



The Court Report

NOVEMBER 2011

The Extraordinary Chambers in the Courts of Cambodia

Moving Forward Through Justice

Reparations Requests Heard in Case 002



Monks and members of the public watch the reparations hearing on 19 October at the ECCC.

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Lawyers representing nearly 4,000 victims of Khmer Rouge atrocities on 19 October presented a consolidated wish list for reparations in the second case of the Extraordinary Chambers in the Courts of Cambodia,

Four surviving leaders of the Democratic Kampuchea are currently on trial for genocide, crimes against humanity and grave breaches of the 1949 Geneva Conventions: former Deputy Secretary of the Communist Party Nuon Chea, Deputy Prime Minister for Foreign Affairs Ieng Sary, Head of State Khieu Samphan and Minister of Social Affairs Ieng Thirith.

The ECCC is the first international criminal trial in which victims have participated as Civil Parties. In the second case, which focuses on the regime's policies and terrifying crimes committed across the

country, 3,867 victims have been admitted as Civil Parties and are seeking "moral and collective" reparations in the event of conviction.

At the hearing, the Civil Party Lead Co-Lawyers laid out a detailed list of reparations requests before the court, from establishing a national remembrance day to providing health services for elderly victims to documenting their victimhood. The lawyers focused on the importance of preserving the memory of the Khmer Rouge period so that the victims' suffering is recognized and the younger generation can understand this dark chapter in Cambodia's history.

"Reparations have to be satisfactory for civil parties. Reparations have to alleviate their pain and grief,"

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Experts Confirm Ieng Thirith Has Dementia in Case 002

At a second hearing to examine the health of former Social Affairs Minister Ieng Thirith, one of the four Accused in Case 002, experts testified that she has clinical dementia, most likely Alzheimer's disease.

The hearing was held at the Extraordinary Chambers in the Courts of Cambodia on 19-20 October to examine findings from the four experts—two Cambodian and two foreign—who had previously submitted a report. Their findings were consistent with those reported by Professor John Campbell, a geriatrician, at the first fitness hearing in August.

"We came to the conclusion she would have considerable difficulty following court proceedings," said Dr. Huot Lina, one of the doctors who examined Ieng Thirith.

Dr. Lina and forensic psychologist Dr. Seena Fazel who testified at the hearing said that while she did understand questions posed to her, she had trouble understanding why they were being asked, and did not remem-



Ieng Sary (left) and Ieng Thirith inside the courtroom at the fitness hearing.

ber the name of her husband Ieng Sary, or whether she had a son.

Ieng Thirith's defence counsel Diana Ellis argued that it would be unfair if she was tried while unable to comprehend the nature of the charges and to participate in the proceedings in a meaningful way.

"We submit that it would be wrong to let her stand trial in this circumstance," Ms. Ellis said, asking the chamber to sever her client

from the case and to consider discontinuation.

Prosecutors, however, opposed the move, saying doctors had found the Accused could still understand the meaning of questions and was capable of interacting with others, arguing this would enable her to participate in the proceedings.

A decision on whether Ieng Thirith can continue with trial proceedings is expected to be issued shortly.

Reparations Requests Heard (continued from front page)

said International Lead Co-Lawyer Elisabeth Simonneau-Fort. "It is our duty to be ambitious... If we are not ambitious, we cannot represent our civil parties."

Ms. Simonneau-Fort and her national counterpart Pich Ang reminded the court of the importance of involving civil parties in the trial, stating that the civil parties symbolize all of the victims of the Khmer Rouge regime. During the four-year period of 1975-1979, at least 1.7 million people perished due to starvation, forced labour, torture and execution.

Other reparations requests included the building of monuments and museums, reforms to the Cambodian school curriculum, preservation of crime sites, and provision of vocational training to victims of forced marriage and their children. The lawyers also suggested establishing a legal service to facilitate the acquisition of Cambodian nationality for ethnic Vietnamese who were forcibly deported to Vietnam by

the Khmer Rouge, many of them now stateless due to lack of necessary documentation.

Senior Assistant Prosecutor Vincent De Wilde D'Estmael backed up the reparations requests, saying that the Civil Parties "are the voice of all of the victims who remained voiceless during the regime of the Democratic Kampuchea" and encouraged the parties in court to do everything possible to ensure their requests can be accepted.

Michael Karnavas, defence attorney for Ieng Sary, however, said the list sounds beyond the scope of the tribunal. "It would appear highly commendable and aspirational, but it is something the government should be doing," he commented. "I'm not convinced that the court is capable to grant those reparations requests."

