

**7<sup>th</sup>**  
Edition

# An Introduction to The Khmer Rouge Trials





# CONTENTS

<b>Q1</b>	Why has it taken so long to bring to trial those alleged to be responsible for the crimes committed in the Khmer Rouge period?.....	6
<b>Q2</b>	Why are we having trials now? How will the Khmer Rouge trials benefit the people of Cambodia? .....	6
<b>Q3</b>	Who can be put on trial? .....	7
<b>Q4</b>	What sentence would the Accused receive if convicted?..	8
<b>Q5</b>	Will there be amnesties and pardons? .....	8
<b>Q6</b>	Have any of the Khmer Rouge senior leaders been tried before? .....	8
<b>Q7</b>	Can foreign countries that supported or were involved with Democratic Kampuchea, or countries that may have committed war crimes in Cambodia before 1975, be put on trial?.....	9
<b>Q8</b>	Can crimes alleged to have been committed by senior leaders of the Khmer Rouge or others after 1979 be tried? .....	9
<b>Q9</b>	What is the current caseload of the ECCC? .....	10
<b>Q10</b>	How long will the trials take?.....	13
<b>Q11</b>	Where are the trials taking place? .....	13
<b>Q12</b>	How does the court work? .....	14
<b>Q13</b>	Who can attend the trials? .....	15
<b>Q14</b>	If I cannot attend, how can I find out what is happening inside the court?.....	15
<b>Q15</b>	How are the Judges appointed? .....	15
<b>Q16</b>	How do the Judges reach decisions? .....	16
<b>Q17</b>	Who decides who can be put on trial? Who decides on the charges against them?.....	16
<b>Q18</b>	What if the Co-Prosecutors or Co-Investigating Judges disagree on whether to take a case to trial?.....	16

<b>Q19</b>	What do the trial Judges do?.....	17
<b>Q20</b>	What evidence can be used at the trials?.....	17
<b>Q21</b>	What crimes can be tried? Do the trials use Cambodian law or international law? .....	17
<b>Q22</b>	What rights do the Defendants have?.....	18
<b>Q23</b>	Who can be a witness?.....	18
<b>Q24</b>	Do I have to give information to the court?.....	19
<b>Q25</b>	What if I want to give information about someone who I believe committed serious crimes during the Khmer Rouge period?.....	19
<b>Q26</b>	What support is given to witnesses and victims giving testimony, and to people who may be distressed by hearing the testimony?.....	20
<b>Q27</b>	How can victims participate in the trials?.....	20
<b>Q28</b>	Will victims be entitled to compensation?.....	21
<b>Q29</b>	Why is the United Nations involved? .....	21
<b>Q30</b>	Why are the Khmer Rouge leaders not on trial at the International Criminal Court in The Hague or the International Court of Justice? .....	22
<b>Q31</b>	Is the ECCC a Cambodian or an international court? ....	22
<b>Q32</b>	Are there any other courts in the world like the ECCC?..	22
<b>Q33</b>	Why was this model chosen for the ECCC?.....	22
<b>Q34</b>	How much will the trials cost?.....	23
<b>Q35</b>	How is the court financed?.....	23
<b>Q36</b>	How can I find out more information about the Khmer Rouge and the trials?.....	23
<b>Q37</b>	What roles do NGOs play?.....	24
<b>Q38</b>	Where can I find support services? .....	24
<b>RESOURCES on Khmer Rouge Trials</b> .....		25

# PREFACE



**By Samdech Akka Moha  
Sena Padei Techo Hun Sen**  
*Prime Minister of the Royal  
Government of Cambodia*

## **Brothers and Sisters, People of Cambodia,**

Not a single one of our people has been spared from the ravages brought upon our country during the three years, eight months and twenty days that Pol Pot's Khmer Rouge held power under the regime known as Democratic Kampuchea.

