

PRESS RELEASE

CIVIL PARTIES BEFORE THE ECCC SILENCED ONCE AGAIN

On 15 November 2011, the ECCC's Trial Chamber rejected¹ the request of Civil Parties who sought the opportunity to deliver preliminary remarks on the Prosecution's opening statement and the Defence's response during the first week of hearings in Case 002.

The Civil Parties were requesting **no more than 30 minutes** in length. The rejection was made based solely upon the English language version of the request and lacks any reasoning and reference to the arguments except that the Chamber "reiterates that there is no legal basis" for such a statement.

The Chamber, however, fails to mention that there is no legal basis in the Cambodian Procedural Code – the governing applicable law – to allow the Prosecution an opening statement or the Defence a response.

Civil Parties are disappointed that they are to be excluded from this important part of the proceedings when other parties, supposedly equal in status, have the opportunity to build their cases while Civil Parties are not even allowed brief preliminary remarks.

By denying the Civil Parties an opportunity to be heard at this early and important stage of the proceedings, the Chamber's decision breaches the equality of arms between the parties. In contrast, Victims at the ICC who do not hold civil party status, have the right to an opening statement.

The preliminary remarks requested by Civil Parties would have been distinct from the Prosecutors' opening statement and would not have at all prejudiced the fair trial rights of the Accused². These 30 minutes would have held symbolic significance for the nearly 4000 civil parties and the vast number of victims who have a stake in Trial One of Case 002.

Although the opening statement is a common law element which is unknown in civil law countries such as Cambodia, it was introduced into the Internal Rules in September 2008. However, this procedural right was only granted to the Prosecution, with the Defence permitted to respond – ignoring that the ECCC involves a three-party scheme.

The Trial Chamber could have exercised its discretion to grant the right to Civil Parties to brief preliminary remarks at the beginning of the trial, in order to introduce to the Chamber, the parties and the public at large the nature of the consolidated group of 4,000 civil parties, their distinct identities and multiple sufferings.

On the contrary the Trial Chamber has decided to silence the Civil Parties and through them all the victims they symbolically represent.

Co-Lawyers for Civil Parties and International Lead Co-Lawyer

Phnom Penh, 16 November 2011

¹ See the *Trial Chamber response to Lead Co-lawyers and Civil Party lawyers' request to make a brief preliminary remark on behalf of Civil Parties (E131/4)*, E134/4.1 dated 15 November 2011,

<http://www.eccc.gov.kh/en/document/court/trial-chamber-response-lead-co-lawyers-and-civil-party-lawyers%E2%80%99-request-make-brief-pr>

² See the *Lead-Co-lawyers' and Civil Party lawyers' request to make brief preliminary remarks on behalf of Civil Parties after co-prosecutors' opening statement*, E131/4 dated 2 November 2011

<http://www.eccc.gov.kh/en/document/court/lead-co-lawyers%E2%80%99-and-civil-party-lawyers%E2%80%99-request-make-brief-preliminary-remarks-beha>