



# The Court Report

FEBRUARY 2013

## The Extraordinary Chambers in the Courts of Cambodia

*Moving Forward Through Justice*



Students from Hun Sen Kampong Por Pil High School Prey Veng visit the court on 3 Jan 2013.

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## Year in Review: ECCC Reached Out to Nearly 100,000 People in 2012

Last year, the Extraordinary Chambers in the Courts of Cambodia reached out to nearly 100,000 people, directly exposing them to the work of the Khmer Rouge tribunal. Additionally, hundreds of thousands more people across Cambodia learned the latest developments about the court through media outreach.

Around 72,000 people visited the court last year to observe public hearings or receive briefings about the work of the court and join guided courtroom tours. Another 25,000 people viewed documentaries on the Khmer Rouge trials in the court-organized community video screenings or listened to presentations from court officials in schools across Cambodia. Altogether, the court reached more than 96,000 people in 2012, bringing the total number of direct outreach participants to around 320,000 people since

2009, the year the court's mass outreach campaigns began.

The court's flagship outreach activity is to facilitate public attendance at the trials in Case 001 and Case 002 and other public hearings. The court began providing free transport services for large groups of Cambodians in 2009, and at least 300 individuals from provinces and schools across the country have been brought in to the court every single trial day. In 2012, more than 60,000 people, 80 percent of whom were transported to the ECCC through court-funded services, observed some of the trial proceedings in Case 002 and other public hearings.

In particular, February's final judgment in Case 001 concerning Duch attracted a maximum capacity of 950 individuals to directly observe the proceedings. Live coverage of the pronounce-

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## Japan Contributes US\$2.5 Million to the ECCC

The Extraordinary Chambers in the Courts of Cambodia received a fresh contribution of US\$2.5 million from Japan in early January.

Japan's latest contribution was made to the international component of the ECCC.

"The Government of Japan decided... to make this contribution to continue to support the judicial process of the Khmer Rouge tribunal at an important juncture when the ECCC faces a serious budget crunch while trial hearing of Case 002, the most important case, proceeds," the statement issued on 17 January by the Japanese Embassy reads.

Japan is the largest donor to the court, having contributed a total of US\$78.7 million (US\$62.6 million to the international and US\$16.1 million to the national side) since

the court's inception in 2006. It represents about 44 percent of the entire donor contributions.

"On behalf of the ECCC, we'd like to express our sincere appreciation for the latest contribution by the Government of Japan," said Acting Director of Administration Tony Kranh and Deputy Director of Administration Knut Rosandhaug in a joint statement. "The contribution reflects Japan's continued support for the important judicial work of the ECCC in bringing to trial senior leaders of Democratic Kampuchea and those most responsible for the crimes committed during the Khmer Rouge era."

## Unpaid National Staff Continues Working

Despite further delays in the payment of their salaries and the renewal of their contracts, national staff of the Extraordinary Chambers in the Courts of Cambodia continued working to support the operations of the tribunal throughout January.

Around 300 national staff, including judges and prosecutors, have not been paid since November of last year. None have had their contracts renewed for 2013, due to the court's recent financial difficulties.

A large number of national staff of the chambers and judicial and administration offices have petitioned the Office of Administration to negotiate a speedy resolution to the situation and threatened to walk out if the problem is not solved by the end of January.

"We are now facing the worst case scenario," reads the petition. "We will consider boycotting our work or take other measures to support our livelihood."

Responding to the petitions, the Office of Administration said on 30 January that the national staff's December wages would be further delayed due to technical problems associated with a donor releasing funds. Furthermore, no new financial pledges have been made, as the 2013 revised budget proposal has not yet been approved by the principal donors.

## Korean Law Scholar and Others Visit the ECCC



Prof. Choi Daikwon of Seoul National University stands with his former student Judge Chung.

A prominent Korean constitutional law scholar visited the Extraordinary Chambers in the Courts of Cambodia on 9 January to observe the ongoing trial of Khmer Rouge leaders and paid a visit to his former student who is now a Pre-Trial Chamber judge.

Prof. Choi Daikwon of Seoul National University came with a group of law professors from South Korea who visited Cambodia to host an annual law conference with the Royal University of Law and Economy and Pannasatra University. The group, including Mr Eric Enlow, Dean of Handong International University, attended an afternoon session of the ongoing trial of the three accused, Nuon Chea, Ieng Sary and Khieu Samphan.

The group then met with Judge Chang-ho Chung of South Korea to learn more about the achievements and challenges of the hybrid

court and international transitional justice.

