

# The Court Report

November 2008



## The Extraordinary Chambers in the Courts of Cambodia

*Moving Forward Through Justice*

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This month Cambodia celebrated the annual Bon Om Tuk Water Festival, which is one of the biggest festivals of the year. The highlight of the Bon Om Tuk was the big boat race in Phnom Penh, in which a boat sponsored by the ECCC took part.

In the Judicial section, featured are Office of the Co-Prosecutors, Office of the Co-Investigating Judges and Pre-Trial Chamber

The NGO Page has overviews of two important partner NGOs, ADHOC and Youth for Peace, and information about their activities regarding the ECCC.

This month's Court Report also has an article about the ECCC library which, despite its small size, provides valuable assistance for ECCC staff in their work.

As usual, included are also the Court and Outreach Calendars.

## Support for the ECCC from Embassy in Manila

Mr. Tith Sarunreth, advisor to Royal Embassy of Cambodia in Manila, Philippines, sent a letter to the ECCC Chief of Public Affairs, Helen Jarvis.

The letter was written in response to the distribution of the ECCC booklets to all embassies of Cambodia around the world.

In his letter Mr. Tith Sarunreth expressed his thankfulness and support for the tribunal. He also recalled the bad experiences he and all Cambodians faced during the KR regime. He also hoped and was confident that the tribunal will bring justice to the victims and wished the ECCC great success.

## ECCC sponsored a boat in the Water Festival rac-

On November 12 - 13, the traditional Water Festival, Bon Om Tuk in Khmer, was celebrated in Cambodia.

The highlight of the festival is the big boat race in Phnom Penh. There was also a boat sponsored by the ECCC in the contest.

The annual Water Festival is one of the biggest festivals in Cambodia. Every town and province celebrates it but the biggest celebration is held in Phnom Penh. The festival brings people together from all around Cambodia and the partying lasts for several days.



## Khieu Samphan hearing rescheduled

The public hearing on the Appeal against the Decision to Deny the Request for Translation of Khieu Samphan's Case File has been rescheduled. The hearing begins 4 December at 9:00. The previous date was 8 December.



## Office of the Co-Prosecutors

### Legal Work:

In October 2008, the OCP continued its active participation in the judicial investigation and the appellate proceedings in Case No. 002 in which charged persons Nuon Chea, Ieng Sary, Khieu Samphan, Ieng Thirith and Duch are being investigated. In particular, the OCP filed its response to Nuon Chea's appeal before the Pre-Trial Chamber against the extension of his provisional detention by the Co-Investigating Judges (30 October), its response to Khieu Samphan's application before the Co-Investigating Judges for provisional release (24 October), its response to certain civil parties' application before the Pre-Trial Chamber regarding the constitutionality of the Internal Rules (27 October), its response to Ieng Sary's application before the Co-Investigating Judges regarding return of items seized when he and Ieng Thirith were arrested (28 October), and its response to an application for disqualification of an *amicus curiae* appointed by the Pre-Trial Chamber (9 October).

The OCP is preparing for the public hearing of Khieu Samphan's appeal on translation rights (4 December) and for the joint interview ("confrontation") of charged persons Duch and Nuon Chea before the Co-Investigating Judges (November-December 2008).



### Trial Preparation:

The OCP accelerated its trial preparations in Case No. 001 dealing with the S-21 Security Centre of Phnom Penh. It prepared its audiovisual and other exhibits, witness lists and summaries, and other materials to be submitted as part of the pre-trial package to the Trial Chamber.

### Analysis:

The OCP maintained and updated its case management database (CaseMap), prepared witness summaries of potential witnesses, analyzed open source and in-house documents, updated accused chronologies, prepared audio-visual

case presentation aids, continued the microfilm digitization project, etc.

It also continued to analyze the case file to assess the requirements for further investigative requests to the Co-Investigating Judges in Case No. 002.

### External Activities & Outreach:

On 24 October, Co-Prosecutor Robert Petit addressed a well attended outreach program in the Pailin municipality organized by Center for Social development (CSD).

Staff of the OCP participated in the translation and publication of the English version of the newly enacted Cambodian Criminal Procedure Code.

On 28 October, Senior Assistant Prosecutor Anees Ahmed addressed a Fair Trial Rights Forum in Phnom Penh. The Forum was attended by about three hundred university students and was jointly organized by Pannasastra University and CSD.