The tribunal opened the second case trial in June with an initial hearing to consider preliminary objections. The trial chamber has since ordered that the case be split into a series of smaller trials to render verdicts in a speedy manner. Opening statements by the accused are now scheduled for 21 November and the substantive hearing to examine evidence and witnesses will follow a week later.



Students watch the reparations hearing at the ECCC.

Judges Attend Reparations Workshop

Judges from all chambers of the Extraordinary Chambers in the Courts of Cambodia attended a workshop from 10-12 October exploring the possibilities and limitations of court-mandated reparations for Civil Parties.

The workshop drew 40 participants from the court. It was organized by the Victims Support Section to assist the judicial chambers in evaluating and discussing how they might afford reparations. Seven experts from groups like REDRESS, the International Organization of Migration and the International

Center for Transitional Justice presented a comparative overview of the experiences and challenges of court-ordered reparations in the Cambodian and international contexts. They also considered how to maximize the reparative value of the verdict and the sustainability of reparations.

The workshop was held to explore the court's reparations mandate, which was expanded last year. At their 8th Plenary Session in September 2010, the ECCC's judges amended provisions on reparations by introducing an additional avenue for reparations, in order to address some of the limitations of the traditional civil party claim. For Case 002 and beyond, Rule 23 *quinquies* of the Internal Rules now allows the Civil Party Lead

Co-Lawyers to request from the Trial Chamber specific reparations measures that have been designed or identified in coordination with the VSS, and which have secured sufficient external funding for implementation.

After the main workshop, the reparations experts met with Civil Party Lawyers and the Lead Co-Lawyers in a separate workshop on 13 October, discussing civil party-related aspects of the new reparations mandate. Additional meetings were held with the ECCC Administration and Cambodian NGOs.

The seven experts included Dinah Shelton, professor of law at GWU Law School and President of the Inter-American Commission on Human Rights, Pieter de Baan, the Executive Director of the ICC Trust Fund for Victims, Carla Ferstman, Director of REDRESS, and others. The programme was made possible by the Swiss and Finnish governments.



Participants in the VSS reparations workshop

PTC Issues Judicial Considerations for Case 003

Amid public controversy over the judicial investigation on Case 003 concerning multiple unidentified suspects, the Pre-Trial Chamber of the Extraordinary Chambers in the Courts of Cambodia issued on 24 October two judicial considerations over appeals related to the case.

Following the Co-Investigating Judges' announcement in April that they had concluded their investigation in Case 003, numerous appeals were submitted to the Pre-Trial Chamber. Their judicial considerations related to two of these appeals.

The first concerned an appeal against the Co-Investigating Judges' order to dismiss a civil party application by New Zealander Robert Hamill, who lost his brother during the Khmer Rouge atrocities and has been admitted as civil party for Case 001 and Case 002. The Pre-Trial Chamber declared that the Co-Investigating Judges' order stands, as it failed to assemble an affirmative vote of at least four judges to issue a decision. This cannot be appealed.

In its considerations, the chamber's three national judges found that the rejection of civil party applications would not infringe on the rights of the victims when no one is charged with crimes. The chamber's two international judges, however, suggested Mr. Hamill's civil party application be reconsidered by the Co-Investigating Judges, citing a number of procedural mistakes made in handling the application. The public version of the considerations can be found on the ECCC website.

The second consideration concerns the International Co-Prosecutor's appeal against the Co-Investigating Judges' order to retract his public statement regarding Case 003 issued on 9 May, in which Co-Prosecutor Andrew Cayley gave a detailed summary of the crime sites and outlined further investigative steps he believed Co-Investigating Judges You Bunleng and Siegfried Blunk should take. The Pre-Trial Chamber declared that the Co-Investigating Judges' retraction order stands, as the four judges did not come to an affirmative vote.

In its considerations, the chamber found that

the Co-Prosecutor had no legal basis to issue the statement because the Co-Prosecutors are obliged to inform the public of proceedings only during the preliminary investigation stage, not during judicial investigation by the Co-Investigating Judges. The chamber further found that the Co-Prosecutor violated the rule of confidentiality by disclosing information on crime sites without the authority to do so.

On this matter, the three national judges found that the co-prosecutor's public statement disclosing confidential information constituted misconduct and that a retraction order was necessary. The two international judges, however, found that the retraction order, which repeated major parts of the confidential information included in the public statement, had no effect and that the appeal should be granted partly.

Upon the issuance of the chamber's considerations, Mr. Cayley retracted his 9 May public statement.

ISPP Students Discuss Court with Judicial Officials

Sitting in the seats where the Trial Chamber judges, lawyers, witnesses and the accused usually sit, 67 students from the International School of Phnom Penh had a unique opportunity to learn more about the court and ask questions of three judicial officials on 6 October.

