



**គណៈកម្មាធិការប្រតិបត្តិកម្ម នៃ អង្គការសមាគមការពារសិទ្ធិមនុស្សកម្ពុជា**

**CAMBODIAN HUMAN RIGHTS ACTION COMMITTEE**

ADHOC - CARAM Cambodia - CCPCR - CDP - CHHRA - CKIMHRDA - CSD - CWCC - GENEROUS

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## **STATEMENT**

### **Civil Society Calls for Investigation of Further Suspects by the ECCC**

***Phnom Penh, 14 January 2009***

In response to statements from the Co-Prosecutors issued 8<sup>th</sup> December 2008, and 5<sup>th</sup> January 2009 we, the Cambodian Human Rights Action Committee (CHRAC), a coalition of 21 NGOs, call on the Extraordinary Chambers in the Courts of Cambodia (ECCC) to act independently and exercise its mandate by investigating further individuals who have main responsibility for the crimes of the Khmer Rouge regime. We believe a failure to do so will undermine the impact and legacy of the court. Victims of the Khmer Rouge regime have already had to accept the limited mandate of the ECCC due to the realities of transitional justice; they will not however accept a failure of the court to properly exercise its existing powers and responsibilities.

According to the Co-Prosecutors statement of 5<sup>th</sup> January 2009 the National Co-Prosecutor considers further judicial investigations should not take place against additional suspects due to considerations of 1) the need for stability and national reconciliation, 2) the spirit of the Agreement between the UN and Royal Government of Cambodia (“Agreement”) and subsequent ECCC law, and 3) the limited time and budget available to the court. We do not consider these factors to in anyway bar judicial investigation of further suspects.

The ECCC was established in order to deliver justice and promote national reconciliation by prosecuting senior leaders and those most responsible for the crimes of the Democratic Kampuchea regime. The Agreement and ECCC Law are specifically designed to ensure that the need for justice is balanced with the need to promote transitional stability and national reconciliation. Contrary to previous concerns the arrest and action against the current 5 suspects has not led to instability and there is simply no credible evidence that the prosecution of a similar number of further suspects would risk Cambodia’s stability, or national reconciliation. The Agreement and ECCC Law are the guardians of the needs of stability and national reconciliation and not individual officers of the ECCC. We are aware that the needs of justice must be balanced with those of stability and in order to counter any residual concerns within Cambodia relating to further action against former Khmer Rouge we call for the court to make a final and comprehensive move against all remaining suspects. This will ensure that former Khmer Rouge not subject to the proceedings at the ECCC know that they have nothing to fear and ensure that their cooperation is secured.

We believe that the ECCC should not limit itself beyond the restrictions on its powers of prosecution in the Agreement and ECCC Law. The Agreement and ECCC Law are clear that the

ECCC should bring to trial senior leaders of Democratic Kampuchea and those who were most responsible for the crimes of the regime. Given that the Co-Prosecutors have identified further individuals suspected as being most responsible we consider it proper that the ECCC proceed with judicial investigations of those suspects.

We do not believe that the ECCC should arbitrarily limit itself to 5 prosecutions. If there are credible suspicions that there are individuals guilty of crimes falling within the tribunal's mandate then they should be judicially investigated without delay. It is this course of action best reflects the spirit of the of the Agreement and ECCC law.

Furthermore we consider that the successful and full completion of the court's mandate should take precedence over short term considerations of budget and time. If at the end of life of the ECCC, and despite the huge expense of establishing and running the court, it has failed to prosecute all surviving senior leaders and those with greatest responsibility then this investment will be seen to have been largely wasted. We believe the ECCC has the ability to undertake investigations and trials of further suspects and believe that donors will be willing to support these actions if further resources are necessary for the ECCC to succeed in achieving its goals.

We consider it in the interests of justice, national reconciliation and thus future stability that senior leaders and those most responsible for the crimes of the Khmer Rouge regime are brought to account at the ECCC. Without further prosecutions the ECCC will fail to deliver justice to the people of Cambodia and damage efforts to create genuine reconciliation. We fear that the efforts and achievement of the Cambodian government and people, and the international community in creating the ECCC will be squandered if the court is seen to only partially fulfill its mission.

We urge all stakeholders in the ECCC process, including the Royal Cambodian Government and the international community, to ensure that the court is able to act independently and free of political interference or consideration, and give it full support as it acts to fulfill its mission.

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