JULY 2015 / Issue 87

The Court Report

The Extraordinary Chambers in the Courts of Cambodia

Moving forward through justice

Supreme Court Chamber conducted three days of hearing son the appeal against Trial Judgment on 2,3 and 6 July 2015.

Three witnesses testified in First Appeal Hearing in Case 002/01

The first appeal hearing in Case 002/01 conducted by the Supreme Court Chamber began on 2 July 2015 and finished on 6 July. Three witnesses were called to testify. The hearings relate to the appeals brought by the Co-Prosecutors, Nuon Chea and Khieu Samphan against the Trial Chamber's judgment in Case 002/01, which was issued on 7 August 2014.

Both Khieu Samphan and Nuon Chea have filed appeals against the Trial Chamber's judgment, advancing 223 and 148 grounds of appeal respectively. In addition, the Co-Prosecutors have filed an appeal limited to seeking declaratory relief from the Supreme Court Chamber regarding the applicability of the most extended form of joint criminal enterprise known as "JCE III" before the ECCC.

The first witness who appeared at the ECCC for the Case 002/01 Appeal hearing was Mr. Sao Van, age 74. According to him, he was assigned chief of his commune by Angkar from September 1971 to 1975, when a civil war he described was over. At this time, the witness stated that Angkar told them they had to fight together against the imperialist Americans, who helped the Lon Nol regime to depose the late King Sihanouk. He described the American bombings that happened before 1975, in which houses caught fire, cattle were gone, and lives were lost, and stated that this led the rural

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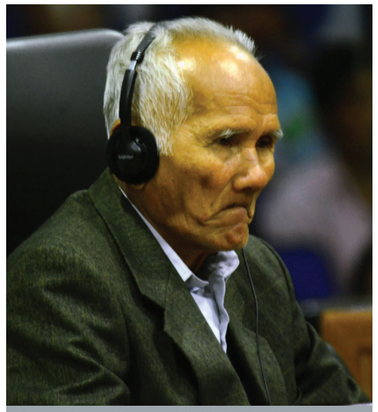
Three witnesses testified in first appeal hearing



Mr. Sao Van testified on 2 July 2015 at the ECCC.

Mr. Sâm Sithy testified on 3 July 2015 at the ECCC.

Mr. Toit Toeurn testified on 6 July 2015 at the ECCC.

Continued from page 1

population to join the movement. The witness stated that Angkar assigned him to be in charge of a commune and was chair of the commune in 1976, but was later demoted to a member of a party branch until 1978. He was considered petty bourgeois since he was educated and his brother was a deputy chief under the Lon Nol administration, and, due to his affiliation, he was sent to be reeducated. He stated that the Khmer Rouge preferred to empower illiterate people because they were easier to control, and that being considered petty bourgeois put him at risk. He recalled that after April 1975, the chief of Sector 13 had a meeting and gave the instructions that Lon Nol soldiers up to colonel should not be harmed. The witness also said that Khieu Samphan made a radio broadcast that said soldiers who participated in the liberation front would be pardoned. According to the witness, base people and those returning to the villages from cities joined forces to form solidarity in order to build the country. The co-prosecutor asked if the Khmer Rouge killed people during the regime (specified as 1975-1979) and the witness stated he has no knowledge of people losing their lives during the Khmer Rouge regime, though he did confirm that some people disappeared. Judge Monichariya from the Supreme Court Chamber asked the witness what the term enemy meant. According to him, this term was used to intimidate people, and if someone broke a tool or they did not go to work because they said they were sick, they were considered an enemy.

The second witness was Mr. Sâm Sithy, 74. He described his family's evacuation from his village near Kampong Chhnang in April 1975, stating that armed soldiers went from house to house to tell everyone to leave and they were told American airplanes would bomb these places. The witness stated that they walked for ten days until they arrived to Chrek Sdach pagoda, and there were thousands of people there when his family arrived. He said that there was an official announcement asking civil servants to come forward so they could get rice and reclaim their posts, which his family did since his father was a soldier in the Lon Nol army. The witness explained that once they registered and received their rice, they were led away from the pagoda because they were told they were going to find houses to live in. According to the witness, they crossed a river by gunpoint, were told to leave their belongings there, and ordered to sit in a group. The witness stated that at first the men's group was killed and then they came back for the females and the children to execute them at the same spot. He said the soldiers started shooting at the group, and his mother was killed while he fell to the ground and pretended to be dead when the bullet hit her. He stated that the soldiers smashed the heads of infants to make sure they were dead, and they hit his sister with a club. The witness said the soldiers dragged the bodies into a pit, but after he was pulled to the pit he was able to escape along with three of his family members. The witness explained that he was not killed because he believed that the soldiers did a hurried job of shooting and clubbing the group in order to go collect the victims' items that were left. In addition, the witness described being sent to a security centre in 1975, explained a cooperative he was later sent to where he said that old base people had more rights, and stated that his sister recently committed suicide because of the trauma inflicted from the club hit in 1975.

The final witness was Mr. Toit Toeurn, 60. He described his relationship with his foster father Rous Nhim, both as his foster son and as his personal messenger. The witness explained that he was a messenger in 1970 for the command headquarters, became chief of couriers in 1973, was appointed in charge of logistics, and then the deputy of zone general staff. When appointed as deputy chief, the witness stated that his main role was to guard weaponry, ammunition, and war spoils, and to maintain these items in a warehouse, which included 20,000 weapons from the former Lon Nol army that he was asked to collect. The witness recalled a radio announcement shortly after 17 April 1975, announcing that the war was over and telling the Lon Nol armed forces to lay down their weapons. The witness described how people were called to go greet the late King Norodom Sihanouk in Phnom Penh, and that the Lon Nol soldiers and officials were taken in 10 or more trucks. He explained that he saw trucks being driven during the daytime and again at dusk, the soldiers were not armed and were all in military uniforms, and they were all shouting "long live King Sihanouk". He claimed he did not know that these people were being driven to be killed until one of Ta Nhim's bodyguards told him 10 days later, and he does not know who ordered the killings. In clarifying this information to Judge Milart, the witness was asked about policies towards Lon Nol soldiers, and he said the policy was to smash all former imperialists. He stated that he overheard this when he was standing outside a meeting amongst Ta Nhim, Ta Keu, and other sector chiefs. The witness described two arrest attempts against him that ultimately both failed. After the second attempt, the witness decided to use the weapons to start a rebellion against Democratic Kampuchea. He stated that he had unit chiefs and people from other mobile units who joined him, but explained that the struggle did not have proper structure, as there were only nine people at the beginning. He initially thought it was only his troops that wanted to revolt, but found others along the way.