Sitting inside the courtroom at the Extraordinary Chambers in the Courts of Cambodia (ECCC), the students listened to presentations from International Judge in the Pre-Trial Chamber Rowan Downing, Deputy Prosecutor William Smith and International Co-Lawyer for Nuon Chea, Michiel Pestman.

The visit was part of the school's "Theory of Knowledge" study of the trials in Cambodia.

The students' visit focused on asking questions relating to the trial, the accused and the benefits of having international involvement in the trial. Students also asked about

the possible legacy the court will leave in Cambodia.

Mr. Smith spoke about the importance of the trial in building the capacity of Cambodian courts and developing national reconciliation: "The court has allowed Cambodians to speak out under its umbrella. It gives an opportunity for people to start talking about their rights and the protection of these rights."

Students also questioned the benefits of having a trial so many years after the crimes were allegedly committed.

Pre-Trial Chamber Judge Rowan Downing told the students that "age doesn't give you impunity from justice," especially with regard to such serious crimes.



Judge Rowan Downing and lawyers Michiel Pestman and Deputy Prosecutor William Smith address the ISPP students in the ECCC courtroom.

Jeremy George, a teacher at ISPP, said the visit gave the students a real sense of how important the legal process is. "I believe they were truly inspired," he said.

Austrian Judicial Officials Explore 'Features and Challenges' of the ECCC

An official delegation of judges and prosecutors from Austria explored the working of the Khmer Rouge tribunal on 25 October through presentations and discussions with representatives of various offices.

Headed by Dr. Wolfgang Poschl, vice-president of the Higher Regional Court Vienna, and escorted by Mag. Stephan Heisler, deputy chief of mission of the Austrian Embassy in Bangkok, 48 judges and four public prosecutors from Vienna and other regions visited the Extraordinary Chambers in the Courts of Cambodia to gain first-hand knowledge of the tribunal during their two-week stay in the country.

The visit came after the delegation visited a local court in Siem Reap to meet with Cambodian judges and made a courtesy call to Deputy Prime Minister Sok An to learn about Cambodia's judicial reform and the ECCC's expected legacies. Trial Chamber reserve judge Claudia Fenz from Austria facilitated their visit to the court.

Welcoming the delegation, Acting Director of the Office of Administration Tony Kranh not-

ed that the visit of the delegation is an honour for the court, as it signifies international recognition that the ECCC is capable of handling complicated international crimes in accordance with international standards.

During their day-long visit, the Austrian judges and prosecutors listened to presentations made by representatives from the court's administration, the co-prosecutors' office, the defence support office, the victim support office, the civil party lead co-lawyers office and the public affairs office. They discussed challenges facing the hybrid court, such as the court's parallel administrative structure, the complexity of cases, and the accountability and impartiality of the court.

"I believe we managed to present a comprehensive picture of the features and challenges of the ECCC," said Judge Fenz, noting that there were lively discussions throughout the day.



The Austrian judicial delegation and ECCC staff outside the court.

Wrapping up the visit, Dr. Pöschl wrote that the visit was informative and worthwhile.

"We are convinced that the work done by all members of the ECCC is a very important one and basically necessary not only for the people of Cambodia but also for the respect for the rights of all human beings in the entire world," he wrote. "Especially we were deeply impressed by the cooperation of judges of Cambodia and other countries, which is actually unique in the world and assures the acceptance in Cambodia and in the rest of the world."

US Contributes \$1.65 M for ECCC

The US government announced on 14 October that US\$1.65 million has been delivered to the Extraordinary Chambers in the Courts of Cambodia to support the work of the court trying Khmer Rouge leaders for their crimes in the 1970s.

The delivery was the first installment of a projected contribution from the US government of US\$5 million for this fiscal year, made to the international component of the tribunal's budget.

The donation came as the court is to begin the trial of its second case concerning the allegedly most senior surviving leaders of the communist regime, during which at least 1.7 million people are believed to have died of starvation, torture, hard la-

bour and execution.

"Given the gravity of the alleged crimes and the level of defendants, this is now the most important trial in the world," said Stephen Rapp, US Ambassador at Large for War Crimes Issues in his announcement of the donation.

The US is one of the key donors to the ECCC and has supported the court's efforts to bring to justice senior leaders and those most responsible for the atrocities during the Democratic Kampuchea.

The US contributed US\$1.7 million for 2008 and another \$5 million in 2010, about 5 percent of the court's total budget.

International Co-Investigating Judge Resigns



Former Co-Investigating Judge Siegfried Blunk.