Separately, a few other groups from abroad also paid a visit to the tribunal during the month of January.

A delegation of 18 lawyers and a group of high school students, both from South Korea, came to the court on 8 and 10 January, respectively, to listen to briefings by court officials and attend the hearings of the ongoing trial. Also on 10 January an American student group visited the court.

Additionally, two more student groups, one from the United States and another from Australia, made a field trip to the ECCC on 24 January to attend the hearing and receive a briefing from a spokesperson.



American students listen to a presentation by Chief of Public Affairs Dim Sovannarom.

## Accused Khieu Samphan and Nuon Chea Hospitalised

Former deputy secretary of the communist party Nuon Chea and former head of state Khieu Samphan were both hospitalized in mid-January, leaving the Trial Chamber in the Extraordinary Chambers in the Courts of Cambodia struggling to schedule the hearing of evidence.

Accused Nuon Chea, 86, was first taken to the Khmer Soviet Friendship Hospital on 13 January for severe weakness and fatigue. He was initially diagnosed with acute bronchitis



*Nuon Chea follows proceedings in Case 002 on 18 July 2012.*

and required to stay in the hospital for about a week, according to a medical report read out during the hearing on 14 January. He stayed in the hospital under observation for about two weeks and came back to the ECCC detention facility on 31 January, only to return to the hospital two days later due to low blood pressure.

Meanwhile, accused Khieu Samphan, 81, was also brought to the same hospital on 16 January after he suffered shortness of breath and remained under observation for 10 days. He returned to the ECCC detention center on 25 January and resumed participation in the proceedings from a holding cell. The third accused, Ieng Sary, has participated in the trial proceedings from his holding cell since returning from a two-month hospitalization last November.

Due to the hospitalization of two of the three accused on trial in Case 002, and inability to proceed with the hearing of evidence in the absence of a waiver of the accused's right to be present, the Trial Cham-



*Khieu Samphan follows proceedings in Case 002 on 18 July 2012.*

ber brought forward the hearing of documents almost a month to permit trial proceedings to continue in the interim.

The Trial Chamber has scheduled a reassessment of fitness by the court-appointed medical experts Professor John Campbell, Professor Seena Fazel and Professor Huot Lina, which will take place in mid-March.

### Fair Trial Rights of Accused

The ECCC is bound to conduct its proceedings in accordance with fair trial rights of defendants, as enshrined in the International Covenant on Civil and Political Rights.

Fundamental rights under Cambodian and international law include the right for the accused to be present at trial and to examine evidence against them. The Trial Chamber cannot proceed with hearing of evidence without the accused, unless they waive their right to present.

The ECCC legal framework indicates that participation in proceedings includes participation from the holding cells or from remote locations via video-link.

## Civil Party Lawyer Resigns and Defence Team Changes

German Lawyer Silke Studzinsky resigned as International Counsel for Civil Parties before the Extraordinary Chambers in the Courts of Cambodia on 16 January 2013.

Ms Studzinsky joined the court in February 2008 and has represented hundreds of Civil Parties in Cases 001 and 002, including those filing applications regarding forced marriages. Before joining the ECCC, she worked as a criminal defence lawyer and as a representative of co-plaintiffs before criminal courts in Germany for 17 years.

Ms Studzinsky has declared her resignation for Cases 002, 003 and 004. Her clients for Case 002 are being represented by na-

tional co-lawyers, and she transferred her clients from Cases 003 and 004 to International Civil Party Lawyer Lyma Nguyen, who has been with the court since May 2009.

In the meantime in January, International Lawyer Victor Koppe took a leading role in defending former Khmer Rouge leader Nuon Chea at trial. Mr Koppe has been an International Co-Lawyer for Nuon Chea since 2007, but has recently taken on a larger role due to the departure of three members of the defence team. Mr Michiel Pestman, Mr Andrew Iannuzzi and Mr Jasper Pauw, previous international representatives for Nuon Chea, left the ECCC in December 2012.



*Silke Studzinsky (far right) sits with other Civil Party Lawyers in the courtroom.*

# In The Courtroom

## Case 002

## Evidence Hearing

The Trial Chamber in the Extraordinary Chambers in the Courts of Cambodia continued in January 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 population movements - from Phnom Penh in 1975 and from other regions in the two following years.