Case 002/01 is the first of at least two trials against Khieu Samphan, former Head of State of Democratic Kampuchea, and Nuon Chea, former Deputy Secretary of the Communist Party of Kampuchea. The charges in Case 002/01 are focused on alleged crimes against humanity committed during the forced evacuation of Phnom Penh in April 1975 and subsequent forced transfer from other areas, as well as alleged execution of former Khmer Republic soldiers in Tuol Po Chrey in Pursat Province. On 7 August 2014, the Trial Chamber found both accused guilty of crimes against humanity, and sentenced them to life in prison.

Pending determination on issues on appeal, the accused remain presumed innocent. The Supreme Court Chamber expects the officials, members of the public and the media to respect the presumption of innocence in any statements that they may wish to make about the case and the accused.

BAKC: Conduct of Khieu Samphan's national co-lawyer did not constitute misconduct

The Bar Association of the Kingdom of Cambodia (BAKC) has decided that Khieu Samphan's national co-lawyer KONG Sam Onn did not commit misconduct when he followed his client's instructions not to attend trial hearings in Case 002/02 before Khieu Samphan's appeal brief in Case 002/01 had been filed. BAKC informed the Trial Chamber of its decision in a letter dated 13 July 2015.

According to BAKC letter, a professional lawyer is independent and free to serve the judicial sector. This means that in the practice of his/her legal profession, a lawyer is independent in the performance of his/her technical work in accordance with the code of conduct and regulations applicable to the provision of legal service for his/her client, without being subject to the pressure or interference from any individual or institution. To protect the interest of his/her client, the lawyer shall consult, accept and listen to his/her client's instructions. The lawyer is a judicial assistant to society, not to court. Although the lawyer performs his/her duties in the interest of his/her client, he/she cannot act against law or intend to delay proceedings on unspecified grounds.

In the case of Mr. KONG Sam Onn, the BAKC finds that his failure to participate in the proceedings of Case 002/02 followed his client's willingness to protect his interest without violating any applicable laws and regulations. Mr. KONG Som Onn's refusal to attend the proceedings did not result from the intention to delay court proceedings that would jeopardise the interest of justice, but he had vivid reasons in accordance with Articles 37 and 39 of the Code of Ethics for Lawyers of 2012. His refusal to attend the proceedings of Case 002/02 was merely intended to allow the Counsel to afford sufficient time and use all the resources to prepare the appeal until after the expiry of appeal period against the Case 002/01 Trial Judgement, that is, by 29 December 2014. Mr KONG Sam Onn and his client (Mr. KHIEU Samphan) already apprised the Trial Chamber of this specific stance.

In an order issued on 19 December 2014, the Trial Chamber found that Khieu Samphan's defence counsel's violation of court orders to attend scheduled hearings amounted to obstruction of proceedings, and the Chamber referred the conduct to counsel's respective bar associations.

Judge Harmon announces his resignation

Co-Investigating Judges Mark Harmon and You Bunleng

It is with considerable regret that I have tendered my resignation, for strictly personal reasons, with effect as of the date upon which my successor has been sworn into office. It was an honor to have been selected to serve as the International Co-Investigating Judge in the Extraordinary Chambers in the Courts of Cambodia and to have had the privilege, along with my international and Cambodian colleagues, to pursue justice on behalf of the many victims who suffered at the hands of the Khmer Rouge.

ICIJ urges Thailand and Vietnam to provide assistance

The Office of the Co-Investigating Judges is investigating Cases 003 and 004 which allege serious violations of Cambodian penal law, international humanitarian law and custom, and international conventions recognized by Cambodia, that were allegedly committed during the period from 17 April 1975 to 6 January 1979. Under existing ECCC rules, the Office of the Co-Investigating Judges may invite States not a party to the agreement between the United Nations and the Royal Government of Cambodia to provide judicial assistance to the ECCC.

In its efforts to determine the truth of the allegations in Cases 003 and 004, the International Co-Investigating Judge issued three International Rogatory Letters to the Socialist Republic of Vietnam on 11 November 2013 requesting their assistance by providing relevant documents relating to the investigations and by providing access to archives that may contain these documents. On 15 November 2013, two International Rogatory Letters were issued by the International Co-Investigating Judge to the Kingdom of Thailand requesting similar assistance. In 2014 and 2015, the International Co-Investigating Judge wrote to both governments in an effort to secure compliance with the outstanding requests for assistance. Unfortunately, these efforts have proved futile.

International Co-Investigating Judge Mark Harmon speaks to participants in the Public Forum in Anlong Veng on 12 November 2014. Photo Nhet Sokheng

To date, neither the Socialist Republic of Vietnam nor the Kingdom of Thailand have cooperated with the Office of the Co-Investigating Judges. Both governments have failed to produce relevant documents that could assist with the investigations and have not allowed investigators from the Office of the Co-Investigating Judges access to specifically identified archives that contain relevant documents.

The Office of the Co-Investigating Judges urges the Socialist Republic of Vietnam and the Kingdom of Thailand, in the interests of justice, to comply fully with the outstanding requests for assistance.

Supreme Court Chamber

In June, the Supreme Court Chamber continued its review and research on issues relating to case 002/01, including with disposing of Nuon Chea's several requests for additional evidence on appeal.

On 2 June, the Supreme Court Chamber scheduled the hearing of witnesses SCW-3, SCW-4, and SCW-5 on appeal to be held from 2 through 7 July, as needed, pursuant to its decision on part of Nuon Chea's requests to call witnesses on appeal, filed on 29 May. The Supreme Court Chamber also attached a tentative timetable for the hearing, and invited the parties to file their observations on the timetable no later than 5 June. Based on their submissions, the Supreme Court Chamber issued a new timetable for the hearing on 17 June, along with directions on the conduct of the hearing, which required parties to file a list of the documents they intend to use at the hearing no later than 24 June, and permitted objections to those document lists no later than 26 June.