Citing repeated statements by Cambodian government officials on cases before him, Co-Investigating Judge Siegfried Blunk submitted his resignation on 9 October to the UN Secretary-General and stepped down on

31 October.

In his press release dated on 10 October, Judge Blunk cited three statements reported in the media by high-ranking government officials, including Prime Minister Hun Sen, about prosecution and investigation on cases before him.

He stated that the repeated statements by government officials would be "perceived as attempted interference" and that "his ability to withstand such pressure by government officials and to perform his duties independently could always be called in

doubt," although he would not let himself be influenced by any statements made by external actors.

Judge Blunk ended his services for the court less than one year after assuming the post on 1 December 2010.

Following his announcement, his local counterpart Judge You Bunleng issued a statement on 12 October saying that their work relationship had been in "a smooth and responsible manner based on legal principles and the ECCC Internal Rules."

Judge You Bunleng reiterated in his statement that the Office of the Co-Investigating Judges have been conducting judicial investigations in the court's third and fourth cases "independently without any obstacles" and that he would continue to fulfill his mandate independently and impartially.

Following the resignation, the UN Secretary-General has nominated Reserve Co-Investigating Judge Laurent Kasper-Ansermet to take up the post. He is expected to arrive Cambodia shortly.

UN Legal Counsel Discusses ECCC Matters



UN Legal Counsel Patricia O'Brien.

Following Judge Siegfried Blunk's resignation, UN Legal Counsel Patricia O'Brien on 19 October flew to Cambodia to discuss the latest developments at the Khmer Rouge tribunal with various stakeholders.

She met with court officials, donor representatives and members of the civil society and held discussions with Deputy Prime Minister Sok An and other government officials.

During the meeting with Mr. Sok An, Ms. O'Brien expressed concern regarding recent events at the court and "strongly urged the Royal Government of Cambodia to refrain from statements opposing the progress of Cases 003 and 004 and to refrain from interfering in any way whatsoever with the judicial process," according to a statement issued on 20 November.

Mr. Sok An also issued a statement on the encounter. He emphasized "the need for decision-makers ... to discharge their responsibilities without allowing themselves to be distracted by intense speculation, pressure and interference from the media and other outside parties."

The two also reiterated their strong support for the work of the court, according to the statements.

KR Tribunal's Signature Trial Set to Begin

The first trial of Case 002, the Khmer Rouge tribunal's most complicated case, is finally set to begin on 21 November.

The Trial Chamber of the ECCC will hold a hearing for opening statements, beginning with a reading of the counts against the accused by President Nil Nonn. Co-Prosecutors will be given two days to make their opening statements, while each defense team is allocated up to half a day to respond.

It is expected that prosecutors will present opening statements in relation to all charges and factual allegations against the Accused in the indictment, although the first trial will primarily consider the

movement of the population phases one and two—as this policy affected virtually all victims of the Democratic Kampuchea regime—and related charges of crimes against humanity.

Following the Trial Chamber's order in September that Case 002 be severed into a series of shorter trials- in order to expedite the verdicts, subsequent trials will examine other charges and allegations in the indictment in more detail.

The hearing of evidence will commence on 28 November.

Hearing Schedule

Date	Court sessions
Monday, 21 November (9:00-16:00)	Reading of the counts against the accused. Opening statements by the Co-Prosecutors.
Tuesday, 22 November (9:00-16:00)	Opening statements by the Co-Prosecutors continues.
Wednesday, 23 November (9:00-16:00)	Response to the Opening Statements by the defence teams.
Thursday, 24 November (9:00-16:00)	Response to Opening Statements by the defence teams continues.
Monday, 28 November (9:00-16:00)	Hearing of evidence in Case 002 commences.
Friday, 16 December (9:00-16:00)	Hearing of evidence in Case 002 concludes for the Christmas period.
Monday, 9 January 2012 (9:00-16:00)	Hearing of evidence resumes.

Where can I observe the hearing proceedings?

The main courtroom has a 482-seat public gallery for visitors. 50 seats are reserved for individual members of the public while 230 seats are booked for Civil Parties and another 50 seats for NGO representatives with ECCC related programs. A number of seats are also reserved for diplomats, government officials and distinguished scholars.

How do I get a seat?

Seating is provided on a first come, first served basis for the general public. The ECCC recommends arriving at the security gate between 07:00 and 08:00 to get a ticket. All visitors must be seated in the public gallery by 08:45. Doors to the courtroom will close at 09:00 or when the public gallery is full.

How can I register for seats?