## Office of the Co-Investigating Judges

The Co-Investigating Judges remain seized of Case File No. 2 which concerns all five Charged Persons (Nuon Chea, Ieng Sary, Ieng Thirith, Khieu Samphan and Duch) and numerous crimes which took place throughout Democratic Kampuchea from 1975 to 1979. As such, this investigation is far broader and distinctly more challenging than in the first case file, the latter concerning as it did one charged person (Duch) and the crimes committed at S-21. (The Co-Investigating Judges completed their work on Case File No. 1 with the signature of the Closing Order in August 2008 (under appeal) and are no longer seized of that case file).

As to Case File No. 2, the Co-Investigating Judges continue their investigations in earnest. Following this year's budget discussions, the OCIJ's resources have been considerably boosted and the office re-structured. OCIJ now has 2 Investigation Team Leaders (national and international) as well as an (international) Leader of the Analyst Team. We have one Legal Team Leader (national) in place and it is envisaged that the Legal Team Leader (international) will arrive shortly. Otherwise, the legal team has been significantly increased in the last 6 months and now boasts in the region of 10 lawyers (7 international and 3 national). The Analyst Unit has recruited a new case Manager.

Investigators have been/are being recruited to replace recent departures. This increase in resources was long sought after and has increased the investigation momentum, efficiency and quality. The crime base work is being strategized faster and is more focused. The interviews of key witnesses on DK structures and policy are progressing positively and are a priority for the coming months. The enhanced legal team has been coping well with the numerous procedural motions and applications received from the various defence teams and Co-Prosecutors, as well as with onerous substantive evidential analysis work. So while it is indeed the case that the judicial investigations in the second case file are challenging, the OCIJ resources have been much supplemented, the teams are motivated and working hard: the Co-Investigating Judges are confident that the teams are up to the investigations task ahead.

As regards to the Charged Persons themselves, none were required to attend hospital in September, but each attended routine medical examinations in hospital in October. During September and October, the Detention Facility received approximately 68 visits from the family members of the Charged Persons (authorized by OCIJ) as well as almost 200 visits from lawyers and assistants on the defence teams. Regular hearings continue, as required by the Internal Rules, by the Co-Investigating Judges with the Charged Persons on their conditions of

detention.

There are currently 25 Civil Parties on the second case file. Since this is the first international standard tribunal which has admitted Civil Parties, the Office of the Co-Investigating Judges work in close conjunction with the Victims Unit in order to ensure that the procedures are constantly refined and rendered as efficient and participatory as possible.

## Pre-Trial Chamber

The Pre-Trial Chamber rendered decisions on three appeals, accepted the withdrawal of one appeal and received one new notice of appeal.

The Pre-Trial Chamber dismissed Ieng Sary's appeal against the Provisional Detention Order. The Chamber also denied Ieng Sary's Request to be examined by a psychiatric specialist as well as Nuon Chea's Application to appoint an expert, and dismissed the related appeals. The Co-Lawyers for Khieu Samphan filed a notice of appeal against the Order refusing the request for release of their client.

Following the Pre-Trial Chamber's decision to determine Khieu Samphan's appeal against the Provisional Detention Order on the basis of written submissions only and thus to not continue the oral hearing that was adjourned on 23 April 2008, Khieu Samphan's Co-Lawyers announced their withdrawal of the appeal, which

was subsequently accepted by the Pre-Trial Chamber.

In the Co-Prosecutors' appeal against the Duch Closing Order, the Pre-Trial Chamber denied a joint request by the Co-Lawyers for Ieng Thirith, Nuon Chea and Khieu Samphan to make submissions on the issue of joint criminal enterprise liability, in a decision similar to the one denying Ieng Sary's request to make submissions on the same issue. The Co-Lawyers for Ieng Sary also filed a motion to disqualify one of the invited *amici curiae* from submitting a brief, which the Chamber declared inadmissible. The Pre-Trial Chamber later received *amicus curiae* briefs from all three invited *amici curiae* and directed the parties to respond to the briefs.

Judge Ney Thol recused himself in the Closing Order appeal and was immediately replaced by Reserve Judge Pen Pichsaly for the duration of the proceedings in the appeal. It was also decided that there will be no hearing in this appeal, which will be decided on the basis of the written submissions of the parties only.

The Pre-Trial Chamber granted Khieu Samphan's request for a public hearing in relation to the appeal against the Order on Translation Rights and Obligations of the Parties.





# Outreach & Public Information

## ECCC Library provides facilities for research

A well-functioning court needs to deal with a lot of information. That is why a library was established to facilitate the work of investigators, lawyers and other staff of the court. The library is located on the second floor in the ECCC main building.