On 23 June, the Supreme Court Chamber extended the time limit for filing objections to the document lists to 29 June pursuant to a request by Khieu Samphan filed 22 June. On 24 June, the Co-Prosecutors and Civil Party Lead Co-Lawyers requested additional time to examine SCW-5; their request was denied on 30 June 2015.

On 9 June, the President of the Supreme Court Chamber appointed national and international judges to be co-rapporteurs for the case 002/01 appeal, dividing sets of issues among them. On 15 June, the Supreme Court Chamber invited submissions from Nuon Chea regarding whether unpublished notes received by Robert Lemkin through the Witness and Expert Support Unit of the ECCC on 3 June 2015 should be admitted into evidence, and whether any further action should be taken by the Supreme Court Chamber in relation to information which has emerged from the additional investigation ordered in April and conducted in May. On 16 and 25 June, respectively, Nuon Chea filed his fourth and fifth requests for additional evidence on appeal.

Consideration of requests for additional evidence, as well as the defence and Co-Prosecutors' respective appeals, remain ongoing.

Trial Chamber

The Trial Chamber sat for 15 hearing days in June, during which it heard the testimony of 9 witnesses and 3 Civil Parties.

ECCC courtroom after the public attended the judgement hearing of Case 002/01 on 7 August 2014 (Photo Credit: ECCC)

On 9 June, the Trial Chamber issued an order appointing Dr. CHAN Kin Ming of Singapore, a practicing geriatrician, to examine IENG Thirith and report back to the Chamber by 31 August. Dr. CHAN's appointment is to replace Dr. Bernard VAN DEN BUSSCHE, who is no longer available to assist the Chamber. Despite its best efforts, WESU was unable to find any appropriate doctor available locally to perform the examinations. The Trial Chamber requires Dr. CHAN to provide an analysis of IENG Thirith's cognitive condition and an assessment of whether it is possible or likely that IENG Thirith's condition could improve to a degree necessary for her to participate meaningfully in criminal proceedings against her.

Also on 9 June, the Trial Chamber ordered the quarterly cognitive testing of the Accused, NUON Chea and KHIEU Samphan. Two experts previously assigned to assess the fitness of the Accused, DR. HUOT Lina and Dr. CHAN Kin Ming, will devise the quarterly tests, which will be administered by qualified medical staff.

On 12 June, the Trial Chamber rejected the KHIEU Samphan Defence request for confrontation among witness SREY Than and Civil Parties SAY Sen and SAUT Saing. The Chamber found that as the parties had ample opportunity to address any alleged inconsistencies between the testimonies of these individuals during the appearance in court, further confrontation between these individuals was not necessary. It concluded that a confrontation would not contribute further to assessing the credibility of the witness and Civil Parties or be conducive to ascertaining the truth. The Chamber also rejected the KHIEU Samphan Defence request to obtain the audio recording of OCIJ interviews of SAY Sen, finding that the requested recordings were either already on the Case File or did not exist.

On 15 June, the Trial Chamber granted a request by the KHIEU Samphan Defence to place three documents on the Case File and admit them into evidence. The Trial Chamber noted that one document was already on the Case 002 Case File, while the other two documents were unavailable prior to the opening of trial, and that all documents were conducive to ascertaining the truth. The Trial Chamber identified a further four media articles, published between 18 April 2014 and 5 January 2015, which it considered to be conducive to ascertaining the truth and found it necessary to place these documents on the Case File to provide a more complete picture of the relevant issues which they touch upon.

Also on 15 June, the Trial Chamber administered the swearing of an oath for a new investigator in the Office of the Co-Investigating Judges pursuant to Internal Rule 16.

On 23 June, the Trial Chamber rejected a request by the Defence teams for Case 003 suspect MEAS Muth and a Suspect in Case 004 to file amici curiae briefs or to participate as an intervener on the admissibility and use of torture-tainted evidence. The Trial Chamber, following the reasoning of the Supreme Court Chamber, found that an amicus curiae is traditionally an independent and impartial advisor to the court whose role is simply to inform and not to advocate. The Trial Chamber considered that as the applicants were affiliated with the court or its offices by virtue of their roles as defence counsel, they could not be considered impartial and independent advisors to the Chamber. Moreover, the Chamber decided that authorising amici curiae briefs was not necessary for proper determination of the issue litigated.

On 23 June, the Trial Chamber decided upon the Co-Prosecutors' request to summons witness 2-TCW-896 as a replacement for witness 2-TCW-912 regardless of the availability of witness 2-TCW-926 to testify. The Chamber noted that it had received information from WESU indicating that witness 2-TCW-896 passed away and found that the request was accordingly moot.

On 24 June, the Trial Chamber issued a clarification order regarding the quarterly cognitive testing of NUON Chea and KHIEU Samphan. The quarterly testing shall be administered by medical professionals contracted to provide services to the ECCC Detention Unit.

On 29 June, the Trial Chamber granted in part the KHIEU Samphan Defence's request to admit Chapter 2 of a Human Rights Watch Report entitled "30 years of Hun Sen: Violence, Repression, and Corruption in Cambodia" and a study by Dmitry Mosyakov. The Trial Chamber found that Chapter Two of the Human Rights Watch Report was unsuitable to prove the facts it purports to prove and was not conducive to determining the truth. The Trial Chamber considered however that it was in the interests of justice to admit the Mosyakov study into evidence in Case 002/02.