Please contact Mr. Chin Hemvichet by email (pas@eccc.gov.kh) or phone (023 219 814 ext. 6065, or 012 696 220)

What languages will be used?

The ECCC provides simultaneous interpretation of its proceedings in the three official languages of Khmer, English and French. The main language in the public gallery is Khmer. For English and

French translation, headsets will be provided for visitors at the gallery entrance.

Where is the ECCC?

The ECCC is located behind the headquarters of the Royal Cambodia Armed Forces on National Road 4 in Chaom Chau Commune, Dangkao District, Phnom Penh, 16 km away from downtown.

What should I bring with me?

Please bring a photo ID. No cell phones, cameras, laptops, recording devices, large bags, food or beverages will be permitted in the public gallery.

Is there a dress code?

Yes. All visitors are expected to dress appropriately and refrain from wearing clothing that display slogans, indicate support for one particular party, or offend any party of the proceeding.

If I cannot go, what else can I do to follow the proceedings?

Watch CTN live broadcast in Khmer, or follow the recorded hearing on the Cambodia Tribunal Monitor webcast (www.cambodiatribunal.org/) in three official languages.

TIMELINE

18 July 2007	The Co-Prosecutors file their first Introductory Submission requesting the Co-Investigating Judges to investigate Nuon Chea, Ieng Sary, Ieng Thirith, Khieu Samphan and Kaing Guek Eav alias Duch.
19 Sept. 2007	The Co-Investigating Judges split the case into two, announcing Duch will be prosecuted separately from Khieu Samphan, Ieng Sary, Ieng Thirith and Nuon Chea.
5 Nov. 2009	The Co-Investigating Judges announce the scope of investigation in Case 002 in order to facilitate victims' participation as Civil Parties.
14 Jan. 2010	The Co-Investigating Judges announce the completion of judicial investigations in Case 002, which procedurally invites requests for further investigations from the parties. CIJs eventually conclude their investigations and forward the case back to the Co-Prosecutors on 19 July 2010.
16 Aug. 2010	The Co-Prosecutors file their Final Submission requesting the Co-Investigating Judges to indict Nuon Chea, Ieng Sary, Ieng Thirith and Khieu Samphan, but not Duch.
15 Sept. 2010	The Co-Investigating Judges issue a Closing Order, indicting the four accused for Crimes against Humanity, Genocide, Grave Breaches of the Geneva Conventions of 1949, and offenses under the 1956 Penal Code of Cambodia (homicide, torture and religious persecution).
13 Jan. 2011	The Pre-Trial Chamber confirms the indictments of the four accused with minor amendments, in response to appeals against the closing order filed by the defence teams. Case 002 is now sent to the Trial Chamber.
27-30 June 2011	The Trial Chamber holds an Initial Hearing in Case 002 to consider preliminary objections and witnesses, effectively opening the long-awaited trial.
29-31 Aug. 2011	A preliminary hearing on Fitness to Stand Trial is held to examine reports by an expert on the fitness of Ieng Thirith and Nuon Chea. A follow-up hearing concerning Ieng Thirith's fitness is held on 19-20 October 2011.
22 Sept. 2011	The Trial Chamber issues a Severance Order to split the Case 002 trial into a series of mini trials, starting with a trial on forced movements and related Crimes against Humanity. The chamber also rules out charges under the 1956 Penal Code of Cambodia from the Case 002 indictment.
21-24 Nov. 2011	The Trial Chamber hears Opening Statements by the Co-Prosecutors and responses by the Accused or their lawyers. Following the conclusion of the opening statements, the hearing of evidence begins on 28 November 2011.

WHAT IS CASE 002?

In Case 002, four Khmer Rouge leaders are now indicted for:

- **Crimes against Humanity:** extermination, enslavement, torture, persecution, etc.
- **Grave Breaches of the Geneva Conventions** of 1949: willful killing, torture, inhumane treatment, etc.
- **Genocide:** of the Cham and the Vietnamese

Case 002 has looked into limited sites and criminal activities, including:

- 3 instances of mass displacement of the population
- 6 cooperatives and worksites
- 11 security centers and 3 execution sites
- Crimes against the Cham, the Vietnamese and Buddhists
- Regulations of marriage

Evidence in Case File 002 accounts for 350,000 pages in total, including:

- 46 written records of interviews with the four defendants
- Over 1,000 written records of interviews with witnesses and Civil Parties
- 36 site identification records, medical reports, and demographic expert reports
- Over 11,600 pieces of documentary evidence about the facts of the case



Name: NUON Chea
Alias: Brother No 2
Date of Birth: 7 July 1926
Place of Birth: Voat Kor, Sangkae, Battambang
Position in Democratic Kampuchea: Deputy Secretary of the Communist Party
Date of Arrest: 19 September 2007