During that time, over three million of our people lost their lives. They were our parents, our children, our relatives, our colleagues and our friends. Those of us who survived have lived for a quarter of a century bearing pain and grief for those we lost and being haunted by the nightmare of our own experiences.

Even those of you born after 1979, who did not directly experience these crimes, still bear a heavy burden. You see your parents and older brothers and sisters still suffering. You also share in the difficulties of rebuilding our society from Year Zero without the benefit of the wisdom and experience of those who were lost. It continues to be a long, hard struggle and we all know that Cambodia today lags far behind our neighbours in health, education and economic infrastructure.

Now the time has come for those responsible for planning and directing this horror to be held accountable for their crimes. After years of negotiation with the United Nations, we have established a new Cambodian court that includes international judges and staff. Its official name is the Extraordinary Chambers in the Courts of Cambodia for the Prosecution of Crimes Committed During the Period of Democratic Kampuchea. This is the first court in the world of its kind.

These crimes of the Khmer Rouge period were committed not just against the people of Cambodia but against all humanity. It is therefore fitting that Cambodians work together with the international community in trying those most responsible and, in so doing, help to build a culture that will prevent the recurrence of such crimes anywhere. We hope that our new court will be a successful model for Cambodia, but will also make a wider contribution to international justice.

I am sure you join me in trusting that these trials take place in a calm and dignified manner. When the judges have delivered their verdicts, we hope that Cambodians and all who support us will feel a load lifted from our backs as we finally bring justice in the name of the victims.

A blue ink handwritten signature of the Prime Minister, consisting of stylized, fluid strokes.

Prime Minister

# INTRODUCTION



Photo: ECCC

## **By His Excellency Bin Chhin**

*Standing Deputy Prime Minister, Acting Minister in charge of the Office of the Council of Ministers, and Chairman of the Royal Government of Cambodia's Task Force in Cooperation with the United Nations and Principal Donors Group in Support of the Proceedings in the Extraordinary Chambers in the Courts of Cambodia*

Cambodia and the United Nations came together and established a hybrid court named the Extraordinary Chambers in the Court of Cambodia (ECCC), in order to end the culture of impunity and prevent the recurrence of genocidal regime in Cambodia or anywhere else in the world.

The ECCC is a national Court within the courts of the country where the crimes took place, which facilitates the national reconciliation and provides and brings justice not only for the more than three million victims who perished but also for those who survived the pain and suffering of the Democratic Kampuchea regime from 17 April 1975 to 6 January 1979. As of today, the ECCC has made substantive judicial achievements, namely: (a) case 001 and case 002/01 were fully finished; (b) the delivery of a trial judgement in case 002/02 is expected by second or third quarter of 2018; and (c) the investigations in case 003 and 004 have been completed. Further, the ECCC has been leaving good legacy within Cambodian society, and strengthening the rule of law in Cambodia by setting a model of fair, open trials in conformity with international standards. Especially, the ECCC has been contributing to the national reconciliation, remembrance and non-recurrence of the Khmer Rouge regime including the transfer of knowledge and experiences to the national courts, as well.

I wish also to express my deep appreciation to my predecessor as Chairman of this Task Force, the late Samdech Vibol Panha Sok An for his untiring efforts from the times of the Royal Government of Cambodia negotiations and Agreement, throughout the establishment and smooth functioning of the ECCC, until he passed away in March 2017. Taking this opportunity, I would like to extend my most profound gratitude to Samdech Akka Moha Sena Padei Techo Hun Sen, Prime Minister of the Kingdom of Cambodia, for constantly and strenuously supporting the process of the tribunal, ranging from the initiative to establish the tribunal through to the recent establishment of the Legal Documentation Centre (LDC) relating to the ECCC, as well as provide in-cash and in-kind supports to the ECCC for the cause of legacy, historical memory, peace strengthening and maintenance, national unity, reconciliation, and social development in Cambodia for the next generations.

