



The Court Report

JANUARY 2013

The Extraordinary Chambers in the Courts of Cambodia

Moving Forward Through Justice



Mass graves similar to this site pictured in Svay Rieng in 1983 are under investigation in Case 004.
Photo: The Documentation Center of Cambodia archives

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More Crime Sites are Under Investigation in Case 004

In an effort to encourage people to come forward with information on Khmer Rouge crimes, the international co-investigating judge of the Extraordinary Chambers in the Courts of Cambodia publicly identified additional crime sites under investigation in a statement issued on 19 December.

Judge Mark B. Harmon announced that more than a dozen security centers, prisons and execution sites in 14 areas of five provinces including Battambang, Pursat, Takeo, Kampong Thom and Kampong Cham have been added to the list of crime sites under investigation in Case 004 since the international co-prosecutor filed a

supplementary submission requesting an expansion of the investigation in mid-2011.

These crime sites are in addition to the previously publicised 32 crime sites and episodes. In August 2011, then-International Co-Investigating Judge Siegfried Blunk and his Cambodian counterpart Judge You Bunleng announced that they were seized of investigation on 30 crime sites such as security centres and forced labour sites in six provinces and two crime episodes of purges in the central and north-west zones. Investigation of these crime sites and episodes was requested through an introductory submission by the international co-prosecutor in September 2009.

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More Crime Sites in Case 004... continued from page 1

The additional sites, recently identified, include the site of crimes allegedly committed against a minority population known as the Khmer Krom in Takeo and Pursat provinces and the treatment of evacuees in the east zone.

“Any witnesses or victims with information concerning these sites may contact the ECCC Victims Support Section,” states the announcement. If people wish, they can apply for Civil Party status to participate in the proceedings or simply provide information to assist the investigation.

The announcement marked the first public statement made by Judge Harmon, who took the office in October. Prior to his arrival, his two predecessors worked on the remaining Cases 003 and 004 until May 2012 when Swiss Judge Laurent Kasper-Answermet left the ECCC.

As of the end of December, 847 people have submitted applications to become Civil Parties in Case 004, according to the Victims Support Section.

For more information on victim participation, call the Victims Support Section at 023 861 893 or helpline at 097 742 4218.

Additional Crime Sites in Case 004

#	Site	Commune	District
Battambang Province			
1	Thipakdei Security Office and Tuol Mtes worksite	Thipakdei	Koas Krala
2	Phnom Tra Cheak Chet and Along Vil Breng	Chhnal Mean	Koas Krala
3	Sector 1 Security Office and Damnak Reang execution site	Kanteu	Banan
Pursat Province			
4	Tuol Seh Nhaov Pits and Prey Krabau Killing Fields (treatment of the Khmer Krom)	Rumlech and Khnar Totung	Bakan
5	Phum Veal Prison (treatment of the Khmer Krom)	Talo	Bakan
6	Svay Chrum aka Phum Thkaul prison and Boeng Bat Kandal aka Trach Kraol Prison (treatment of the Khmer Krom)	Boeng Bat Kandal	Bakan
7	Chanreangsei Pagoda Execution Site - Kaun Thnoat or Cham Village mass graves and wells (treatment of the East Zone evacuees)	Rumlech	Bakan
8	Veal Bak Chunching execution site	Sre Sdok	Kandieng
Takeo Province			
9	“Prey Sokhon execution site” and the “Wat Ang Srei Muny Detention Centre” (treatment of the Khmer Krom)	Thlea Prachum	Koh Andet
10	Slaeng village forest; Wat Angkun; Preil and Saom villages Execution sites & Wat So Ben prison (treatment of the Khmer Krom)	Kok Prech and Kampeng	Kirivong
11	Wat Pratheat Security Center (treatment of the Khmer Krom)	Kok Prech	Kirivong
12	Kraing Ta Chan Security Center (treatment of the Khmer Krom and others)		Tram Kak
Kampong Thom Province			
13	The “Colonial Prison in Kampong-Thom” (purge of the Central Zone)	Kampong Thom City	
Kampong Cham Province			
14	“Thnal Bek execution site” (Wat Baray Chan Dek Security Centre)	Svay Teap	Chamkar leu

Lawyers for Case 003 Identified

In December the Defence Support Section of the Extraordinary Chambers in the Courts of Cambodia provisionally assigned Mr Ang Udom and Mr Michael Karnavas, pending an assessment of indigence by DSS and confirmation by the co-investigating judges, to represent an unnamed suspect in Case 003, which remains under investigation.