Name: IENG Sary
Alias: Van
Date of Birth: 24 October 1925
Place of Birth: Loeung Va village, Tra Vinh (now in Vietnam)
Position in Democratic Kampuchea: Deputy Prime Minister for Foreign Affairs
Date of Arrest: 12 November 2007



Name: IENG Thirith
Alias: Phea
Date of Birth: 10 March 1932
Place of Birth: Phnom Penh
Position in Democratic Kampuchea: Minister of Social Affairs
Date of Arrest: 12 November 2007



Name: KHIEU Samphan
Alias: Hem
Date of Birth: 27 July 1931
Place of Birth: Rom Chek, Rom Duol, Svay Rieng
Position in Democratic Kampuchea: Head of State (Chairman of the State Presidium)
Date of Arrest: 19 November 2007

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

Pre-Trial Chamber

In October, the Pre-Trial Chamber (PTC) was seized of one application and seven appeals in Case 003, in addition to one application and two appeals in Case 004. The Pre-Trial Chamber has issued its considerations in two appeals and continued its deliberations in the remaining appeals and applications.

Case 003 On 3 October, an appeal was filed by a Civil Party Applicant whose application was rejected by the Co-Investigating Judges. This appeal is currently classified as confidential.

On 24 October, the PTC issued its *Considerations regarding the Appeal against Order on the Admissibility of Civil Party Application Robert Hamill* (see pg. 10 for decision).

On 24 October, the PTC issued its *Considerations regarding the International Co-Prosecutor's Appeal against the Co-Investigating Judges' Order on International Co-Prosecutor's Public Statement* (see pg. 10 for decision).

Case 004 On 10 October, the Defence Support Section filed a "Request for a stay in Case 004 proceedings before the Pre-Trial Chamber and for measures pertaining to the effective representation of suspects in Case 004." This application is currently classified as confidential.

Supreme Court Chamber

Case 001 During October, the Supreme Court Chamber continued to work on its judgment on the appeals against the Trial Judgment.

Case 002 During October, the Chamber was seized of a confidential immediate appeal. The Chamber issued a confidential decision on a request for an extension of time to file a document in relation

to the immediate appeal. The timing of the Chamber's decision on the immediate appeal is regulated by Internal Rule 108(4 bis) (Rev. 8).

From 10-12 October in Phnom Penh, some of the judges and personnel of the Chamber participated in a workshop on reparations organized by the ECCC Victims Support Section. (See pg. 3 for full article.)

Office of the Co-Investigating

Case 003 After rejecting the requests by the International Co-Prosecutor for further investigation, the Co-Investigating Judges are waiting for the Pre-Trial Chamber's decision on the appeal in order to move forward with the appropriate actions.

The staff of the OCIJ continues to work toward a decision on the admissibility of the 321 Civil Party applications in Case 003.

Case 004 Legal decisions were issued pursuant to Rule 35 (Interference with the Administration of Justice) because witnesses had allegedly been influenced.

The staff of the OCIJ is working on the 328 Civil Party applications in Case 004; 15 new Civil Party applications had been filed at the end of the October.

The OCIJ continues to analyze and evaluate the evidentiary material, including the recent written records of interviews of witnesses.

Resignation of International Co-Investigating Judge

In early October, International Co-Investigating Judge Dr. Siegfried Blunk announced his resignation. (See pg. 5 for full article.)

Defence Support Section

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

Case 002 On 11 October, the Nuon Chea Defence Team responded to the Co-Prosecutors' Request for Reconsideration of Severance Order, urging the Trial Chamber to stand by the terms of its order. Given the "late hour," the Nuon Chea Team suggested that the OCP reconsider its request for reconsideration and objected to an oral hearing on the matter.

On 13 October, the Ieng Sary Defence Team responded to the Co-Prosecutors' Request for Reconsideration of Severance Order: the Team agreed that reconsideration is permissible and that severance must be consistent with Internal Rule 89ter, but argued that guidance on severance cannot be taken from the ICTY; OCP failed to demonstrate that severance is not in the interests of justice; and the alternative severance proposed by the OCP would not result in an expeditious trial.

A second hearing on Ieng Thirith's fitness to stand trial commenced on 19 October. The four psychiatric experts appointed by the Trial Chamber unanimously concluded that Ieng Thirith suffers from dementia, most likely in the form of Alzheimer's Disease.

On 24 October, Ieng Sary submitted notice to the Trial Chamber that he will not testify during trial.