In January, the Trial Chamber conducted 13 days of trial hearings, rearranging hearing schedules of witnesses to accommodate the hospitalization of two accused Nuon Chea and Khieu Samphan. During

the 13 days of hearing, four witnesses appeared in court to testify about their experiences in relation to forced movements and the Khmer Rouge military structure. Of the 13 days, seven days were given to documentation hearings.

The first trial began in November 2011 and has completed hearing testimonies on the first and second segments of the first trial -- excluding those testimonies Ieng Sary had not waived his rights to be present for during his hospitalization last year. 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. Since October 2012, the trial entered the third segment concerning the military structure and forced evacuation.

### Sor Vi, alias SA Sarim, *Witness*

Testified 8-9 January 2013

Mr Sor, 52, worked as a security guard in the K-1 office, the compound where Pol Pot allegedly lived and which is said to have functioned as a protection unit for senior leaders in Phnom Penh under the Khmer Rouge Regime. He testified about how the compound functioned, the work he did there, and people he saw entering the compound.



### Al Rockoff, *Witness*

Testified 28-29 January

Veteran American photo journalist Al Rockoff, who covered the fall of Phnom Penh and evacuation of the city in 1975 and was depicted in the famous movie "The Killing Fields", testified as a witness before the Trial Chamber for two days.

He described how he took photos of the events and provided them to international news organisations as a freelance photographer. He testified about his experience living in the French Embassy after 17 April 1975 and those seeking asylum at the embassy. He also talked about the evacuation and leaving on a convoy with other foreigners to the Thai border.

In addition, Mr Rockoff explained the context of several photographs presented to the court as evidence by the prosecution. (See pictures on page 5)



### Ung Ren, *Witness*

Testified 9-11 January 2013

Mr Ung, 63, is a former Khmer Rouge soldier who commanded a regiment in Division 801 in Ratanakiri Province, in the Northwest Zone. He was questioned about the military structure of the Khmer Rouge and the attack and evacuation of Phnom Penh.



## Document Hearings

21-24 & 30-31 January

Due to the hospitalisation of two accused, Nuon Chea and Khieu Samphan, in January, the Trial Chamber rescheduled to hear arguments over documentary evidence. During the seven days of documentation hearings, the prosecution presented key documents concerning population movements, the execution site Tuol Po Chrey in Pursat, the Khmer Rouge military structure, and the alleged role of the accused Khieu Samphan and Ieng Sary. Due to Nuon Chea's hospitalisation, documents concerning his role have not yet been presented. The civil parties and defence counsels were also given the opportunity to comment on the documents tendered.



### Chhaoum Se, *Witness*

Testified 11 January 2013

Mr Chhaoum, 62, was chief of a re-education center in Division 801, located in the Northwest Zone. He discussed his work and the chain of command of which he was part; however, he has not yet completed his testimony and will continue at a later date.

*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

A number of pictures which capture the fall of Phnom Penh were presented in court during the testimony of photo journalist Al Rockoff in January. Witness Rockoff explained the context of these photos provided through the Documentation Center of Cambodia.



In front of the French Embassy, people arriving at the gate to seek refuge inside the embassy compound, 17 April 1975. Photo: Al Rockoff



A woman weeps while holding her baby near the body of her dead husband, 17 April 1975. Photo: Al Rockoff



Government soldiers surrender their weapons under the watchful eyes of the victors, 17 April 1975. Photo: Al Rockoff



U.S. Marines helicopter evacuates Americans and foreign nationals in Phnom Penh, near the American Embassy, 12 April 1975. Photo: Al Rockoff

## Visitor Statistics

Public interest in the ongoing trial of the three accused former Khmer Rouge leaders remains high. By the end of January, the Trial Chamber concluded 153 trial days, where a total of 51 witnesses, experts and civil parties have testified. At this time, a total of 72,522 persons have attended the trial hearings in Case 002, 82% of whom 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							
08/01/13	348	36	5	5	3	33	1		431
09/01/13	237		24	4	2	3	17		287
10/01/13	572	3	48	4	2	6	16		651
11/01/13	461		0	4	1	3	16		485
14/01/13	153	2	2	5	1	2	24		189
21/01/13	364		6	5	1	4	30		410
22/01/13	308	1	3	5	1	3	15	3	339
23/01/13	323	3	5	7	1	3	15		357
24/01/13	394		32	3	1	2	12		444
28/01/13	206	3	14	10	5	3	15		256
29/01/13	242	1	11	5	2	3	15		279
30/01/13	303	11	7	5	1	3	15	3	348
31/01/13	317	0	1	4	1	3	15		341
<b>Sub-Total: Jan</b>	<b>4228</b>	<b>60</b>	<b>158</b>	<b>66</b>	<b>22</b>	<b>71</b>	<b>206</b>	<b>6</b>	<b>4817</b>
<b>Total: Day 1- Day 153 (Nov 2011 - Jan 2013)</b>	<b>59,674</b>	<b>1,752</b>	<b>1,990</b>	<b>1,886</b>	<b>985</b>	<b>863</b>	<b>5,045</b>	<b>327</b>	<b>72,522</b>

