in part, to

expand the scope of the first trial in Case 002. The Supreme Court Chamber annulled the Trial Chamber's decision, finding that the original severance of Case 002 in September 2011 and related subsequent decisions did not conform to fair trial standards because of insufficient clarity and reasoning, and because the parties did not have sufficient opportunity to be heard. The Trial Chamber remains empowered to reassess a mode of severance for Case 002 upon inviting submissions from the parties and taking into consideration all relevant factors and legitimate interests. The Supreme Court Chamber recognized the relevance of expeditiousness and manageability in deciding to sever, but nevertheless stressed that a severance decision must take into consideration its consequences for all the pending charges. The Supreme Court Chamber suggested that the formation of a second trial panel could be considered in order to expedite the proceedings in relation to remaining charges should severance be re-instated.

**21 February 2013:** *Order to file a Public Redacted Version of Nuon Chea's Appeal (E189/3/1/1)*

The Supreme Court Chamber ordered the defence for Nuon Chea to file a public redacted version of their Immediate Appeal against Trial Chamber Decision on Application for Immediate Action Pursuant to Rule 35. When filing the appeal, the defence suggested that it be classified as public, a classification that the Trial Chamber confirmed. However, the Supreme Court Chamber noted that the appeal quotes extensively from what the defence purports to be the Introductory Submission in Case 003 and discloses confidential information contained therein, such as the names of the suspects in Case 003. The Supreme Court Chamber therefore reclassified the appeal as confidential.

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

### Trial Chamber Hearings:

Week of 25 March, 9:00 – 16:00

The Trial Chamber will hear the testimony of medical experts on the accused's fitness to stand trial in Case 002.

### Upcoming Trial Recesses:

15–19 April; 13–17 May



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

(Photo: Meng Kimlong)

## Outreach Activities

**February:** The Victim Support Section invites 10-15 civil parties every day to attend evidence hearings and meet their lawyers.

**February:** Asian International Justice Initiative publishes weekly reports (issue no. 46-54); it also live tweets ECCC proceedings and posts a summary to Facebook page KRT trial monitor.

**11-17 February:** The staff of Kdei Karuna discusses the work of the ECCC with 19 villagers and authorities in rural Rattanakiri.

**12-18 February:** The staff of Kdei Karuna conducts a “training of trainers” activity with 22 participants in Mondolkiri.

**20 February:** A group of media and communications students from the Royal University of Phnom Penh observe the hearing on severance in Case 002 on 20 February 2013, following a briefing by the Public Affairs Section.

**21 February:** Visiting students from Brookline High School in Boston, USA, are introduced to the competing perspectives of the prosecution and the defence by representatives from both sections. The students are members of a Cambodian club which has been building a school in Prey Vihear.

**24-28 February:** The staff of Kdei Karuna conduct an assessment of its Community Memory Initiative with 22 villagers in Prey Veng.

**26-28 February:** About 61 villagers in Kampong Speu view a film about reconciliation followed by an open discussion of transitional justice.

**March:** Asian International Justice Initiative publishes weekly reports (issue no. 46-54); it also live tweets ECCC proceedings and posts a summary to Facebook page KRT trial monitor.

**4-7 March:** Kdei Karuna involves 20-30 Prey Veng villagers in its Community Memory Initiative. They repeat this activity from 19-22 March.

**10-15 March:** Kdei Karuna staff train about 40 villagers in mediation and non-violent conflict resolution in Rattanakiri and Mondolkiri, respectively.

**20-22 March:** Kdei Karuna screens a film on reconciliation for 20-30 villagers in Kratie.



The Public Affairs Section hosts a group of American high school students.

## ECCC Outreach

The Public Affairs Section hosts **Khmer Rouge Tribunal Study Tours**, bringing groups of 200-300 villagers from areas throughout Cambodia to attend the ongoing hearings of Case 002, have a guided tour of the Tuol Sleng Genocide Museum, and visit the Choeung Ek Killing Fields. During the trial recesses, the Public Affairs Section conducts **school visits** to give briefings, as well as hosts **community video screenings** across Cambodia. The Public Affairs Section also welcomes international group visits, and provides briefings and court tours.

### ECCC OUTREACH CALENDAR

#### February 2013

SUN	MON	TUE	WED	THU	FRI	SAT
27	28	29	30	31	1	2
3	4	5 Hearing 002	6	7 Hearing 002	8	9
10	11	12	13	14	15 Outreach trip	16
17	18 Hearing on severance	19 Study tour	20 Hearing on severance	21 Hearing on severance	22	23
24	25 Recess	26 Recess	27 Recess	28 Recess / Study tour	1 Recess	2

#### March 2013

SUN	MON	TUE	WED	THU	FRI	SAT
24	25	26	27	28	1 Recess	2
3	4	5 Study tour	6	7 Visit / Study tour	8 Khmer holiday	9
10	11	12 Study tour	13	14 Visit / Study tour	15	16
17	18	19 Study tour	20	21 Study tour	22	23
24	25 Hearing 002	26 Hearing 002	27 Hearing 002	28 Hearing 002	29 Hearing 002	30
31	1	2	3	4	5	6



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

“Everyone can be involved in the process”



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## The Court Report

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