Cases 003 and 004 The DSS continued to monitor closely the developments in Cases 003 and 004, and to work to ensure that the rights of the suspects are upheld in conformity with the highest international standards and best practices. Its filings before the Pre-Trial Chamber dated 29 July (Case 003) and 10 October (Case 004), and before the OCIJ dated 7 October (Case 004) remain classified as confidential at this time.

Victims Support Section

Legal Work

The Processing and Analysis Team processed and filed 15 Civil Party applications in Case 004 to the Office of Co-Investigating Judges, submitted five Power of Attorney filings to the Trial Chamber, and gave an updated Civil Party CaseMap. The team also worked with Case Managers to design and develop a system in CaseMap so that information can be stored and analyzed easily. The Case Managers also continued to provide administrative, technical and legal assistance to the Lead Co-Lawyers and Civil Party Lawyers.

Outreach

On 14 October, the Victims Support Section hosted the ninth Regional Civil Party Forum for Case 002 in Pursat Province. This forum was organized for 330 Civil Parties in Case 002 out of the 1,745 CPs newly admitted by the Pre-Trial Chamber of the ECCC. They are from Pursat, Banteay Meanchey, Battambang, Oddar Meanchey, Phailin and Kampong Chhnang. Then, on 28 October in Kampong Sreu Province, the VSS hosted the tenth forum for Case 002, for 300 of the newly admitted CPs from Phnom Penh, Kandal, Kampong Speu, and Takeo.

Both fora are part of VSS' 16-month long project on "Improved Victims' Participation in the Proceedings of ECCC," which is being funded by Federal

Republic of Germany through German International Development Agency (GIZ). They provide Civil Parties from different provinces with the opportunity to meet judicial officers from the Office of the Co-Prosecutors, the Civil Party Lead Co-Lawyers Section, the Victims Support Section, and staff members of some intermediary organizations and NGOs.

The Civil Parties met in groups with their legal representatives to discuss the types of reparations to be included in the proposal that the Civil Party Lawyers will prepare for the Lead Co-Lawyers to submit to the Court. The CPs were also given the chance to meet former CPs from Case 001, to share their experiences with each other and feel more comfortable with the judicial process.

On 27 October, the VSS organized the Discussion Workshop Focal Persons in Kampong Speu Province for approximately 222 Focal Persons in Case 002 from 23 different provinces in Cambodia. The workshop was funded by the Federal Republic of Germany through the German Agency for International Development (GIZ).

The main purpose of this workshop was to train Focal Persons to deal with inquiries from Civil Parties at the community level and to provide correct and up-to-date information on the ECCC to Civil Parties and Victims. During the workshop, the panel and focal persons also discussed a mechanism to improve communication and better assist civil parties with attending hearings and other ECCC

related events.

From 10-12 October, VSS held a workshop for the ECCC's judges, entitled "Possibilities, limitations and challenges of court-ordered collective reparations – a comparative overview." See pg. 3 for more details on this workshop.

Civil Party Lead Co-Lawyers' Section

The Lead Co-lawyers, in cooperation with the Civil Party Lawyers, prepared their second submission on Initial specification of the reparation awards. The submission was finalized on 10 October, and intended to provide a more specific request of reparations to the TC. This submission was pleaded orally by the Lead Co-Lawyers and some Civil Party Lawyers at the hearing on 19 October.

On 13 October, the Lead Co-Lawyers and Civil Party Lawyers attended a workshop at the Cambodiana Hotel, which was organized by the Victims Support Section on the topic of reparations and experiences from Ad Hoc and International Criminal Courts.

The Lead Co-Lawyers have attended two Regional Forums on Civil Party Participation in Case 002, one at Pursat Province on 14 October, and one in Kampong Speu Province on 28 October, where the Lead Co-Lawyers introduced their role and updated the Civil Parties about the proceedings at the ECCC.

On 19 and 20 October, the Lead Co-Lawyers attended the hearing on the Fitness to Stand Trial of Ieng Thirith and requested that the Trial Chamber declare Ieng Thirith fit to stand trial.

On 25 October, the National Lead Co-Lawyer made a presentation about the Lead Co-Lawyers Section for a group of Austrian judges that visited the ECCC.

In order to protect the interests of the Civil Parties, the Lead Co-Lawyers presented some requests/submissions to the Trial Chamber, insisting on the places and the role of civil parties and their concerns relating to the severance of the trial and the fitness of the accused.



Newly admitted Civil Parties attend the 10 Regional Civil Party Forum for Case 002 in Kampong Speu province.