On 30 June, the Trial Chamber issued a decision on objections to documents proposed to be put before the Chamber by all parties in Case 002/02. The Co-Prosecutors submitted a total of 7,447 documents, as well as a supplemental list of 143 documents. The Civil Party Lead Co-Lawyers submitted a document list of 1,336 documents and a supplemental list of 19 documents. The NUON Chea Defence team initially stated it would submit the updated document and exhibit list later in accordance with Internal Rule 87(4). It then filed a Document List in response to an earlier decision of the Trial Chamber, submitting 22 documents. The KHIEU Samphan Defence Document List included 198 documents. In accordance with the Internal Rules, the Trial Chamber reviewed each document for relevance and reliability as well as looking at the Parties' respective objections and submissions. The Chamber rejected a number of documents because they were irrelevant, illegible, duplicates of other documents already on the Case File, or otherwise inadmissible under the requirements of the Internal Rules and the Chamber's established jurisprudence. The Trial Chamber admitted however the remaining documents.

Pre-Trial Chamber

During the reporting period, the Pre-Trial Chamber was back in a position to examine in full quorum some of the pending appeals and on 17 June 2015 it decided upon three submissions by: i) dismissing as moot an appeal filed by MEAS Muth in English on 18 December 2014 and in Khmer on 10 February 2015 against the International Co-Investigating Judge's denial of his requests to access the case file and take part in the judicial investigation; ii) dismissing as inadmissible an appeal filed by MEAS Muth on 3 March 2015 against the Co-Investigating Judges' "constructive denial" of his motion to strike the International Co-Prosecutor's Supplementary Submission in Case 003; and iii) rejecting an appeal filed by a lawyer on 17 February 2015 and upholding the impugned Defence Support Section's decision that denied the lawyer's application to be placed on the list of lawyers for defending indigent persons before the ECCC. All those decisions are available on the eccc website.

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 June 2015. For public decisions and orders, please refer to page 8.

As yet, the Pre-Trial Chamber remained seized of four pending appeals and motions, two related to Case 003 and two to Case 004, mainly challenging the validity of the proceedings.

In addition, the Pre-Trial Chamber was seized of three new appeals and motions related to Case 003.

At the end of the reporting period, the Pre-Trial Chamber was formally seized of a total of seven appeals and motions relating to the investigations in Cases 003 and 004. The next rulings will be issued in due course.

On 22 June 2015, Judge BAIK Kang Jin (Republic of Korea) was appointed as new International Judge in the Pre-Trial Chamber to replace Judge Rowan Downing (Australia). Reserve Judge Steven J. BWANA continues to sit on the pending cases he has been assigned, as announced on 23 January 2015.

Office of the Co-Investigating Judges

During the month of June, the international side of the Office of the Co-Investigating Judges ("OICIJ") continued the investigations of Case Files 003 and 004. One field mission took place in Case File 003, in the course of which four witnesses were interviewed and one investigative action report was drafted. Three witnesses were interviewed on ECCC premises. In Case File 004, four field missions took place, resulting in 20 interviews and seven investigative action reports being drafted. 13 witnesses were interviewed at the ECCC premises.

During the month of June, the OCIJ Analysts Unit reviewed Khmer Rouge documents, photographs and witness interviews at external archives. Our review continued of over 2,000 prisoners logs held at Khmer Rouge Security Centers. Additionally, the Analysts Unit assisted and participated in all field missions and in-house interviews conducted during the month of June.

OCIJ received more supplementary information from the Victim Support Section and the Civil Party Lawyers. The supplementary information and civil party applications in Cases 003 and 004, which presently total in excess of 2,342, are progressively being placed on the case files. Their evidentiary value is subjected to a thorough scrutiny by analysts, investigators and legal officers, to assess their admissibility and relevance to both case files.

Office of the Co-Prosecutors

Case 002

In relation to the appeals from the Judgment in Case 002/01, Nuon Chea requested additional witness hearing by the Supreme Court Chamber. On 2 June 2015, the latter granted the request and decided to hold hearings in July 2015 during which it would hear three witnesses: SCW-3, SCW-4 and SCW-5. Since, the Co-Prosecutors have devoted a lot of time responding to parties' requests and preparing the hearings.

On 23 June, the International Co-Prosecutor filed his second response to the Supreme Court Chamber's decision on Nuon Chea's third request to obtain and consider additional evidence in the appeal proceedings, where he informed the Chamber that there were no material from Cases 003 and 004 containing evidence relating to the categories set out by the Chamber.

On 24 June, upon the Chamber's request, the Co-Prosecutors submitted a list of documents they intended to use during the questioning of witnesses SCW-3, SCW-4 and SCW-5. The same day, the Co-Prosecutors, along with the Civil Party Co-Lawyers, requested additional time to examine witness SCW-5, deemed to be of particular importance. The Supreme Court Chamber denied their request on 30 June.

On 29 June 2015, the Co-Prosecutors filed objections to the materials submitted by the other parties in the framework of the appeal hearings. They held that documents that were not before the Trial Chamber in Case 002/01 as well as statements or "confessions" taken at S-21 prison should be excluded.

On 30 June, the Co-Prosecutors responded to Nuon Chea's fourth request to obtain and consider additional evidence in the appeal proceedings and requested the Chamber to deny his request. The Co-Prosecutors held that the proffered testimony of Pech Chim and SCW-4 could not be a decisive factor that would change the Judgment in Case 002/01. Additionally, they submitted that, in order to determine whether their testimonies should be admitted, and the weight it should receive in such event, the interests of justice required the Supreme Court Chamber to also consider the new evidence from the Case 002/02 trial as well as Cases 003 and 004 judicial investigations supporting the Judgment.

Cases 003 and 004

In June, the International Co-Prosecutor was moreover very active in Cases 003 and 004. Indeed, the respective parties' requests have significantly increased since the International Co-Investigating Judge decided to charge three persons earlier this year, thereby granting them and their lawyers access to the files. In Case 003, the International Co-Prosecutor confidentially filed three requests, as well as one response and one reply to Meas Muth's response. In Case 004, the International Co-Prosecutor filed two requests and two responses to Im Chaem's appeals.

The Co-Prosecutors have otherwise continued analyzing the evidence gathered and reviewing the procedural developments in Cases 003 and 004. Evidence is analyzed not only for its relevance to the issues in these cases, but also for disclosure purposes in view of their relevance to the Case 002/01 Appeal and Case 002/02 Trial.