More than half a million Cambodians have already come to see justice at work in the ECCC itself, or been reached through the outreach activities undertaken by the Public Affairs, Victims Support and the Civil Party Lead Co-Lawyers Sections of the Court. More than hundred thousand copies of earlier editions of this booklet have been circulated, and this latest edition is being published to continue the task of introducing the Extraordinary Chambers to people across the country and the world, and answering some of the questions people commonly ask about the trials.

Standing Deputy Prime Minister



# MESSAGE



Photo: UN/Mark Garten

**By António Guterres**  
*United Nations Secretary-General*

The Extraordinary Chambers in the Courts of Cambodia were established to bring justice to the people of Cambodia for the horrific crimes committed by the Khmer Rouge regime in the 1970s. Since it began its work in February 2006, the ECCC has made significant progress in fulfilling its mandate.

In February 2012, the Supreme Court Chamber upheld the conviction against the head of the notorious S-21 detention centre for crimes against humanity and grave breaches of the 1949 Geneva Conventions, imposing a life sentence. In November 2016, the same Chamber upheld the convictions of two senior Khmer Rouge leaders on the charges of crimes against humanity. These historic trials demonstrate that working together, the Government of Cambodia and the international community can successfully act to end impunity and ensure accountability for international crimes. The ECCC continues to be fully engaged with the ongoing trial on additional charges against the same two senior leaders and judicial investigations in two further cases.

During its years of operation, the ECCC has contributed to strengthening the rule of law and improving judicial capacity in Cambodia to address serious international crimes. Its outreach efforts, which have reached over half a million people, are vital to ensuring that the victims of atrocities are not forgotten while at the same time helping the Cambodian people to move forward.

The ECCC has sent a strong message to the world that we can combat impunity and ensure accountability. It should also leave a lasting judicial legacy by establishing a historical record of the crimes of the Khmer Rouge and empowering survivors, their families and Cambodian society to search for the truth and find justice.



## Official emblem for the Extraordinary Chambers in the Courts of Cambodia

The emblem represents the ECCC by combining a depiction of the administration of Cambodian justice during the ancient period of Angkor with the United Nations' wreath of olive branches symbolising peace. The official colour is dark blue.

The figure is seated on a dais and is holding a sword to symbolise the authority of the court. This is the central figure of the mural in the former Appeals Court in the Ministry of Justice in Phnom Penh, where he is flanked by two assistants referring to the law as inscribed on palm-leaf manuscripts.

Q1

Why has it taken so long to bring to trial those alleged to be responsible for the crimes committed in the Khmer Rouge period?

History shows that it is very difficult to put people on trial while a war is still in progress. Cambodia first approached the United Nations for assistance to conduct a trial in 1997. Once the civil war ended in 1998, the Royal Government and the UN worked together towards implementing a new type of mixed national-international tribunal. It took some time to work out the details for this new type of court.

The court was established by a law of the Cambodian National Assembly in 2001 and an agreement between the Royal Government and the UN signed in 2003 set out the parameters of the international cooperation.



Workers at a construction site during the Khmer Rouge regime

Source: The Documentation Center of Cambodia

Photo: ECCC



Courtroom of the Extraordinary Chambers in the Courts of Cambodia.

Q2

Why are we having trials now?  
How will the Khmer Rouge trials benefit the people of Cambodia?

For over a quarter of a century, the Cambodian people waited for justice. With the establishment of the court, the senior leaders of Democratic Kampuchea (the name of the state established by the Khmer Rouge) and those most responsible for serious crimes are being held accountable for their crimes.





Photo: DC-Cam

Khmer Rouge troops enter Phnom Penh on 17 April 1975

### Q3 Who can be put on trial?

In the spirit of achieving justice, truth and national reconciliation, the jurisdiction of the court is limited to the senior leaders of Democratic Kampuchea, as well as those who were the most responsible for committing serious crimes during that period from 17 April 1975-6 January 1979.