Decisions/Orders

Pre-Trial Chamber

24 October 2011

Considerations regarding the Appeal against Order on the Admissibility of Civil Party Application Robert Hamill, declaring that as the chamber could not assemble the required majority of four votes to issue a decision on the Appeal, the Order of the Co-Investigating Judges rejecting Mr. Hamill's civil party application shall stand. A redacted version of these Considerations is available on the ECCC website. (D11/2/4/4)

24 October 2011

Considerations regarding the International Co-Prosecutor's Appeal against the Co-Investigating Judges' Order on International Co-Prosecutor's Public Statement, declaring that as the chamber could not assemble the required majority of four votes to issue a decision on the Appeal, the Order of the Co-Investigating Judges ordering the International Co-Prosecutor to retract his statement of 9 May 2011 shall stand. A redacted version of these Considerations is available on the ECCC website. (D14/1/3)

Trial Chamber

10 October 2011

Scheduling order for hearings of 19 and 20 October 2011 in Case 002 (E129) to permit the hearings of reparations specifications by the Civil Party Lead Co-Lawyers and to permit questioning of the psychiatric experts who examined Ieng Thirith.

18 October 2011

Decision on Co-Prosecutors' request for reconsideration of the terms of the Trial Chamber's severance order (E124/2) and related motions and annexes (EE124/7) and the Trial Chamber rejected their requests.

18 October 2011

Scheduling order for opening statements and hearing on the substance in Case 002 (E131), ordering that opening statements in Case 002 will commence on Monday 21 November and hearing of evidence will commence on Monday 28 November.

26 October 2011

Decision on Co-Prosecutors' request to exclude armed nexus requirement from the definition of crimes against humanity in Case 002 (E95/8) and granted the co-prosecutors' request.



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:

21-24 November: Opening Statements in Case 002

28 November-16 December : Hearing of evidence in Case 002

9 January 2012 onward: Hearing of Evidence in Case 002

Supreme Court Chamber

Hearings:

None scheduled

Outreach Calendar

Outreach Activities

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

18-21 October 2011 Meeting: Regional client meeting organized by CDP in Battambang.

19 October 2011 CHRAC hosts live radio talk show on “Resignation of International Investigating Judge from the ECCC.”

19 October 2011 Psychological Outreach Program: TPO hosts a program in Kampong Speu province where participants learn about the work of the ECCC and share strategies for coping with grief.

24-27 October 2011 Training: ICfC to conduct a Training of the Trainer dialogue exchange in Phnom Penh between local experts in conflict resolution and dialogue facilitation.

25 October 2011 Court Visit: Judges from Austria interact with their ECCC counterparts to learn more about the work of the court.

26 October 2011 Regional Forum: VSS hosts the 10th Regional Forum for Civil Parties in Phnom Penh.

28 October 2011 Regional Forum: VSS hosts the 9th Regional Forum for Civil Parties in Kampong Speu.

31 October 2011 CHRAC publishes and distributes KRT Watch Newsletter #60 to 23 provinces and local NGOs/partners in Phnom Penh.

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

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

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

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

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

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

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

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

25 November 2011 CDP hosts a student forum at PUC for 60 participants to learn about KR, gender and the ECCC

28 November-1 December 2011 ICfC leads dialogue on the meaning of justice in Kampong Speu province.



Villagers from Koh Kong visit the court and learn about the work of the ECCC from public affairs staff.

ECCC's Outreach

The Public Affairs Section hosts Khmer Rouge Tribunal Study Tours every Tuesday and Thursday, bringing a group of 300 villagers from areas throughout Cambodia to have a guided tour of the Tuol Sleng Genocide Museum, a visit 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						
November—December						
SUN	MON	TUE	WED	THU	FRI	SAT
		1 Public holiday	2	3 Study tour	4 School visit	5
6	7	8 Study tour	9 Water Festival	10 Water Festival	11 Water Festival	12
13	14	15 Study tour	16 Visit by UK delegation	17	18 School visit	19
20	21 Hearing 002: Opening Statements	22 Hearing 002: Opening Statements	23 Hearing 002: Opening State-	24 Hearing 002: Opening Statements	25	26
	28 Hearing 002	29 Hearing 002	30 Hearing 002	1 Hearing 002	2	3
4	5 Hearing 002	6 Hearing 002	7 Hearing 002	8 Hearing 002	9	10
11	12 Public holiday	13 Hearing 002	14 Hearing 002	15 Hearing 002	16 School visit	17
18	19	20 Study tour	21	22	23 Public forum Anlong Veng	24
25	26	27	28	29	30	31



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

“Everyone can be involved in the process”



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*** Do you want to visit the Khmer Rouge Tribunal? ***

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