The two lawyers are experienced criminal defence lawyers and currently defend accused Ieng Sary in Case 002. The assignment took place after the suspect made a request to the court for legal representation and signed waivers for any conflict of interest that might arise for the two lawyers while representing multiple clients before the ECCC.

This assignment followed previous assignments of a Cambodian lawyer and a Dutch lawyer to represent a suspect in Case 004. These assignments also remain provisional.

Supreme Court Judges Shuffled



Newly appointed SCC Judge Florence Mumba (left) and reserve Judge Phillip Rapoza (right)

International judges in the Supreme Court Chamber of the Extraordinary Chambers in the Courts of Cambodia have been shuffled as Reserve Judge Florence Ndepele Mwachande Mumba has been appointed as a sitting judge by the Supreme Cambodia Council of the Magistracy upon nomination by the United Nations Secretary-General.

Judge Mumba replaces former Judge Motoo Noguchi who resigned from the post in July 2012. Mr Phillip Rapoza from the United

States has been appointed to replace Judge Mumba as a reserve judge for the Supreme Court Chamber.

Ms Mumba has a distinguished career in the legal profession beginning in 1973. She became Zambia’s first female High Court Judge in 1980 and Investigator General in 1989. Currently, she serves as a Supreme Court Judge in Zambia. Prior to her appointment as a reserve judge of the ECCC’s Pre-Trial Chamber in 2009, she served as a judge at both the International Criminal Tribunal for the former Yugoslavia and the International Criminal Tribunal for Rwanda.

Judge Rapoza is the president of the Massachusetts Appeals Court in the USA. He has worked in the legal field for over 35 years as a prosecutor, defence lawyer, trial judge and appellate justice. He has been active in UN efforts to develop the justice sector in both Timor-Leste and Haiti and has participated in programmes and trainings in Cambodia relating to the ECCC.

Supreme Court Places Ieng Thirith under Supervision

Accused Ieng Thirith, who was declared unfit to stand trial due to her dementia, is now placed under judicial supervision by a ruling issued on 14 December by the Supreme Court Chamber in the Extraordinary Chambers in the Courts of Cambodia.

In a decision on the appeal by the prosecution over Ieng Thirith's conditions of release, the Supreme Court Chamber imposed a regime of judicial supervision on the former Khmer Rouge social affairs minister, including six-monthly medical examinations and a monthly check by the judicial police. The Supreme Court Chamber granted in part the appeal by the prosecution and set aside the Trial Chamber's 13 September decision insofar as it refused to order measures of judicial supervision.

The Trial Chamber had held that the court could not exercise jurisdiction over Ieng Thirith during the indefinite stay of proceedings against her and thus lacked legal basis to impose coercive conditions on her release. This finding was overruled by the Supreme Court Chamber.

Ieng Thirith is now obliged to inform the ECCC of any change to her residential address, to remain in Cambodia and to undergo medical examinations every six months by court-

appointed medical practitioners. The Supreme Court Chamber also ordered that judicial police conduct a monthly check to verify that Ieng Thirith continues to reside at the same residential address and to report any threats to her safety. The Supreme Court Chamber rejected the rest of the prosecution's appeal and decided to return Ieng Thirith's passport and identification card.

Ieng Thirith was originally indicted for crimes against humanity, grave breaches of the 1949 Geneva Conventions and genocide in September 2010. She was first found unfit to stand trial due to dementia in November 2011, and the trial proceedings against her have been stayed since. In September of this year, the Trial Chamber reaffirmed its earlier finding of her unfitness to stand trial and ordered her unconditional release.

The Co-Prosecutors appealed against that Trial Chamber decision, arguing that conditions should be imposed on her release in order to safeguard the integrity of the proceedings, Ieng Thirith's personal safety and public order. Pending the decision on the appeal, the President of the Supreme Court Chamber ordered Ieng Thirith's release, subject to some interim conditions



Ieng Thirith participates in 13 November appeal hearing.

on 16 September. She has since remained under the guardianship of her daughter, Ieng Vichida.

Salaries for National Staff Delayed



Tony Kranh, Acting Director of Administration, photographed at a prior event.

Around 300 national staff, including judges of the ECCC, must bear the pain of financial difficulties the court has faced and suffer delayed salary payment for December, Acting Director of Administration Tony Kranh informed the staff at a townhall meeting on 21 December.

Mr Kranh said that although the national component of the ECCC has sufficient funds to

run until the end of 2012, December's salary payment will be delayed by a few weeks due to a cash flow problem. He also warned that none of the national staff would receive their salaries from January onwards unless fresh contributions are made by donors.