“At first the library was open only a few days a week, but since July we have been open every workday. Staff can come here to borrow and read books. We also have eight newspapers”, explains librarian Mr. Em Chanthy.

“Usually we have from six to ten visitors per day. I hope that in the future more people will find their way here. We also have facilities for reading and studying and there are plans to install a scanner and photocopier.”

### More books through purchases and donations

At present the library has over 230 books, magazines and DVDs, mostly in English, Khmer and French. The majority of books deal with international and Cambodian law, Cambodian history, genocide and other topics useful for the functioning of the court.

The main problem for the library is funding. Books and equipment are not cheap, and at the moment Em Chanthy is the only member of staff.



“We will get more books and other items soon. In addition to purchases, we also get books through donations.”

The library database needs to be improved, as well. Now it works only in English and French, but the plan is to make it work also in Khmer.

“We don’t yet have a bar code reader, which would be very helpful in our work. I hope we will get it soon.”

But what will be done with all the books when the ECCC finally one day closes down?

“That is still an open question. The books in the library are ECCC property. It is likely that they would be donated to some local library to help Cambodian students.”

## Information on the Web

The Khmer Rouge Trial Web Portal in the Khmer and English language was created with the main goal of the dissemination of information related to the trial of the former Khmer Rouge leaders nationally and internationally.

This web portal covers information related to the trial on Khmer Rouge leaders and information on activity of institutions those work on related topics. The KRT web content and design is being developed by the Open Forum of Cambodia (OFC).

<http://www.krtrial.org>



# Court Calendar



## Recent Decisions

**13 October 2008:** Decision to determine the Co-Prosecutors' Appeal of the Closing Order on the basis of written submissions only

**14 October 2008:** Decision on Ieng Sary's Motion to Disqualify *Amicus Curiae* [Closing Order Appeal]

**15 October 2008:** Decision relating to Notice of Withdrawal of Appeal [Khieu Samphan Provisional Detention Appeal]

**17 October 2008:** Decision on Appeal against Provisional Detention Order of IENG Sary

**21 October 2008:** Decision on Ieng Sary's Appeal regarding the appointment of a psychiatric expert

**22 October 2008:** Decision on Nuon Chea's Appeal regarding Appointment of an Expert

**4 November 2008:** Decision on Khieu Samphan's Request for a Public Hearing [Khieu Samphan Translation Order Appeal]

**5 November 2008:** Decision on Urgent Joint Defence Request to intervene on the issue of Joint Criminal Enterprise in the OCP Appeal against the Duch Closing Order

(Note: Published decisions are available for download on the ECCC Website under Court Documents at: [www.eccc.gov.kh](http://www.eccc.gov.kh))

## Scheduled Court Activities

### Pending Appeals

Charged Person Khieu Samphan's Appeal against the Order on Translation Rights and Obligations of the Parties

Charged Person Ieng Sary's Appeal against the Order on Translation Rights and Obligations of the Parties

Co-Prosecutors' Appeal against the Closing Order indicting Charged Person Kaing Guek Eav ("Duch")

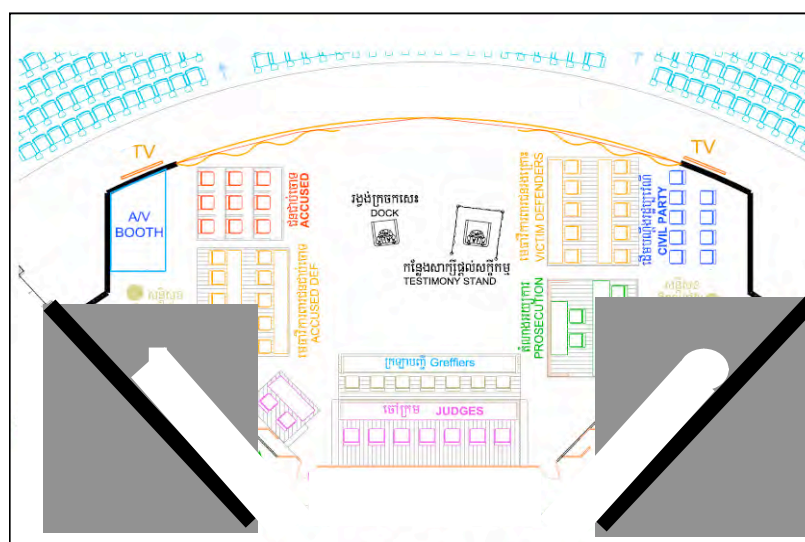
Charged Person Nuon Chea's Appeal against the Order on Extension of Provisional Detention

