



**Cases 003 and 004 will Shape the Legacy of Cambodia's Khmer Rouge Court**  
**Open Case Justice Initiative**  
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The Open Society Justice Initiative has released a report urging the international community to maintain its commitment to the UN-backed Khmer Rouge court in Cambodia, arguing that the tribunal remains the appropriate mechanism to provide genuine and credible justice for Khmer Rouge atrocities.

The 34-page report, *The Future of Cases 003 and 004 at the Extraordinary Chambers in the Courts of Cambodia*, focuses on the outlook for two cases currently under judicial investigation at the tribunal.

The two cases—known as 003 and 004 and involving five suspects—have been before the court's co-investigating judges for three years. The Cambodian government has repeatedly said it is opposed to the two cases going forward; the resulting controversy has contributed to the resignation of two international co-investigating judges at the tribunal in the past year, with both citing perceived political interference as grounds for stepping down.

As a new international co-investigating judge, Mark Harmon (from the United States), takes office, this report examines recent developments in the investigation of the cases and highlights some of the likely issues to be faced by Judge Harmon. The report also argues that the court—in its current configuration—is the appropriate mechanism to provide genuine and credible justice in these cases, and urges all relevant actors to ensure that it can fulfill its mandate.

Officially known as the Extraordinary Chambers in the Courts of Cambodia (ECCC), the court was established under an agreement between the United Nations and the government of Cambodia in 2003 to try senior leaders and those most responsible for crimes against humanity committed under the Khmer Rouge between 1975 and 1979. It uses a mix of international and local judges, lawyers and staff, appointed respectively by the UN and the government of Cambodia.

It is currently trying three former Khmer Rouge leaders in Case 002: Khieu Samphan, Nuon Chea, and Ieng Sary. Earlier this year the tribunal handed down the appeal judgment in the case of Kaing Guek Eav, alias Duch, the former head of the Tuol Sleng detention and torture center, who was sentenced to life imprisonment.

Cases 003 and 004 concern allegations of genocide, crimes against humanity, and war crimes, resulting in the deaths of tens of thousands of Cambodians, amongst other gross and systematic human rights violations.

Under international law Cambodia bears a responsibility to prosecute suspects of gross human rights violations. Efforts to prevent the ECCC from investigating all allegations in Cases 003 and 004 constitute a violation of its obligations.

The report urges the UN to safeguard the ECCC's judicial and investigative integrity, and prevent these critical cases from being shelved for political and/or financial reasons. Specifically, the UN must demand that both Judge Harmon, and his Cambodian counterpart, Judge You Bunleng, be enabled to fulfill their legal and ethical duties.

The report considers the importance of Cases 003 and 004 in the context of the Cambodian justice system, a system itself marred by ongoing affronts to judicial independence. Political control of the Cambodian judiciary is evidenced by a stream of politically-motivated prosecutions in Cambodian courts, coupled with a consistent failure to prosecute suspects who are politically connected. The ECCC therefore has a crucial role to play in establishing the rule of law in Cambodia for both international and domestic crimes. Gross deficiencies in the Cambodian domestic justice system also present numerous legal obstacles to the transfer of any of the ECCC's cases to a wholly Cambodian successor jurisdiction.

The Justice Initiative calls upon the Cambodian government, the United Nations and the court's financial donors to ensure that the ECCC's critical investigative work contributes to it leaving a positive legacy, both by providing for long-awaited justice for Khmer Rouge atrocities, and by strengthening by example a fragile domestic justice system. We also urge the UN secretary general's special rapporteurs on judicial independence and truth and justice to take steps to monitor and assess the tribunal's performance.

James A. Goldston, executive director of the Open Society Justice Initiative, said: "The independent and proper administration of justice for Khmer Rouge crimes, in the face of government opposition, will be the test by which this tribunal will itself be judged."

"We hope the ECCC can still set a positive example, by leaving a legacy of judicial independence and impartiality."

The Open Society Justice Initiative has maintained a presence in Phnom Penh to monitor developments at the Khmer Rouge tribunal since before it began court proceedings in 2007.