Defence Support Section

In June, the defence teams for Nuon Chea and Khieu Samphan continued to attend hearings before the Trial Chamber in Case 002/02. At the same time, both teams have been preparing to attend the first hearings of the appeal of Case 002/01 which will begin in the Supreme Court Chamber in July. In addition, the Nuon Chea defence have filed a request to admit additional evidence on appeal in Case 002/01. In preparation for the hearings of three new witnesses on appeal in Case 002/01, the Nuon Chea defence filed an objection to the use of several documents proposed by the Prosecution, Co-Lawyers for Civil Parties, and the Khieu Samphan defence. The Supreme Court Chamber upheld the bulk of these objections.

In preparation for the first hearings on an appeal in Case 002/01, the Khieu Samphan defence also filed objections to the use of documents by the other parties in the questioning of witnesses on appeal. Having granted additional time to file their objections, the Supreme Court Chamber upheld these objections in part. In Case 002/02 the Trial Chamber handed down its response to two requests by the Khieu Samphan defence to admit new evidence before the Trial Chamber pursuant to Internal Rule 87(4). These requests were accepted in part.

In Case 003, the Defence team for Meas Muth continued to review material on the case file, having recently been granted access. The Defence has filed five applications to the Office of the Co-Investigating Judges (OCIJ) to seize the Pre-Trial Chamber (PTC) with requests for an annulment pursuant to Internal Rule 76(2), as well as filing several appeals to the PTC related to jurisdictional and investigative decisions from the OCIJ. These remain confidential. In addition, the Meas Muth Defence filed a request to intervene or, in the alternative, act an amicus curiae with the Trial Chamber in Case 002/02 regarding the use of torture-tainted evidence. The Defence made two submissions. First, that a ruling on the use of torture-tainted evidence in Case 002 would significantly impact Mr. Meas' interests in Case 003. Second, that the use of torture-tainted evidence in judicial proceedings is prohibited in all circumstances, except where such evidence is used against a person accused of torture as evidence that the statement was made. The Trial Chamber rejected their request to intervene. Upon request by the Defence, several of its submissions were recently reclassified as public, along with other documents related to Case 003. The Meas Muth Defence continues to make submissions to protect Mr. Meas Muth's fair trial rights.

In Case 004, on 3 June 2015, the defence team for Ao An filed an application requesting that the OCIJ seize the PTC with a view to annulment of the judicial investigation. The team also continued to review the information in the case file to protect the client's fundamental fair trial rights.

Also in Case 004, the Im Chaem defence team continued to assess evidence in the case file and submitted arguments to protect Ms. Im's fair trial and procedural rights.

Finally, the defence team for the final named suspect in Case 004 continued to monitor proceedings in Case 002/02. It continued to assert that the use of documents from Case 004 in proceedings before the Trail Chamber in Case 002/02 constitutes a violation of the named suspect's rights. The Team continued to work to ensure its client's fair trial rights are protected.

Civil Party Lead Co-Lawyers Section

Key Legal Developments

The Lead Co-Lawyers and Civil Party Lawyers participated in the examination of the remaining witnesses testifying about their experiences at the 1st January Dam. The Section also participated in the examination of six witnesses and two Civil Parties, Kong Siek and Chum Samoeurn, who provided testimony about the Kampong Chhnang Airport crime site.

The Lead Co-Lawyers and Civil Party Lawyers filed several submissions with respect to the upcoming Supreme Court Chamber Appeal Hearings relating to the appeals against the case 002/01 Trial Judgement.

On 24 June 2015, the Lead Co-Lawyers and Civil Party Lawyers jointly filed with the Office of the Co-Prosecutors the Co-Prosecutors' and Civil Party Lead Co-Lawyers' Request for Additional Time for Examination for SCW-5 in order to maintain equality amongst the Parties with respect to questioning time for the witness.

On 26 June 2015, the Lead Co-Lawyers and Civil Party Lawyers filed the Civil Party Lead Co-Lawyers' Response to NUON Chea's Fourth Request Re Appeal Against Trial Judgement in Case 002/01 opposing the admission of transcripts from the ongoing Case 002/02 on Appeal.

Reparations and Outreach

The Lead Co-Lawyers and Civil Party Law-

yers filed their Interim Report on Reparations with the Trial Chamber on 17 June 2015. The Report details the reparations process in case 002/02. Eighteen potential reparation projects providing collective and moral benefits to Civil Parties and addressing the harms suffered by Civil Parties caused by crimes within the scope of case 002/02 are in the consultation process with Civil Parties and stakeholders, and several projects are being discussed with the Royal Government of Cambodia through the Office of Administration.

Victims Support Section

Legal representation

As the evidentiary hearings of Case 002/02 still continued, the ECCC-funded Civil Party Lawyer team fully participated in all hearings and reviewed case files of witnesses and civil parties needed to be examined. More importantly, they prepared relevant document and questions to examine the witnesses for the upcoming hearings of Supreme Court Chamber on Case 002/01 appeal.

The lawyer team also participated in the meeting with Lead Co-Lawyer Section to discuss about the Case 002/02 hearing relating to Kampong Chhnang Airport Worksite and preparation for Supreme Court Hearing.

Processing and analysis

As the remaining supplementary information in Cases 003 & 004 has not been completely collected yet, the Processing and Analysis Team (PAT) continued to collect it through phone calls made to applicants having been suffered from alleged crimes under the investigation scope of Cases 003 & 004. During the month, the team filed 29 pieces of supplementary information in Cases 003 &

004 to the OCIJ. So far, the total pieces of 224 of supplementary information have been filed in both cases.

Reparations and non-judicial measures

The Reparation & Non-Judicial Measure (R&NJM) Team has coordinated the implementation of all R&NJM projects through meetings and technical support communication.

On 02 June, the team's members participated in a meeting with the Ministry of Planning to discuss about the request of IDPoor Card for Civil Parties. On the following day, the team's members attended the National Consultation Workshop on the Development of Guide Book of Study Tour in Mass Killing Site Link to the Education of Khmer Rouge History which took place at Youth for Peace with around 23 participants from local and international NGOs and Ministry of Education Youth & Sport.