### Upcoming Hearings

**4 December 2008, 09:00:** Public hearing for Khieu Samphan's Appeal against the Order on Translation Rights and Obligations of the Parties

**5 December 2008, 15:00:** Public hearing for the delivery of the Decision on the Co-Prosecutors' Appeal against the Closing Order indicting Kaing Guek Eav ("Duch")

Main courtroom of the ECCC



# NGO Page: Partners in ECCC Outreach



ADHOC has been longstanding supporter of the concept a Khmer Rouge trial. Since the inception of the ECCC in 2006 ADHOC has been working hard to assist Cambodians understand the functions and goals of the court, and aid victims who wish to participate in the trials. ADHOC established the Khmer Rouge Trial and International Criminal Court Program in 2006 in an effort to ensure that the ECCC succeeded in delivering justice to the victims of the Khmer Rouge, and to seek safeguards that will prevent the perpetration of similar mass crimes in the future.

This program has made ADHOC a leading force in outreach activities that will equip Cambodians with the knowledge that they need to understand the role and limits of the ECCC, and assistance if they wish to participate in the trial. ADHOC has been the sole Cambodian

NGO to mount a truly national outreach program with dedicated staff in every province in the country. Local ADHOC staff in the provinces, equipped with expert training and support (provided by national and international legal professionals) from the Phnom Penh head office, have hosted hundreds of information sessions on the ECCC and assisted victims file complaints with the ECCC. Since May 2007 ADHOC has reached out into even the most remote communities and reached over 33,000

the purpose and powers of the court. Issues addressed in the presentations, written material, animated discussions, and question and answer sessions include the limitation of prosecutions to those chiefly responsible for the crimes of the Khmer Rouge regime, the issue of reparations, and where and how to engage with the court as a victim or civil party. This outreach activity also facilitates discussion within communities about the issues raised by the Khmer Rouge trial which are often the-



people. Meeting in Pagoda's and other public space participants at the outreach sessions represent the full demographic of local communities, and include women, monks and nuns, state employees, NGO workers, teachers, students, and other citizens.

ADHOC staffs provide an overview of

therapeutic for those taking part.

ADHOC's information and outreach sessions leave communities better equipped to cope with the emotions and issues raised by the fresh focus on the Khmer Rouge years prompted by the establishment of the ECCC, and better able to engage with ECCC as witnesses, victims and civil parties. As



a result of this massive outreach effort many hundreds of Khmer Rouge victims have been given initial advice on submitting complaints, with over 400 assisted to complete complaints for submission to the ECCC.

ADHOC is also conducting an extensive media outreach program. This provides a vital source of information about the ECCC to more isolated communities that are without access to mainstream media. In addition ADHOC publishes and distributes a monthly information bulletin *Neak Chea* with a print run of around 15,000 and contains educational and topical issue based information on the ECCC.

For advice and assistance in lodging a complaint, or to be advised of the location of a provincial ADHOC office, please contact Ms KEAT Sophal (Legal Expert) or Mr NAY Vanda (Legal Expert), at the ADHOC head office at:

**No: 3, St 158 Oukghna Toeung Kang, Beng Raing Daun Penh, Phnom Penh**

**Tel: (855-23) 218653 & 990544**

**Fax: (855-23) 217229**

For general enquires relating to the ADHOC's Khmer Rouge Trial and International Criminal Court Program please contact LATT Ky (Project Coordinator) on 012 828411, or Andrew DICKIE (Communications Officer and Advisor) on 092 643682.

*ADHOC's ECCC outreach activities are carried out with the support and funding from Oxfam Novib and the European Union.*

Youth for Peace (YFP) is a local peace NGO that works to encourage young people, especially high school youth, to become agents of social change through training, dialogue and advocacy. YFP prepares young people for solidarity, leadership, and active citizenship by developing their capacity for decision-making, by building in them a sense of responsibility, and by empowering them to act. In workshops using participatory methodology, supplemented by a variety of other methods, YFP challenges its students to discover their own identity and to develop analysis abilities. Through these trainings, youths develop the solidarity, trust, and confidence necessary to work together to find solutions for community problems.