According to Mr Kranh's public statement, the national component requires US\$9.5 million for 2013 but has received a pledge of only US\$1.8 million from the Royal Government of Cambodia for the cost of operations and another pledge of US\$700,000 from Germany for the work of the Victims Support Section. No new pledges have been made to pay staff salaries.

Both the national and international components of the ECCC have submitted to donors a revised budget proposal, which has been significantly reduced from the previously endorsed budget of US\$43.9 million. The donors have yet to endorse the revised proposal.

UK Pledges £600,000 to ECCC

The United Kingdom has made a fresh pledge of £600,000 (approximately US\$1 million) to the Extraordinary Chambers in the Courts of Cambodia, easing a financial challenge the court has been facing for months.

British Foreign Secretary William Hague announced on 13 December that the UK would make a voluntary contribution to help secure accountability for some of the most horrific crimes against humanity in recent world history.

"The Extraordinary Chambers in the Courts of Cambodia is delivering long awaited justice for millions of Cambodians," said Mr Hague. "The scale of the crimes committed and the number of victims make it one of the most significant tribunals of its kind since Nuremberg."

The UK is one of the major donors that have supported the court since its inception. It has contributed a total of US\$6.95 million (US\$5.4 million to the international side and US\$1.5 million to the national side) since 2006. The new pledge brings the UK's contribution to the ECCC up to nearly US\$7.9 million.

In The Courtroom

Case 002

Evidence Hearing

The Trial Chamber in the Extraordinary Chambers in the Courts of Cambodia continued in December to hear evidence in the first trial of 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.

The first trial focuses 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.

During the nine days of trial hearings in December, two witnesses and five civil parties appeared in court to testify about their experiences in relation to those forced movements, the Khmer Rouge military structure and the regime's communication structure.

The first trial began a year ago and has completed hearing testimonies on the first and second segments of the trial--excluding those testimonies Ieng Sary had not waived his rights to be present for during his hospitalisation. The first two segments concerned the historical background of Democratic Kampuchea, the Khmer Rouge regime's administrative and communication structures and some elements of the roles of the accused.



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

Ting Sokha, Civil Party

Testified 4 December 2012

Ms Ting, 65, was a school teacher before the Khmer Rouge era and testified about the evacuation of Phnom Penh. She was also asked questions about the discrimination against the "new people" when they arrived in the provinces.



Pech Srey Phal, Civil Party

Testified 5 December 2012

Ms Pech, 60, testified about educated people, such as doctors and teachers, being forced to register with the Khmer Rouge after the evacuation of Phnom Penh.



Kim Vanndy, Civil Party

Testified 5 December 2012

Mr Kim, 50, talked about being evacuated from Phnom Penh. He also described being segregated as a "new person" in the provinces.



Hun Chhunly, Witness

Testified 6-7 & 11 December 2012

Mr Hun, 74, was a medical professional in a Lon Nol military hospital in Battambang before the Khmer Rouge regime came to power. He testified about his book, *Exodus*, and his work in both the civilian and military hospitals during the Khmer Rouge era.



Editor's note: For a complete picture of the testimony, please read the transcripts available on the ECCC website at: <http://www.eccc.gov.kh/en/Case002-Transcripts/en>

In The Courtroom

Kham Phan alias Phan Van, Witness

Testified 11-14 December 2012



Mr Kham, 53, worked as a decoder and a driver for the Khmer Rouge, and his father was an officer in sector 105. He discussed attending meetings in Phnom Penh with his father as well as telegrams from the center summoning people to be re-educated in Phnom Penh.

Denise Affonço, Civil Party

Testified 12-13 December 2012

Ms Affonço, 68, who testified via video link from France, is a French national who was working for the French embassy during the evacuation of Phnom Penh. She explained how she and her family were treated by the Khmer Rouge soldiers. She was also questioned about her testimony during the 1979 People's Revolutionary Tribunal.



Suon Kanil, Civil Party

Testified 14 & 17 December 2012

Mr Suon, 59, worked as a telegram decoder for the Khmer Rouge, starting in 1971. He answered questions about the communication structure in the northwest zone and the leadership in this zone.



3 Medical Experts to Periodically Review the Health of the Accused



Expert geriatrician John Campbell testifies in case 002.

The Trial Chamber has reappointed expert geriatrician Professor John Campbell and two other medical experts to periodically review Nuon Chea and Ieng Sary's health conditions and care.

Although the accused have been found fit to stand trial – Nuon Chea on 15 November 2011 and Ieng Sary on 26 November 2012— they both suffer from severe chronic physical ailments and regularly participate in proceedings from the holding cell. The first periodic review is expected to take place during the week of 18 March. Psychiatric experts Dr Seena Fazel and Dr Lina Huot will join Prof Campbell in examining the accused.