## Outreach Year in Review...continued from page 1

ment on TV and radio stations reached another hundreds of thousands more Cambodians. The ongoing first trial of Case 002 concerning three Khmer Rouge leaders also generated a high level of public interest throughout the year, with 58,000 people traveling to court to observe the proceedings.

"The court has had a very significant impact on exposure and outreach to the Cambodian people," said David Scheffer, UN Special Expert for the UN Assistance to the Khmer Rouge Trials, during his first visit to Cambodia in his new capacity last January. "The attendance in the courtroom has broken all records. The image and the reality of justice is being brought to the Cambodian people through this process."

During trial recesses, the ECCC has conducted other outreach campaigns such as its popular study tours. In 2012, more than 10,000 Cambodians joined one of 31 study tours, which include a visit to the court, the Genocide Museum at former security prison Tuol Sleng and the Cheoung Ek killing fields.

A similar number of people viewed the court-produced documentaries at one of 23 video screenings across Cambodia. The court also organized a public forum in Anlong Veng, a former Khmer Rouge stronghold, to reach out to former supporters of the Khmer Rouge and held a ceremony to launch the distribution of the Case 001 final judgment books.

In addition, the court welcomed nearly 1,000 people in 46 groups mostly from abroad and offered customized visit programmes including presentations and a court tour. Additionally, the court hosted 18 delegations with 90 dignitaries from the donor community, including Australian Minister for Foreign Affairs Bob Carr and UK Foreign Secretary William Hague. New Zealand Prime Minister John Key became the first head of government from a donor country to visit the court.

"The Khmer Rouge Tribunal aims to ... help the Cambodian people move on from a particularly dark period in their history... We recognize the people of Cambodia have

looked to the Tribunal to assist in the process of national reconciliation," stated Prime Minister Key when he visited the court last November.

Notable among 2012 media outreach activities was a new court-sponsored weekly radio show, "Khmer Rouge on Trial," which aired on Radio National of Kampuchea (AM 918 and FM 105.7). The one-hour programme, consisting of vox pop and a call-in segment, was launched in late November 2011 to improve public understanding of Case 002. In 2012 alone, the programme received 1,125 calls from provinces as far as Preah Vihear and Koh Kong and 287 callers were broadcast live over the course of 50 shows.

Speaking at a community forum, one avid listener from Kampong Thom said radio and TV have encouraged young people like her to follow the ECCC more closely.

The ECCC is committed to continuing and expanding outreach campaigns in the coming year, as long as funding permits.

### PAS Outreach Overview (2009 - 2012)\*

	Public Hearings (people/days)	KRT Study Tours (participants/tours)	Court Visits (people/groups)	VIP Visits (people/delegations)	Video Screenings (viewers/screenings)	School Lectures (students/schools)	Sub Total (people)
2009	33,010/87	3,018/10	N/A	N/A	N/A	4,000/1	40,028
2010	3,326/5	29,291/80	1,780/69	151/23	31,118/71	16,100/5	81,766
2011	19,207/25	25,400/74	447/38	119/32	23,991/56	31,620/13	100,784
2012	60,492/133	10,147/31	949/46	90/18	10,696/23	14,100/20	96,474
<b>TOTAL</b>	<b>116,035/250</b>	<b>67,856/195</b>	<b>3,176/153</b>	<b>360/73</b>	<b>65,805/150</b>	<b>65,820/39</b>	<b>319,052</b>

\* ... The above table shows regular outreach activities only, and does not include other activities such as public forums and judgment book distribution events.

## Cambodian Participants Find Outreach Activities Useful

A majority of people who participated in outreach activities organized by the Extraordinary Chambers in the Courts of Cambodia last year found the activities interesting and useful, according to client surveys conducted by the ECCC's Public Affairs Section.

Four out of five surveyed who attended the public forum in Anlong Veng last July said that the forum was interesting and two in three said they learned from the event. The surveyed said in particular that they learned the accused are technically innocent until proven guilty and that the accused are allowed to make comments and respond to questioning during the court proceedings.