In addition, the team's members joint many meetings with Lead Co-Lawyers to have discussions about Case 002/02 reparation requests so as to identify potential reparations and plan further.

Outreach

Since the evidentiary hearing of Case 002/02 has continued, Outreach Team invited approximately 64 Civil Parties from Kampong Chhnang Kampong Thom Prey Veng Kampong Cham Kampot Stung Treng Siem Reap Kampong Speu Preah Sihanouk to attend hearings at the ECCC. At lunch break of each hearing day, they were also arranged to meet with their lawyers to be briefed on what already happened and what would be discussed in the court. After the hearing ended in each day, Judgment Books of Case 002/01, radios and VSS newsletters were distributed to those CPs.

As usual, 10 CPs were arranged to sit in the Courtroom along with their lawyers and the rests were in the public gallery.

Decisions/Orders

Public versions of the decisions, orders, opinions and considerations are available on the official ECCC website:

www.eccc.gov.kh/en/document/court

Supreme Court Chamber

15 June 2015 : Decision Requesting Submissions on the Additional Investigation, F2/4/3/3,

23 June 2015 : Decision on Khieu Samphan's Request for Extension of Time Limit for Objections, F26/1/1,

30 June 2015 : Decision on Co-Prosecutors and Civil Party Lead Co-Lawyers' Request for Additional Time for Examination of SCW-5, F26/2/

Trial Chamber

12 June 2015 : Decision on KHIEU Samphan's Request for Confrontation Among Witness SREY Than and Civil Parties SAY Sen and SAUT Saing and Disclosure of Audio Recording of Interviews of SAY Sen <E348/4>

23 June 2015 : Decision on requests for leave to file amicus curiae briefs or to participate as intervener on the admissibility and use of torture-tainted evidence (E350/5 and E350/6) <E350/7>

23 June 2015 : Decision on Co-Prosecutor' Request to Summons Witness 2-TCW-896 as a Replacement for Witness 2-TCW-912 in relation to the 1st January Dam Segment of Case 002/02 <E351/1>

29 June 2015 : Decision on KHIEU Samphan's Request Pursuant to Internal Rule 87(4) to Admit New Documents to Case 002/02 <E347/1>

30 June 2015 : Decision on Objections to Documents Proposed to be Put Before the Chamber in Case 002/02 <E305/17>

TC will resume Case 002/02 hearings on 27 July

The Trial Chamber will resume hearing evidence in Case 002/02 on 27 July 2015. The Trial will shift its focus to Trapeang Thma Dam in the Northwest Zone - the third and final worksite in Case 002/02. The Trial Chamber already heard evidence on the 1st January Dam in the Central Zone, and the Kampong Chhnang airport in the West Zone.

Ms. Kong Siek , testified on 17 June 2015

Ms. Kong Siek, 63, explained that she joined the military, as part of division 450, in Russei Keo hospital before being transferred to work in rice fields. In 1977, she started to work at the Kampong Chhnang construction site, where she had to build canals, carry bags of cement (weighing around 50kg each) and sew clothes. She described the work conditions as very hard, and elaborated on the poor hygiene. She stated that none of the workers looked healthy, and her group held meetings on self-criticism, where everyone was criticized and no one dared to react. She described seeing trucks transporting people and two people being electrocuted near a mango tree. She confirmed that workers were not allowed to move freely, or talk with others, and emphasized that under the regime she couldn't choose what to do, but did only what as she was ordered. It was emphasized to her ,that if one person was punished, everyone underneath them would be punished too. She explained that she joined the military as a mechanism to survive and her brother, who was already a part of it, encouraged her to do so.

Mr. Sem Hoeurn, testified on 17 June 2015

Mr. Sem Hoeurn was only 15 years old at the time of the Lon Nol Coup and joined the Khmer Rouge with the understanding that he was going to liberate his country. He became disillusioned with the regime, however, and was sent to work as a lay person after 'violating' the regime. He was present at Wat Phnom, following the occupation of the city, and witnessed torture while training as a soldier. His unit was sent to farm rice, where he was expected to produce five tons of rice per hectare, with only hoes and their bare hands. He said that he did not like the regime, as they mistreated soldiers, their own people, and did not have any freedom. He described it as a 'prison without walls', as they were not allowed to move around. He explained that people were accused of being spies for the CIA and KGB, and seen as avoiding the revolution. He described insufficient work conditions, killings, and witnessing Khieu Samphan at the Kampong Chhnang Airport. While a part of the regime during the overthrow of Phnom Penh, Mr. Sem Hoeurn was sent to work as an ordinary citizen at Kampong Chhnang as a result of being defective. He was questioned on his witness statements, which differed from ones given in previous years to DC-CAM, a fault the witness blamed on the passing of time.

Ms. Him Han , testified on 23-24 June 2015

Mr. Him Han, 66, was a member of Division 310 and was responsible for sorting biographies of RAK cadres. In January 1976, he became a full candidate member but his rights were taken after being allegedly connected to the enemy, and he was sent to work as a regular worker in Kampong Chhnang. He described the conditions as exhausting and insufficient. Before the Division 310 purges, the witness was summoned to a meeting at Olympic Stadium and stated that he witnessed senior leaders of the Khmer Rouge, including Ieng Sary, Khieu Samphan, Pol Pot and Nuon Chea. He described people disappearing as a result of the Division 310 purges and explained that that was also a threat while working at Kampong Chhnang. He stated that 310 Division chief Oeun and the deputy chiefs were arrested by cadres from the Southwest Zone, and that he found out Oeun had been sent away after a meeting at Wat Phnom. The witness stated he was sent to Kampong Chhnang where he was demobilized. He described the insufficient work conditions and food rations and said that the work was very hard and the workload exhausting. The workers were not allowed to walk freely or to visit other units, and he was instructed not to talk with people from the East Zone, with whom they were working, or they would disappear. In his unit people hid their illnesses to avoid being considered lazy, and were killed and injured in explosions. He confirmed that there were many female workers and Chinese technicians on site.