Court Recess Schedule 2013

Three judicial recesses are now scheduled for the first half year of 2013:

- Monday 25 February – Friday 1 March 2013
- Monday 15 – Friday 19 April 2013 (Khmer New Year)
- Monday 13 – Friday 17 May 2013 (His Majesty the King's Birthday)

See page 10 for more details in the hearing schedule.

Visitors to Hearings

Public interest in the ongoing trial of the three accused former Khmer Rouge leaders remains high. By the end of December, the Trial Chamber concluded 140 trial days, where a total of 48 witnesses, experts and civil parties have testified. At this time, a total of 67,705 persons have attended the trial hearings in Case 002, amongst whom about 82% 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							
04/12/2012	243	52	10	5	7	4	30	3	354
05/12/2012	260	87	15	13	6	4	29		414
06/12/2012	377	1	6	5	1	4	28		422
07/12/2012	268		11	5	1	3	28		316
11/12/2012	80		10	3	3	3	90		189
12/12/2012	287	20	1	4	2	3	86		403
13/12/2012	278	1	16	4	3	3	30		335
14/12/2012	258	1	8	3	3	3	28	1	305
17/12/2012	188	3	3	5	1	4	44		248
Sub-Total: Dec	2239	165	80	47	27	31	393	4	2986
Total: Day 1- Day 140 (Nov 2011 - Dec 2012)	55446	1692	1832	1820	963	792	4839	321	67705

Victim Support Section Distributes Radio Sets to Over 1,400 Civil Parties



Civil Parties receive radio sets.

As part of ongoing efforts to facilitate civil parties' meaningful participation in the trial proceedings, the Victims Support Section of the Extraordinary Chambers in the Courts of Cambodia has distributed radio sets to more than 1,400 civil parties in Case 002.

The distribution of radio sets is aimed at ensuring that all 3,866 civil parties admitted for the ongoing trial have a means to follow the proceedings through news and talk shows on the radio. This is an additional effort by the VSS to ensure that the civil parties are kept informed of the developments of the trial proceedings throughout the trial stage. The VSS and its NGO partners also offer free transportation and accommodation for civil parties so that every single civil party can attend at least one hearing during the trial.

Radio sets will allow the civil parties to follow the proceedings even after they return to their home villages.

The VSS began the distribution in mid-2012 and have so far distributed radio sets to 1,455 civil parties at hearings, Civil Party Forums and other outreach activities. The distribution effort will be continued in 2013. Those who received the radio sets

appreciate this initiative.

"I am very happy with this. I will take my radio everywhere to listen to information related to the Khmer Rouge tribunal," said one recipient. "I always listen to International radio programmes such as Radio France International, Radio Free Asia and Voice of America to get information about accused Ieng Sary, Ieng Thirith, Khieu Samphan and Nuon Chea."

In various surveys, radio is one of the most frequently cited media for Cambodians to gain information on the Khmer Rouge tribunal. A number of NGO partners, such as the Documentation Center of Cambodia and the Cambodia Defenders Project, broadcast radio talk shows regularly while various radio stations air ECCC-related news.

The Victims Support Section has partnered with Transcultural Psychosocial Organisation,

ECCC's Radio Show on RNK Suspended

A weekly radio programme on the Khmer Rouge tribunal sponsored by the Extraordinary Chambers in the Courts of Cambodia has been suspended for the time being due to budget constraints.

"Khmer Rouge on Trial" on the Radio National of Kampuchea (AM918 and FM105.75) aired every Thursday evening and began the week of the trial's opening statements against the three surviving leaders of the Khmer Rouge in late November 2011. The programme has provided a weekly summary of the trial proceedings and an interactive forum for listeners to ask questions directly to a guest speaker from the ECCC during the programme. Thus far 927 listeners have called to ask questions.

The programme was suspended after the show on 27 December. It is expected to resume once sufficient funds for the ECCC are committed by donors.

a mental health NGO, to sponsor a monthly radio talk show called "Past in the Present" on FM 102 Women's Media Center while the Public Affairs Section has sponsored a weekly radio show on Radio National of Kampuchea for more than a year.

Orphanage Brings Hundreds of Students to KR Tribunal



Students from Pour un Sourire d'Enfant visit the court.

Nearly 1,000 students from an orphanage visited the Extraordinary Chambers in the Courts of Cambodia in recent months to observe the ongoing trial of three Khmer Rouge leaders as part of their extracurricular activities to learn the history and legacy of the Khmer Rouge regime.