During the forum in the former Khmer Rouge stronghold attended by about 270 people, representatives of the prosecution

and the defence in addition to the public affairs section gave a presentation about the current status of cases before the ECCC and the concept of fair trial rights, among other legal issues. Among 270 attendees, 62 participants filled out the 12-question survey.

Another client survey conducted with Cambodian visitors to the trial proceedings last December revealed that nearly all of the respondents got a greater understanding of the ECCC after the visit and many cited the observation of the trial hearings and the viewing of the ECCC informational videos as most helpful to understand the work of the court.

Nearly all respondents said that the ECCC would help promote national reconciliation and rebuild trust in Cambodia, and four in five respondents said the court would have a posi-

tive impact on the Khmer Rouge victims and their families.

The 15-question visitors' survey was conducted over five days in December among 13 groups with over 1,000 Cambodians who were taken by the court's free transport to attend trial hearings in Case 002. The Public Affairs Section distributed the questionnaire to over 200 people and collected it from 93 individuals. The ECCC-escorted visitors are normally given an opportunity to hear a brief presentation about the ECCC, to observe two hearing sessions, to watch educational videos during the break, and to receive handout materials in the court before being taken to the Tuol Sleng museum and the Choeng Ek killing fields.

## Ethnic Vietnamese Stateless, CP Lawyers Conclude

A legal team representing ethnic Vietnamese civil parties at the Khmer Rouge tribunal has recently issued a report on the legal status of the ethnic Vietnamese minority population, entitled "A Boat Without Anchors." The report is a culmination of multiple outreach missions to rural communities in Kampong Chhnang.

In 2012, Lawyer Sam Sokong from Legal Aid of Cambodia and his international counterpart Lyma Nguyen, who jointly represent 43 ethnic Vietnamese minority civil parties in Case 002, conducted a number of field trips to the communities along the Tonle Sap River and Lake in order to interview a focal group and assess their legal status regarding citizenship. The field study was conducted in collaboration with the Jesuit Refugee Service (JRS) Cambodia.

The legal team performed in-depth assessment interviews with eight individuals in the focal group and held two additional group discussions during the field trips.

In assessing the nationality status of this specific group, the legal team considered the status of the group under applicable Cambodian and Vietnamese nationality laws, examined documentation available to prove their civil



Picture taken from the front page of "A Boat Without Anchors."

status, and explored how the authorities of the two countries treat the group under their respective laws. The team concluded that members of the group are *prima facie* stateless under customary international law.

The legal team carried out this field study in order to address their clients' civil claims for recognition of Cambodian nationality within the framework of the Extraordinary Chambers in the Courts of Cambodia's moral and collective reparations mandate and be-

yond.

The ethnic Vietnamese civil parties are members of the ethnic Vietnamese minority population who have lived on floating villages on the Tonle Sap waters for generations. They allege that they were forcibly deported to Vietnam by the Khmer Rouge and lost important documentation establishing their legal status in Cambodia.

To view the full report, go to: <http://www.civilparties.org/?p=494>

## ADHOC Releases Victim Participation Study

A study on attitudes and expectations of civil parties in Case 002 before the Khmer Rouge tribunal was released in January by the Cambodian Human Rights and Development Association (ADHOC).

"Victims participation before the Extraordinary Chambers in the Courts of Cambodia" was a baseline study of ADHOC's Civil Party Scheme, in which 122 selected Civil Party Representatives facilitate a two-way commu-

nication process between civil parties, their lawyers and the court.

The study examines awareness, knowledge and attitudes about the ECCC among civil parties assisted by ADHOC in Case 002, as well as their perceptions and expectations about justice. It also gives insights about their expectations in regards to reparations and non-judicial measures.

The results are based on interviews with 120 out of 122 Civil Party Representatives and a random sample of 294 civil parties. The results strongly indicate that respondents have positive attitudes towards the ECCC. As victim participation is one of the unique features of the Khmer Rouge trial, nearly 4,000 victims participate as Civil Parties in this second case (Case 002). ADHOC represents nearly half of them.

To find the full ADHOC report, please see the website <http://adhoc-cambodia.org/>.



Picture from front page of ADHOC Study.

# Judicial Updates

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 **January 2013**. 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 denying, in part, a request to expand the scope of Case 002/01; Ieng Sary's appeal 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; and Nuon Chea's appeal against the Trial Chamber's decision pertaining to an application for immediate action pursuant to Internal Rule 35.