Over the years, tens of thousands of ordinary Khmer Rouge soldiers have defected to the government. They have nothing to fear from this court. The policy of national reconciliation is still in place. The ECCC has been established to try only the most culpable people.

The court has the responsibility to decide exactly who was a 'senior

leader' and who was 'most responsible' for the crimes committed by the Khmer Rouge. The court has jurisdiction to try those people only, not every former member of the Khmer Rouge or every person in the villages of Cambodia who may have committed crimes during the Khmer Rouge period.

Low level and middle-ranking Khmer Rouge members who are not most responsible for serious crimes will not be prosecuted. Many have now re-integrated into our society. Hopefully, these people will live peaceful lives and assist in the development of our country.

Children or other family members or associates of Khmer Rouge leaders will not be responsible for their parents' or associates' crimes. Nobody will be responsible for another person's actions just because they are related to or associated with that person.

Only people who are still alive can be tried. There will be no posthumous trials.



Photo: DC-Cam

Khmer Rouge troops enter Phnom Penh on 17 April 1975

Q4

What sentence would the Accused receive if convicted?

If convicted, the accused face a minimum sentence of five years to a maximum sentence of life imprisonment. The death penalty is unconstitutional in Cambodia. In addition, the court may order the confiscation of property or money that a defendant has acquired unlawfully or by criminal conduct. Any confiscated property will be turned over to the State. Kaing Guek Eav alias Duch, Nuon Chea and Khieu Samphan have been sentenced to life imprisonment.

Q5

Will there be amnesties and pardons?

The Royal Government of Cambodia has stated that it will not request an amnesty or pardon for any person who may be investigated or convicted in these trials.



Photo: ECCC

Public read booklet on Introduction to The Khmer Rouge Trials.



Photo: Sapordarmean Khmer (SPK)

Opening session of People's Revolutionary Tribunal, 15 August 1979

Q6

Have any of the Khmer Rouge senior leaders been tried before?

In 1979, there was a genocide trial in Phnom Penh known as the People's Revolutionary Tribunal. That tribunal tried Pol Pot and Ieng Sary and found both guilty of the crime of genocide, but neither of them appeared in court nor served any sentence.

In 1979, the Khmer Rouge themselves tried Pol Pot for crimes allegedly committed within the organization after 1979. Pol Pot died in 1998, so he cannot be tried in this court.





Source: Documentation Center of Cambodia

Accused Nuon Chea stands with Khmer Rouge members during the Democratic Kampuchea period

## Q8

Can crimes alleged to have been committed by senior leaders of the Khmer Rouge or others after 1979 be tried?

No, this court can try only crimes committed in Cambodia between 17 April 1975 and 6 January 1979.

Prior to the establishment of the ECCC, the existing Cambodian courts tried some crimes alleged to have been committed by the Khmer Rouge after 1979. For example, the trial of Khmer Rouge officers responsible for ambushing the Phnom Penh-Kampot train in 1994, killing 11 Cambodians and executing three Western hostages, took place in the normal Cambodian courts.

## Q7

Can foreign countries that supported or were involved with Democratic Kampuchea, or countries that may have committed war crimes in Cambodia before 1975, be put on trial?

No, this court can only try individuals for crimes committed during the Khmer Rouge period. It cannot try states or organizations.



Photo: ECCC

The Lord of the Iron Staff, guardian spirit statue outside of the ECCC court building

## Q9

### What is the current caseload of the ECCC?

The caseload of the ECCC includes four cases, identified numerically as Case 001, Case 002, Case 003 and Case 004. Some of these cases have been later severed into multiple case files. Case 001 was completed in February 2012. Case 002 was severed into Case 002/01 and Case 002/02. Case 002/01 was completed in November 2016. The trial in Case 002/02 is ongoing. Cases 003 and 004 are at the judicial investigation stage. Case 004 has been severed into Case 004/01, Case 004/02 and Case 004.

#### Case 001

The first case tried by the ECCC was against Kaing Guek Eav alias Duch.