Pour un Sourire d'Enfant, an organization that provides shelter, education and vocational training to orphans in Phnom Penh, began sending groups of 100-200 students in mid-November to participate in the ECCC's study tour programme. By the end of December, the organization had brought a total of 920 students on six different visits to the ECCC. While in the court, the students listened to testimony of civil parties and witnesses about their experiences during the Khmer Rouge

regime.

Both students and staff of the organisation say the study tours provide a great opportunity for the youth, who are growing up separated from their families by death or poverty, to learn an important part of their country's history.

Mr Pen Dara, the trip facilitator, says he plans on arranging more visits for all of the 8,000 vocational students to hear the voices of survivors and see the trial. "They would learn about the Khmer Rouge and the Khmer Rouge tribunal," he says "This is a trial with international standards, it's happening in Cambodia, and as Cambodians, we all should know."

Kampong Thom Residents Say Media is a Key for KR Trial Information



Kampong Thom residents read information on the work of the ECCC.

Access to information related to the Khmer Rouge trials was an important topic of a community forum organized by the Women’s Media Center on 19 December in Baray district of Kampong Thom province. The participants said that they received information related to the Extraordinary Chambers in the Courts of Cambodia mostly from radio and TV, followed by meetings with the court’s public affair officers.

This was the second forum of its kind organized by the WMC for the purpose of encouraging people to listen to the radio and watch TV for the latest news on the ECCC’s work.

Ms Lim Phalla, Baray District Deputy Governor, said that the media plays a crucial role in keeping people informed of legal proceedings at the ECCC. She encouraged local people to spend more time following the news for the



Kampong Thom residents attend community forum.

latest updates on the work of the ECCC as this UN-Cambodian hybrid court would bring justice and national reconciliation to the Cambodian people. Ms Lim also urged the participants to join a study tour organized by the ECCC’s Public Affairs Section, saying it would provide a meaningful opportunity to learn about Khmer Rouge history and trials of Khmer Rouge leaders.

The court works closely with local and international media to keep people informed about the ECCC’s proceedings.

One participant, who listens to FM 102’ Truth programme run by WMC, said that she could learn many things about Khmer Rouge history and the ECCC’s proceedings from the media and that the radio and TV have encouraged her to follow the ECCC more closely. As a youth, she then urged other young people to spend more time listening to news.

ECCC’s Press Officer Neth Pheaktra attended the forum as a guest speaker. This was part of the ECCC’s efforts to reach out to the local communities. During the forum, participants asked many questions to guest speakers from the court and a court monitoring NGO about the ECCC and its related activities.

Photo Exhibition of Cham Muslims by CP Lawyers

Wishing to foster a better understanding of the Cham, a Muslim minority, two civil party lawyers at the Khmer Rouge tribunal opened a photo exhibition of Cham people at Meta House in Phnom Penh on 18 December.

The Maât team of Mr Olivier Bahougne and Mr Lor Chunthy, who represent Cham civil parties in Case 002 concerning Nuon Chea, Khieu Samphan and Ieng Sary, conducted a photographic reportage in Kampong Cham and Kampong Chhnang last April to capture the Cambodian Muslims’ unique culture, history and way of life. The exhibition “Cham Kampuchea” is a culmination of the photo documentation.

With images and texts, the exhibition is designed for visitors to recognize how Cham people preserve their culture and maintain their distinctive identity.

“This exhibition will contribute to a better understanding of the Cham culture which in turn will foster the resilience process for the Cambodian people who were highly persecuted and deeply affected during the Khmer Rouge regime,” said the two lawyers.

These photos are expected to travel around Cambodia and be shown in Europe.



Presenters at the Cham Muslim Photo Exhibition.

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 **December 2012**. For decisions and orders, please refer to page 10.

Pre-Trial Chamber

During the reporting period, the Pre-Trial Chamber disposed of a number of procedural and other case-management matters.

At the conclusion of the reporting period, the Pre-Trial Chamber remained seised of two appeals in Case 003. The pending appeals relate to Civil Party applications in Case 003.

Supreme Court Chamber

The Supreme Court Chamber continued its examination of the Co-Prosecutors' appeal against the Trial Chamber's decision not to include three additional crime sites within the scope of Case 002/01. On 3 and 7 December, the Co-Prosecutors filed replies to the Nuon Chea and Khieu Samphan responses to the abovementioned appeal, respectively.

On 13 December, Nuon Chea filed a request for an extension of time to file an appeal pertaining to the Trial Chamber's decision on the Rule 35 request for summary action against the Minister for Foreign Affairs. This extension of time request was granted by the Supreme Court Chamber on 25 December, in part, due to recent confusion surrounding the filing of immediate appeals.