On 3 January, the Supreme Court Chamber became seised of Ieng Sary's appeal against the Trial Chamber's decision that he is fit to stand trial and its refusal to appoint an additional expert to assess fitness ("Fitness Appeal"). Additionally, on 8 January, the SCC became seised of Ieng Sary's appeal against the Trial Chamber's decision on the defence's requests concerning irregularities alleged to have occurred during the judicial investigation. These appeals are currently under consideration.

## Office of the Co-Investigating Judges

During the month of January, the Office of the Co-Investigating Judges continued

conducting investigations in Case 004. One field mission was conducted in Battambang and Banteay Meanchey provinces with respect to the allegations contained in the Third Introductory Submission (Case File 004), three site identification reports were drafted and seven witnesses were interviewed by the international investigators. The Analysts Unit has been conducting on-site reviews of documents identified at external documentary sources.

The international side of OCIJ welcomed three legal interns to its staff. Additionally, it reviewed applications for a vacant investigator post and vacant legal positions and thereafter conducted interviews to recruit one investigator, two Associate Legal Officers and five Legal Officers. These recruits will allow the office to undertake their legal duties in an efficient manner.

## Office of the Co-Prosecutors

### Case 002

The Office of the Co-Prosecutor continued to litigate Case 002 both in the courtroom and through written submissions to the Trial Chamber and Supreme Court Chamber. In court, the OCP led the questioning of Witnesses Sa Vi, Ung Ren, Chaom Se, and Al Rockoff. The OCP also presented documents concerning military structure, forced transfer, and the roles of Ieng Sary and Khieu Samphan.

Through filings, the OCP addressed a number of matters including: a submission on the applicable law of the Crime Against Humanity of Other Inhumane Acts (forced transfer); a response to the defence for Ieng Sary's request for information concerning TCE-33; a submission on the scope of the health assessment of Nuon Chea and Ieng Sary; a response to the defence for Ieng Sary's appeal against the Trial Chamber's decision on fitness to stand trial; and a response to the appeal by the defence for Nuon Chea against a Trial Chamber decision concerning a Rule 35 investigation.

### Case 003

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

### Case 004

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

## Defence Support Section

### Case 002

January was largely dominated by health issues. On 14 January, trial proceedings were adjourned indefinitely after Nuon Chea was hospitalized with acute bronchitis and declined to waive his right to be present for the examination of certain witnesses. Two days later, Khieu Samphan was admitted to the hospital with a variety of ailments.

These health issues have raised questions regarding the fitness of the accused to stand trial and their ability to participate in proceedings. The Ieng Sary Defence has appealed a decision finding Ieng Sary fit to stand trial, challenging in particular the daily medical updates given to the Trial Chamber. The team filed a request that the Trial Chamber modify instructions to the doctors providing these updates and has submitted recommendations concerning the scope of medical examinations scheduled for March. The Ieng Sary team is appealing a decision on its right to record Ieng Sary in the holding cell, where he is currently required to follow proceedings.

During the absence of the accused, various documentation hearings took place. The defence objected to over 100 documents proposed to be admitted into evidence. Counsel Karnavas registered his concern about the reliability of nine different categories, for example media reports and those from foreign governments. Khieu Samphan's International Co-Lawyer Anta Guisse, criticised documents, such as videos from unknown sources, as lacking evidentiary value. Additionally, the



defence submitted that the prosecution was giving its own interpretation of documents, rather than simply reading them into the record, thus seeming to give a closing argument.

Several other documents have been filed in other areas. All teams filed briefs on the applicable law, setting out the elements of crimes against humanity and modes of liability at issue in the case. The Ieng Sary team has appealed the Trial Chamber's decision not to investigate irregularities in the taking of witness statements and conduct of interviews during the investigative stage. Finally, counsel for Nuon Chea has replied to the prosecution's response to their appeal of a decision not to investigate the issue of government interference with the functioning of the ECCC.

## CP Lead Co-Lawyers Section

In January, the in-court testimony of witnesses, Civil Parties and experts was delayed due to the ill health of the accused. However, during this month, the Lead Co-Lawyers and Civil Party Lawyers prepared for and questioned two witnesses called to testify on population movement phases one and two.