Mrs. Chum Samoeun, testified on 24 June 2015

Mrs. Chum Samoeurn, 54 or 55, commenced her testimony before the Trial Chamber. She was questioned on her decision to join the Khmer Rouge, which she explained was as a result of wanting to free King Sihanouk. She was asked about her home town and family, and explained that all her brothers joined the revolution. The civil

party was linked to the former regime because her father was affiliated with it. In mid-1976, she was transferred to work in Kampong Chhnang airfield with her unit. They worked three times a day, carrying soil and rock. She explained that there was no breakfast, no supplementary food, no mosquito net or sleeping mat, and they had to drink the water from the creek that they used to wash themselves. She stated that they were never allowed to walk freely and had to work under the rain without proper protection. She explained that due to low levels of hygiene, she had an infection on her hand, but she kept working despite her injury, as no workers dared to refuse to work. In 1978 she was forced to marry, in a five-person ceremony. She initially refused, but was threatened to be killed.

Mrs. Kong Uth, testified on 24 June 2015

Mrs. Kong Uth, 63 or 64, was part of a mobile unit from her village from 1975-79, and as part of this she visited many worksites. She was sent to the 1st January Dam worksite, which she confirmed was called a 'hot battlefield', due to the intensive nature of the work and the long hours (they started work at 4am). Most of the workers were between 23-25, especially single women who were believed to possess the most strength to work. There were tens of thousands of workers, but no children. At the criticism meetings, workers were told to work harder. The witness stated that she is still suffering from the severity of the labor to this day. She stated that she never stole food, despite not having enough food to eat, but would drink dirty water when thirsty even if it made her sick. People got ill frequently, and there were many accidents from collapsed rocks falling on workers. They used traditional massage and coining to help. She described armed militias and guards who watched over the workers. None of her family members were killed during the regime, but she was forced to get married, as arranged by Angkar, to a man she knew but did not want to marry.

Mr. Keo Kin, testified on 10 June 2015

Mr. Keo Kin, age 49 or 50, was a Khmer Rouge soldier in Regiment 502, Division 1 from 1972 until April 1975 and said that after he joined the Khmer Rouge in 1972, discipline kept becoming stricter. The witness was part of a group of messengers who transported messages from Kampong Chhnang about once or twice a month, and stated that when his supervisor learned his father had been part of the previous regime before 17 April 1975 he was no longer trusted and was sent to Kampong Chhnang Airport Worksite. Construction on Kampong Chhnang began in late 1975 by a group of 10 people and in 1976 many new waves of soldiers arrived, the witness guessing that the site increased to around 1,000 workers. The witness's job was to work building garages for parking vehicles, and when he wasn't building a garage, he had to transport rice seedling and grow vegetables. The witness stated that the airfield was a secret project, and that there were guards to look over the worksite because ordinary civilians could not enter. When asked about living and working conditions at the worksite, the witness stated that workers would work until late at night, the local water was not good for drinking, people had to relieve themselves in the nearby forest, people would get malaria, there were no medical staff on the worksite, there were no beds or mosquito nets in his sleeping quarters, worker's bodies would swell and they would have diarrhea, and he also saw workers who were hit by rock fragments from trucks going by.

Mr. Keo Loeur, testified on 12 June 2015

KEO Loeur, age 64, started his testimony under the questions of the Co-Prosecutors. According to the witness, he was wounded in battle at the end of 1974 and taken to K4 unit. He stated that in 1977 there was a purge of deputies from the North Zone in Division 310. Later on, he was accused of being an enemy and sent to the Kampong Chhnang Airport Construction Worksite on 15 January 1978, where he stayed till 7 January 1979. The witness said that workers were not allowed to move freely, they did not get paid, they did not have enough food (barely a bowl of rice) and that they worked every day of the month. Due to the hard conditions of work, he said that people died. He did not see any guards dying of overwork and of starvation. Only when people got really sick, they were allowed to go to the medical unit, where traditional medicine was used to treat the patients. The witness also stated that he saw approximately 30 cases of people being tortured for being considered traitors. When asked about his arrival to the worksite on 15 January 1978, he said that he attended several meetings, during which they were told to work hard otherwise they would be arrested and tortured. According to the witness, workers would be brought to these meetings and then taken away. He claimed not to know the name of the superiors who were chairing these meetings.

Mr. Chan Morn, testified on 10 June 2015

Mr Chan Morn, 59, stated that he was called to join the revolution in March of 1970 when he was studying. He was assigned as a commune messenger and also to transport food supply, and in 1972 he became a messenger for the military. After the Khmer Rouge revolution in 1975, he was assigned to a transportation unit to carry cargo at the Kampong Chhnang Airport Construction site. The witness was there for three months in order to accompany the Chinese delegation who was drilling the land and making measurements. He described different accidents that happened in the different units, and also discussed overwork, malnutrition and suicides at the worksite. The witness stated that people were taken away at night time and transported to Phnom Penh in trucks coming from the city. The witness was accused of transporting rice to the enemy and the next day he was taken to detention at Toul Sleng Security Centre. Chan Morn described how he fled the detention centre with the help of his former colleague in the messenger unit.

More ECCC outreach with local villagers

On 14 July 2015, 200 visitors from Takeo Province came to learn about the history of the court and how it functions. A 58-year-old farmer, Mr. Tuy Ry, spoke with the Public Affairs Section about his experiences during the Khmer Rouge regime and spoke on what the ECCC means to him. He said that he had seen the trial on TV and wanted to come to see it with his own eyes. He wanted to learn about the trial of the senior leaders of the Khmer Rouge.

Tuy Ry explained that his personal history is very long and sad. During the regime, he described himself as used and forced to work very hard. He was sent to a dam worksite in Takeo Province. He lost four members of his family, including his uncle.

Tuy Ry believes that it is good that the tribunal exists in order to show that the mass killings and crimes committed under the regime did indeed happen. He was aware of Nuon Chea and Khieu Samphan, but was unsure of the names of other senior leaders.

When asked if he spoke to his children about what happened during the regime, he expressed that he did but that it was hard for them to believe it without seeing the stupas and other concrete evidence for themselves. He said it is very important to teach the youth about what happened, but it is hard to know their minds as today is very different.