On 14 December, the Supreme Court Chamber rendered its decision on the appeal against the Trial Chamber's decision to unconditionally release Ieng Sary. The Supreme Court Chamber set aside the Trial Chamber decision, in part, and ordered Ieng Sary to undergo measures of judicial supervision.

On 18 December, the Supreme Court Chamber became seised of an appeal lodged by Ieng Sary 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. This appeal is now under consideration.

Also on 18 December, the Supreme Court Chamber denied the Co-Prosecutors' request for a public hearing in relation to their appeal against the Trial Chamber's decision not to extend the scope of the trial in Case 002/01, and dismissed, as moot, the Co-Prosecutors' alternative request to file a joint reply.

On 24 December, the Supreme Court Chamber became seised of an appeal lodged by Nuon Chea against the Trial Chamber's decision pertaining to the application for immediate action pursuant to Rule 35. This appeal is also now under consideration.

Office of the Co-Investigating Judges

The International Co-Investigating Judge, Mark B. Harmon, undertook to review the evidence in Cases 003 and 004. The Co-Investigating Judges are discussing appropriate actions to be taken in Case 003. With the registered disagreement of the National Co-Investigating Judge, the international investigating teams were deployed on three missions for Case 004, investigating alleged crime sites in the Pursat and Battambang Provinces, Takeo and Kampong Cham Provinces, and Kampong Cham and Kampong Thom Provinces.

The International Co-Investigating Judge announced an additional 14 alleged crime sites for Case 004 in Battambang, Pursat, Takeo, Kampong Thom and Kampong Cham Provinces, and called for additional victims and witnesses with information concerning these sites to contact the Victims Support Section. Civil Party applications are undergoing a review by the international team. Several hundred civil party applications in Case 004 have been sent from the Victims Support Section to the Office of the Co-Investigating Judges and are being processed. In support of its work in 2013, the international side of the OCIJ began the recruitment process for international staff, announcing temporary positions for an investigator, a case manager, and eight legal officers.



Courtroom during a hearing for Case 002.

Office of the Co-Prosecutors

Case 002

The Office of the Co-Prosecutors continued to litigate Case 002 both in the courtroom and through written submissions to the Trial Chamber. In court, the OCP led the questioning of Witnesses Hun Chunnly, Phan Van, and Suon Kanil. The OCP also questioned Civil Parties Toeng Sokha, Pech Srey Phal, Kim Vanddy, and Denise Affonco.

Through filings, the OCP addressed a number of matters including: a request for clarification on a Trial Chamber decision regarding corroborative evidence documents; a response to a filing by the defence for Ieng Sary regarding video-link testimony; a request to disclose a prior interview of a witness; a response to a filing by the defence for Khieu Samphan regarding recalling Civil Party TCCP-187; a response to a filing by the defence for Ieng Sary regarding medical examinations of Ieng Sary; and a response to a filing by the defence for Ieng Sary regarding the law on audio- and video-recording in the holding cell to create evidence.

Case 003 & 004

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

Defence Support Section

Ieng Thirith Fitness

The Supreme Court Chamber issued its ruling with regard to Ieng Thirith, deciding to uphold her release but requiring her to remain under a regime of judicial supervision.

Case 002

The issue of Ieng Sary's health continued to dominate the proceedings in December, with the Ieng Sary defence team filing motions requesting that the Trial Chamber allow for the audio or video recording of Ieng Sary in his detention cell; as well as requesting that Ieng Sary be permitted to be physically present in the courtroom during trial proceedings. The Trial Chamber made an oral decision rejecting that request, which the Ieng Sary defence has now appealed. In that appeal Ieng Sary is seeking an order that he be allowed to be physically present in Court, or alternatively, that he be displayed in court on a courtroom monitor (via video link).

Nuon Chea defence lawyers Jasper Pauw, Andrew Ianuzzi and Michiel Pestman left the ECCC at the end of December. The team will now be led by Cambodian Co-Lawyer Son Arun and International Co-Lawyer Victor Koppe, assisted by Legal Consultant Josh Rosensweig.

In addition to examining witnesses, the Khieu Samphan Defence team filed several motions. These included a motion seeking clarification regarding the admissibility of documentary evidence and a motion in support of Ieng Sary's request for a public hearing to examine the alleged practice of the OCU of conducting unrecorded interviews with witnesses. The Khieu Samphan team also filed a motion regarding the violation of the Accused's rights with respect to statements made against him by Chau Ny, a Civil Party, during his declaration on suffering and the Trial Chamber's refusal to allow his Defence team to question the Civil Party on those matters. The motion sought reconsideration of the Trial Chamber's refusal to recall the Civil Party, as well as changes in the current practice with respect to testimony by Civil Parties in order

to more fully respect the rights of the Accused.