Beginning in mid-January, the Lead Co-Lawyers, in cooperation with Civil Party Lawyers, prepared for and participated in hearings on documents. The first of these hearings focused on arguments for and against the Trial Chamber accepting as evidence documents proposed by the Parties. In the second type of hearing, the Lead Co-Lawyers worked with Civil Party Lawyers to identify key documents on population movements phase one and two as well as military structure and executions of former Lon Nol officers and officials at Tuol Po Chrey during and immediately following population movement phase one.

In their key documents presentation, the Lead Co-Lawyers read from and cited 58 Civil Party statements on the case file in the form of Civil Party Applications and like documents. These documents provide important evidence on the crimes committed during Democratic Kampuchea. In the coming months, the Lead Co-Lawyers and Civil Party Lawyers will submit an even more extensive list of documents to the Trial Chamber and make written and oral

arguments in favor of the Trial Chamber taking this evidence into consideration when deliberating on the verdict in Case 002/01.

In the area of reparations, the Lead Co-Lawyers Section participated in a series of design workshops led by Victim Support Section (VSS) consultant Julian Poluda in order to finalize the remaining details of the reparation project designs. As well, the Section, in collaboration with VSS, readied the Lead Co-Lawyers submission to the Trial Chamber in response to its memorandum requesting a list of the Civil Parties prioritized reparations projects and an update on the status of fundraising. Plans are now underway to organize informational meetings with potential donors to make them aware of the opportunity to become involved with reparations.



*VSS holds stakeholder Workshop on Victims Foundation of Cambodia Hotel on an 3 January.*

## Victims Support Section

### Legal Related Work

The Victim Support Section received and filed requests to change an international lawyer related to Case 002, 003 and 004, and filed 137 Civil Party applications in Case 004 to the Office of the Co-Investigating Judges. In addition, the staff assisted 9 lawyers and lawyers' assistants in renewing ID cards.

### Outreach

114 The VSS made arrangements for Civil Parties to attend hearings in Case 002, and to meet with their lawyers. Additionally, the VSS website (<http://vss.eccc.gov.kh/>) has registered 2,025,543 views.

### Reparation and Non-Judicial Measures

On 2 January 2013, the VSS hosted a meeting for members of the Public Memorials Initiative, followed by a meeting of the Mobile Exhibition Project at Youth for Peace. Those in attendance included staff from the Victims Support Section, Lead Co-Lawyers, Civil Party Lawyer, Youth for Peace, Kdei Karuna, Cambodian Defenders Project and Cambodian Human Rights Action Committee.

The later meeting focused on involvement of relevant NGOs and the roles of individuals within them. A follow-up meeting of both groups has been scheduled.

On 3 January 2013 at Himawari Hotel, the R&NJM team organized a workshop to discuss the feasibility of setting up a Victims Foundation of Cambodia (VFC). Among those participating in the workshop were the Lead Co-Lawyers, Civil Party Lawyers, and Youth for Peace, Kdei Karuna, Ksem Ksan Association, Cambodian Defenders Project, Department of Psychology, Transcultural Psychosocial Organization, Youth Resource Development Program, Cambodian Human Rights Action Committee and various consultants. The meeting consisted of several presentations, with active participation by all.

Julian Poluda, the VSS consultant on Reparation Project Description (RPD), staged a RPD workshop on Friday, 11 January. The RPD sessions are intended to give all stakeholders involved a brief descriptive overview about the requested reparation project.

The RPD team hosted a second workshop to discuss the Public Memorials Initiative on Thursday, 17 January. Participants sought to reach an agreement as to the objectives, activities and responsibilities of each partner and offered feedback on the RPD programme generally.

On Friday, 18 January, the RPD team together with Chief of VSS Im Sophea had a meeting with Mr. Benjamin Nichols, Second Secretary of Australia Embassy to discuss the ECCC Reparation Program for the benefit of the Civil Parties and Victims of the Khmer Rouge Regime. A follow up meeting between the parties took place on 30 January together with the Transcultural Psychosocial Organization.

On Tuesday, 29 January, the RPD team and Mr Im Sophea met with Lead Co-Lawyers to discuss the fundraising situation.

# Court Calendar

## 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](http://www.eccc.gov.kh).

### Trial Chamber

**16 January 2013:** *Decision on the IENG Sary Defence Request to Audio and/or Video Record IENG Sary in the Holding Cell (E254/3)*

The Trial Chamber denied the defence's requests to audio or video-record the accused while in the holding cell, holding that the ECCC legal framework precludes investigations carried out by the parties, that the Accused's rights to confidentiality and medical privacy may be jeopardized by being audio or video recorded while in the holding cell, and that audio or video recording is neither necessary nor relevant to assess the Accused's fitness to participate in the proceedings as the Chamber must instead base its decisions on this area on expert medical opinion. The Chamber further affirms its finding of 26 November 2012 that the accused may be ordered to participate in the proceedings by appropriate audio-visual means from the holding cell where the interests of justice so require, as well as its orders of 7 and 12 December 2012 prohibiting the defence from filing recordings or observations of the accused while in the holding cell.