When asked what he thought appropriate justice would be for the former Khmer Rouge leaders, he suggested that life imprisonment would be a suitable sentence though he would leave that to the ECCC to decide. He wants justice not just for him, but for all the victims of the Khmer Rouge regime.

Mr. Tuy Ry participated in the Study Tour at the ECCC on 15 July 2015.

After a presentation by Public Affairs Officer Neth Pheaktra, Tuy Ry was happy with what he had learned and said that he would go home to talk about it further with others in his village. He also expressed interest in visiting S-21 and Choeung Ek to learn more about the regime.

American high school students visit the ECCC

On 15 July a group of twenty American high school students from a summer study programme visited the ECCC. Their four-week programme involved learning about the development, history and culture of Cambodia. Following their visit to the Killing Fields, the students visited the ECCC where Press Officer Neth Pheaktra gave them an insight into the work of the court.

Three of the students were interviewed following their talk with Pheaktra. They had some previous knowledge of the tribunal, and asked about the longevity and costs of the trials. Following their lecture with Pheaktra, they better understood the reality and complexity of the processes of the ECCC, agreeing that the court is important in bringing justice for the victims. Sixteen-year-old Ara pointed out that it is important to show that there are consequences to committing such atrocities. Lucy, also 16, argued that it would have likely been more beneficial twenty years ago, but they all agreed "better late than never".

When asked if their visit inspired their future studies and career, Lucy stated she was persuaded by a future in foreign affairs.

ECCC outreach

The Public Affairs Section of the ECCC hosts Khmer Rouge Tribunal Study Tours, bringing groups of 200-300 villagers from areas throughout Cambodia twice a week to the ECCC, the Tuol Sleng Genocide Museum and the Choeung Ek killing fields for a guided tour and briefings. During the trial recesses, the Public Affairs Section also conducts school visits to give briefings, as well as hosting community video screenings across Cambodia. It also welcomes international group visitors and provides briefings and court tours.

June 2015

SUN	MON	TUE	WED	THU	FRI	SAT
	1	2 Hearing 300 people, From Takeo Province	3 Hearing 300 people, From Takeo Province	4 Hearing 300 people, From Takeo Province	5 Hearing 300 people, From Takeo Province	6
7	8 Hearing 300 people, From Kompong Chhnang Province	9 Hearing 300 people, From Kompong Chhnang Province	10 Hearing 300 people, From Kompong Chhnang Province	11 Hearing 300 people, From Kompong Chhnang Province	12	13
14	15 Hearing 300 people, From Kompong Chhnang Province	16 Hearing 300 people, From Kompong Chhnang Province	17 Hearing 300 people, From Kompong Chhnang Province	18	19	20
21	22 Hearing 300 people, From Kompong Chhnang Province	23 Hearing 300 people, From Takeo Province	24 Hearing 600 people, From Kg Chhnang and Svay Rieng Province	25 Hearing 400 people, From Takeo Province	26	27
28	29 Hearing 300 people, From Svay Rieng Province	30				

July 2015

SUN	MON	TUE	WED	THU	FRI	SAT
			1	2 Hearing 300 people, From Takeo, Prey Veng Province	3 Hearing 400 people, From Takeo Province	4
5	6 Hearing 400 people, From Takeo Province	7 Study Tour 200 people, From Takeo Province	8	9 Study Tour 300 students From Kampot Province	10	11
12	13	14 Study Tour 200 people, From Takeo Province	15	16 Study Tour 250 people from Takeo province	17	18
19	20	21 Study Tour 200 people, From Kampong Thom Province	22	23 Study Tour 200 people, From Kampong Thom Province	24	25
26	27 Hearing 400 people, From Takeo Province	28 Hearing 400 people, From Kg Cham Phnom Penh	29 400 people, From Kg Cham Phnom Penh	30 400 people, From Kg Cham Phnom Penh		

Outreach activities

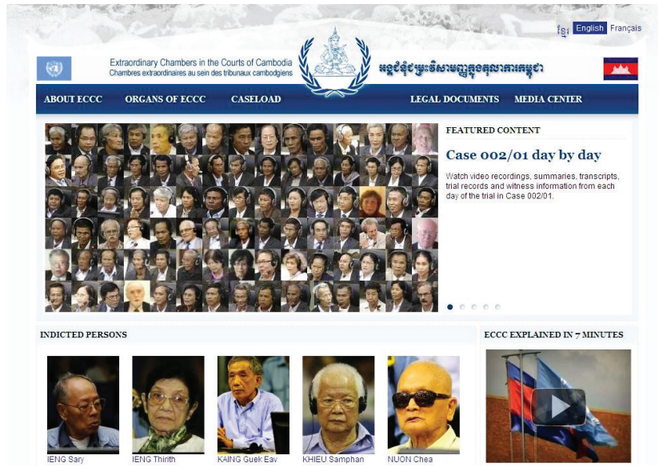
The International Criminal Court (ICC) launched a new #justicematters Facebook campaign on the 17th of July, the Day of International Criminal Justice. The ICC is the first permanent international criminal court established to try individuals for genocide, war crimes and crimes against humanity. The Day of International Criminal Justice marks the anniversary of the adoption of the Rome Statute on 17 July 1998, the founding treaty of the ICC, which seeks to protect people from genocide, crimes against humanity, war crimes and the crime of aggression. The 17 July unites all those who wish to support justice, promote victims' rights, and help prevent crimes that threaten the peace, security and well-being of the world. ECCC joined the campaign on social media, and the Public Affairs team asked the ECCC staff what justice means to them. Here are some of the responses we received:

- Respect
- Equality
- Enhancing the role of local communities and acknowledging their concerns to move forward
- Peace
- Change
- Representation
- Honesty
- Truth
- Fair trial
- Reconciliation

KRT Watch Radio Call-in Show by CHRAC on radio FM102. The theme was "Perspectives of Defence team at ECCC" and Mr. Ang Udom, a defence lawyer for Case 003, was a guest speaker. As an outcome of this show, the public heard voices/perspectives of the defence team and reactions from other victims and/or callers regarding this topic.

FIND OUT MORE ABOUT THE EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA

The ECCC welcomes visitors. For more information: pas@eccc.gov.kh.



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