Cases 003 & 004

The investigation into Cases 003 and 004 continues. It was also announced that Mr. Ang Udom and Mr. Michael G. Karnavas, currently representing Ieng Sary, have been appointed as defence counsel to represent a suspect in Case 003.

CP Lead Co-Lawyers Section

During the first weeks of December, the Lead Co-Lawyers (LCLs) and Civil Party Lawyers (CPLs) led the examination of four Civil Parties who were called before the Trial Chamber. These Civil Parties provided important evidence on forced transfer phases 1 and 2. The Civil Parties were also invited to explain the harm they suffered under the Khmer Rouge.

On 4 December, the LCL Section participated in the Expert Conference on the Contribution of the Criminal Proceedings before the ECCC to Cambodian Law organized by the Royal University of Law and Economics. After the presentation of the report drafted by Judge You Bouleng and Dr. David Boyle, a series of discussions were held with the participation of the invited experts.

In the area of reparations, the Lead Co-Lawyers and Civil Party Lawyers continue their collaboration with the Victims Support Section and civil society organizations to develop and fund reparations projects for the Civil Parties to Case 002/01. Projects are being developed in the areas of remembrance, rehabilitation, documentation and education. In the month of December, the Lead Co-Lawyers and Civil Party Lawyers conducted a series of meetings with the partners to each priority reparation project to further develop fundraising strategies and specify the terms of their partnership. As well, the VSS' consultant on reparations, Mr. Julian Poluda, began his work to finalize project design plans and budget figures with project partners.

This month, the Trial Chamber of the ECCC requested that the Lead Co-Lawyers report to it by 1 February 2013 with a list of the six priority reparations projects which are currently under development for Case 002/01 and an update on the status of financing for these projects. The

Lead Co-Lawyers and Civil Party Lawyers are preparing this report now and look forward to this opportunity to share with the Trial Chamber, the Civil Parties and the broader public the work we are engaged in to have meaningful reparations recognized by the Court.

Victims Support Section

Legal Work

The Processing and Analysis Team received two Civil Party applications and one complaint and continued to process applications in Case 004. The team also presented on a Cambodian Case Management Database to 39 greffiers, legal officers, lawyers and lawyers' assistants from the Extraordinary Chambers in the Courts of Cambodia. In addition, Victim Support Section staff assisted 14 national and international lawyers and legal assistants in having their ID cards made or renewed.

After the announcement by International Co-Investigating Judge Mark B. Harmon regarding additional crime sites in Case 004, the VSS prepared related documents, including Victims Information Forms and published the announcement in the VSS's newsletter.

Outreach

In December 2012 the Victims Support Section distributed 263 radio sets to Civil Parties in Case 002 (see the article on page 6).

A total of 178 civil parties have attended the evidence hearing in December and have had the opportunity to meet their lawyers.

Non-Judicial Measures and Reparations

The team facilitates the consultation and development process for the Victims Foundation of Cambodia (VFC), and has recently contracted individuals and a company to conduct research on victims foundations worldwide, charter drafting, legal and technical work, business planning, fundraising, and marketing.

On 26 December at the Documentation Center of Cambodia, the R&NJM team with Lead Co-Lawyers had a meeting to discuss on possibility of cooperated work between ECCC/VSS and DC-Cam.

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.

Trial Chamber

3 December 2012: *Decision on objections to documents proposed to be put before the Chamber in Co-prosecutors' Annexes A6-A11 and A14-A20 and by the other Parties (E185)*

The Trial Chamber decided on several objections to the admissibility of a number of documents proposed to be admitted as evidence by the parties, finding most of them to be relevant and reliable and thus admissible.

7 December 2012: *Decision on Defence Requests Concerning Irregularities Alleged to Have Occurred During the Judicial Investigation (E221, E223, E224, E224/2, E234, E234/2, E241 and E241/1) (E251)*

The Trial Chamber rejects all six requests filed by the Ieng Sary and Khieu Samphan Defence concerning alleged irregularities and other procedural defects attributed to the Office of the Co-Investigating Judges during the investigation in Case 002. The parties have raised a number of specific allegations of irregularity and other procedural defects alleged to have occurred during the interview of certain witnesses by OCIJ investigators during the pre-trial phase. The requests were rejected on the basis that ample opportunity had been granted to the Accused at trial in Case 002 to question witnesses as to alleged irregularities in the taking of their statements before the OCIJ and as none of these alleged irregularities jeopardize the fairness of the proceedings. Secondly, the Chamber noted that opportunity existed to challenge all OCIJ interviews and documents placed on the case file over the course of the three-year judicial investigation, which ran from 2007 until 2010, and that the Defence failed to raise these matters in a timely fashion.