As an organization that has implemented outreach activities related to the ECCC with Cambodian youth since the beginning of 2007, YFP is uniquely well equipped to take on these challenges. One project called "Project Youth for Justice and Reconciliation" has gathered young Cambodian to familiarize themselves with the Khmer Rouge History and the ECCC in discussions in the communities of the prov-

inces of Battambang, Takeo, Kampot, Prey Veng, Kampong Chhnang, and Svay Rieng.

The project also brings annually both national and international youth together. This year, the International Peace Conference Angkor was celebrated in Siem Reap on 18-24 September under the theme of "Youth and Reconciliation: Together Searching for Justice and Acting for Peace", with the workshops, plenary, peace march and cultural show. In the conference the youth discussed about the experiences and lessons learned from the mass killings and genocides in post-conflict countries such Cambodia, Guatemala and Peru. One of the most serious issues facing young people around the world today is that they do not understand about the past.

This conference was a good opportunity to open up to the international community and the Cambodian youth in order to speak about genocide and the time for justice in Cambodia as well. In the conference, the youth talked about their experiences and suffering. They also learned of genocides in other post-conflict countries and of the ECCC.

Regarding this, Mr. Long Khet, the director of Youth for Peace said: "For all of us, making justice means looking for reconciliation and this is the time for all Cambodians to really participate in this process. A key-strategy is not to be afraid of talking about genocide anymore."

[www.yfpcambodia.org](http://www.yfpcambodia.org)

# Outreach Calendar



## Recent Activities- ECCC and Partner NGOs

**21 October:** 18 students from Leadership Training programme visited the Court. They were given a tour of the court and briefed by the Public Affairs Section. The Leadership Training programme is organized by Kingdom Equipped Youth (EFC-KEY). The aim of the visit was to inform the students about the ECCC and to increase their awareness of justice in Cambodia.

**24 October:** A delegation from ECCC travelled to Pailin and participated in a public forum entitled "Justice & National Reconciliation". The forum was organized by CSD. The ECCC delegation included Co-prosecutor Robert Petit, Defence Support Legal Officer Pauline Baranes, Chief of Public Affairs Dr. Helen Jarvis and Witness Expert/Support Unit Officer Nhem Samnang.

**24 October:** Reach Sambath, ECCC Press Officer, Chea Vanath, Independent Analyst, and Luck Ky, KRT Monitor of ADHOC, were invited by FM 102 radio station to attend The Truth programme to discuss the latest developments of the ECCC.

**28 October:** A delegation from German Bundestag including HE. Mr. Christoph Strasser, MP - Head of Delegation, HE. Mr. Florian Toncar, MP, HE. Mr. Eduard Lintner, MP, HE. Ms. Sevim Dagdelen, MP, Mr. Reiner Büscher Graf, HE. Mr. Frank M. Mann, Ambassador and Mr. Thomas Heilmaier, First Secretary, visited the ECCC and had a meeting with Director of Administration, HE Sean Visoth, and Deputy Director of the Office Administration and senior staff of the ECCC.

**28 October:** Senior Assistant Prosecutor Anees Ahmed addressed about three hundred students from various universities at Fair Trial Rights Forum organized by the Pannasastra University and the Centre for Social Development (CSD), Phnom Penh."

**3 November:** Group of 90 visitors from four provinces visited the ECCC. The tour was organised by Youth for Peace. The visitors were briefed by Chief of Victims Unit, Outreach Officer and representatives from DSS.

## Scheduled Activities- ECCC and Partner NGOs

**20 November:** CSD conducts a conference on "Justice and National Reconciliation" at Hotel Cambodiana in Phnom Penh.

**25 November:** A group of 50 people will visit the court on a tour organized by the Youth Resource Development Program (YRDP).

**26-27 November:** Cambodian Human Rights Action Committee (CHRAC) and the Victims Unit of the ECCC organize a two-day conference in "Reparations for the Victims of the Khmer Rouge" at Sunway Hotel, Phnom Penh, from 8:00 to 17:30. The conference is organized in association with International Center for Transitional Justice (ICTJ), REDREDD, the Open Society Justice Initiative (OSJI) and the International Federation for Human Rights (FIDH). The conference will be attended by representatives of civil parties, members of civil society, officials of the ECCC, representatives of the national judiciary, the Royal Government of Cambodia and international experts.



# Find out more about the ECCC



*"Everyone can be involved in the process"*

## Extraordinary Chambers in the Courts of Cambodia

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## On the Web

ECCC  
<http://www.eccc.gov.kh/>

UNAKRT  
<http://www.unakrt-online.org>