### Supreme Court Chamber

**30 January 2013:** *Decision on Ieng Sary's expedited request to file appeal in English only with Khmer translation to follow (E254/3/1/1.1)*

The Supreme Court Chamber grants Ieng Sary's request to file in English only with a Khmer translation to follow an appeal against the Trial Chamber's 16 January 2013 written decision denying his request to be audio or video-recorded in the holding cell.

**24 January 2013:** *Order to File a Public Redacted Version of Ieng Sary's Appeal (E238/9/2/1) (E238/9/2/3)*

The Supreme Court Chamber orders Ieng Sary to file a public redacted version of his Fitness Appeal, in which he appealed against the Trial Chamber's decision that he is fit to stand trial and its refusal to appoint an additional expert to assess fitness.

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

### Trial Chamber Hearings:

18-19 February, 9:00 – 16:00

The Trial Chamber will hear submissions of the parties regarding the scope of the trial in Case 002. The hearing has been scheduled following a recent Supreme Court Chamber's decision that declared the Trial Chamber's severance order invalid.

### Upcoming Trial Recesses:

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

## Visitor information for public hearings

### Hearing Schedule

Monday-Thursday except national holidays, **9:00-16:00**

Two 20-minute breaks: **10:30** and **15:00** (roughly)

Lunch break: **12:00-13:30**

### Rules in the Public Gallery

Visitors are advised to wear appropriate clothing and to behave in a manner appropriate to the nature of the proceedings. No mobile phones, cameras, large bags, food or drink are permitted in the main courtroom. Visitors should take all personal belongings with them when leaving the public gallery during breaks.

Visitors are requested to remain seated while the court is in session. Those who need to use the bathroom during a hearing should follow the security officers' instructions. There are two sets of bathrooms: one on the ground floor and one on the mezzanine level.

### Language of Proceedings

The court provides simultaneous interpretation of its proceedings in Khmer, English and French. The speakers in the main courtroom project the proceedings in Khmer, but English and French translation is also available through the headsets on either side of the main courtroom. English is on channel 2 and French is on channel 3. To reset the headset, press down on the two volume arrows simultaneously.

# Outreach Calendar

## Outreach Activities

**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.”

**February:** VSS invites civil parties to attend hearings, and 10-15 civil parties will attend the evidence hearing and to have opportunity to meet their lawyers daily.

**11-17 February:** Kdei Karuna, Assessment Activity, Rattanakiri  
The staff will discuss some understanding about ECCC with about 20 villagers in rural community

**19-23 February:** Kdei Karuna, Assessment Activity, Prey Veng  
The staff will discuss some understanding about ECCC with about 20 villagers in rural community and also memory work in community

**20-22 February:** Film screening related to method of reconciliation - VFKR, Kampong Speu. About 30 villagers in the village will see the film and open discussion about possible community reconciliation and transitional justice.

## 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 OUTREACH CALENDAR

February 2013

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

## Tribute Exhibition to Late S-21 Survivor, Vann Nath

One of the most well-known survivors of the infamous Tuol Sleng prison S-21, Vann Nath, who died in September 2011, was remembered at an art exhibition hosted by the Bophana Audiovisual Archive Center.

On 12 January, the Vann Nath Friends Circle association (Le Cercle des Amis de Vann Nath) and Bophana Center opened a month-long exhibition in tribute to the artist with works of art presented by 23 Cambodian and international artists such as Pich Sopheap and John Vink.

Vann Nath, whose paintings are displayed at the Tuol Sleng museum to show how people were treated in the prison under the Khmer Rouge regime, gave testimonies during the trial concerning former prison chief Duch in Case 001 at the Extraordinary Chambers in the Courts of Cambodia in June 2009. He also continued to provide guided tours to visitors to the museum, including ECCC’s study tour groups, until his health conditions prevented him from doing so.

The exhibition is a posthumous homage to the artist survivor, his legacy and the ties with new generations he created, according to the organiser.



Image shown during Vann Nath Tribute Exhibition at Bophana Center.



# 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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