19 December 2012: *Decision on Ieng Sary's request for reconsideration of the Trial Chamber decision on the accused's fitness to stand Trial and supplemental request (E238/11/1)*

The Trial Chamber rejected a request for reconsideration of its earlier decision that Ieng Sary is fit to stand trial, as the defence has not shown

any new circumstances to warrant this. For the same reason, it also rejects the defence's supplemental request to appoint alternative experts to the court-appointed team of experts currently engaged to assess Ieng Sary's fitness on an ongoing basis, or to amend the existing daily reporting instructions in place between Ieng Sary's treating physicians and the Trial Chamber. The chamber further noted that it has, on its own motion, requested the current independent court-appointed experts to re-evaluate Ieng Sary's medical condition in March 2013 and had directed Ieng Sary's treating physician to report daily to the Chamber on his condition. It granted the Co-Prosecutors and Civil Party Co-Lawyers access to the daily medical reports made by the accused's treating physicians.

Supreme Court Chamber

18 December 2012: *Decision on Co-prosecutors' Request for Appeal Hearing on Scope of Trial in Case 002/01 or Leave to File Joint Reply (E163/5/1/2)*

The Supreme Court Chamber denies the Co-Prosecutors' request for a public hearing on the immediate appeal concerning the scope of the trial in Case 002/1, as it does not consider it necessary at this stage to hear further oral arguments on the appeal, which is now fully briefed and comprises ample public submissions.

25 December 2012: *Decision on Motion for Extension of Time to File Immediate Appeal (E219/3/1/1.2)*

The Supreme Court Chamber grants Nuon Chea's motion for extension of time to file immediate appeals against two decisions issued by the Trial Chamber on 23 November 2012 concerning a request for summary action against the Minister of Foreign Affairs and a request for immediate action against governmental interference with the administration of justice. The Chamber finds that the Trial Chamber has created confusion about procedure and deadlines for filing immediate appeals in advising the parties that no filing in Case 002 will be accepted during its "Winter Recess".



ECCC Courtroom

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

First Trial in Case 002:

January: Monday-Wednesday or Monday- Thursday (alternating) 9:00-16:00 (except public holidays)

February: Monday- Thursday 9:00-16:00 (except public holidays)

Upcoming Trial Recesses:

25 February -1 March; 15-19 April; 13-17 May

Outreach Activities

December: VSS facilitates civil parties attending Case 002 hearings.

3-7 December: Kdei Karuna conducts assessment in Kampong Chhnang to see how their previous activities have impacted the community.

7 December: The Cambodia Tribunal Monitor holds a discussion in Svay Rieng with law students.

11-15 December: Kdei Karuna conducts assessment in Kampong Thom and Kampong Cham to see how their previous activities have impacted the community.

12 December: Kdei Karuna brings university students to ECCC for a study tour.

12 December: VSS distributes 263 Radios to Civil Parties in Case 002.

14 December: The Cambodia Tribunal Monitor holds a discussion in Ratanakiri with law students.

21 December: The Cambodia Tribunal Monitor holds a discussion in Stung Treng with law students.

3 January: Kdei Karuna, Transcultural Psychosocial Organisation, and Dignity – Danish Institute Against Torture presents film screening of “The Victim – Former Khmer Rouge Dialogue Project” and “Justice and Healing in Cambodia.”



Students attend Case 002 hearings.

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.

ECCC Partner NGOs

- Asian International Justice Initiative (AIJI)
- Bophana Audiovisual Resource Center
- Cambodian Defenders Project (CDP)
- Cambodia Human Rights Action Committee (CHRAC)
- Cambodian Human Rights and Development Association (ADHOC)
- Cambodia Justice Initiative/Open Society Justice Initiative (CJI/OSJI)
- Human Rights Center University of California, Berkeley (HRC)
- International Center for Transitional Justice (ICTJ)
- Kdei Karuna (formerly iCfC)
- Khmer Institute for Democracy (KID)
- The Documentation Center of Cambodia (DC-Cam)
- Transcultural Psychosocial Organisation (TPO)
- Women’s Media Centre of Cambodia (WMC)
- Youth for Peace (YFP)
- Youth Resource Development Program (YRDP)

ECCC OUTREACH CALENDAR

January — February 2013

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



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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