**Kaing Guek Eav alias Duch**, former Chairman of Phnom Penh's security prison S-21, which is currently preserved as the Tuol Sleng Genocide Museum.



Photo: ECCC

He was tried in 2009 and convicted of crimes against humanity and grave breaches of the Geneva Conventions of 1949 on 26 July 2010. During the trial, the Trial Chamber heard 55 individuals, including 17 fact witnesses, 9 experts, 7 character witnesses and 22 civil parties. The Trial Chamber sentenced him to 35 years of imprisonment with a five-year reduction as a remedy for illegal detention by the Cambodia Military Court between 10 May 1999 and 30 July 2007. He also received credit for time already spent in detention under



Photo: ECCC

*Kaing Guek Eav alias Duch receives the Appeal Judgment on 3 February 2012*

the authority of both the Cambodian Military Court and the ECCC. Trial Chamber admitted 66 civil parties among 90 applicants. The defence, prosecution and some civil party applicants appealed the trial judgment.

On 3 February 2012, the Supreme Court Chamber of the ECCC upheld Duch's conviction and sentenced him to life imprisonment. The Supreme Court Chamber also admitted 10 more civil party applicants, resulting in a total of 76 civil parties to be awarded moral and collective reparations. A total of 36,493 people attended the trial and appeal hearings in Case 001 during 80 days of hearing.

Duch began serving his prison term in the ECCC detention center in 2012 and was transferred to Kandal Provincial Prison in June 2013 to serve the remainder of his term.

#### Case 002

Initially, Case 002 had four defendants but currently only two former Khmer Rouge leaders are on trial: Nuon Chea and Khieu Samphan.



Photo: ECCC



**Nuon Chea,**  
former Chairman of the  
Democratic Kampuchea  
National Assembly and Deputy  
Secretary of the Communist  
Party of Kampuchea

Photo: ECCC



**Khieu Samphan,**  
former Head of State of  
Democratic Kampuchea

The two accused are charged with crimes against humanity, grave breaches of the Geneva Conventions of 1949 and genocide against the Muslim Cham and the Vietnamese.

The other two individuals originally accused in Case 002 are no longer part of the trial. Ieng Sary and Ieng Thirith were charged with crimes against humanity, grave breaches of the 1949 Geneva Conventions and genocide in Case 002. However, Ieng Sary died in March 2013 thus terminating the proceedings against him. The proceedings against Ieng Thirith were stayed in November of 2011, as she was found unfit to stand trial due to dementia. She was released from provisional detention in September 2012 and died in August 2015.

The Trial Chamber held initial hearings in June 2011. Since then, Case 002 has been severed into two trials (Case 002/01 and Case 002/02), each addressing a different section of the indictment.

Photo: ECCC/ Mark Peters



**Ieng Sary,** former Deputy  
Prime Minister for Foreign  
Affairs of Democratic  
Kampuchea

Photo: ECCC



**Ieng Thirith,**  
former Minister of Social  
Affairs of Democratic  
Kampuchea

### Case 002/01

The first trial, Case 002/01, primarily focused on the forced movement of population from Phnom Penh (phase one) and later from other regions (phase two), and related crimes against humanity, as well as the alleged execution of at least 250 former Khmer Republic soldiers at Tuol Po Chrey in Pursat Province.

The hearings commenced on 21 November 2011 and concluded on 31 October 2013. Throughout this period, the Trial Chamber heard testimonies from 92 individuals, including 53 fact witnesses, 5 character witnesses, 31 civil parties and 3 experts. An unprecedented total of 103,724 persons attended the hearings.

On 7 August 2014, Nuon Chea and Khieu Samphan were found guilty of crimes against humanity and were both sentenced to life imprisonment. The Trial Chamber further endorsed the implementation of 11 reparation projects to acknowledge the harm suffered by civil parties and victims. Both accused appealed their convictions.

On 23 November 2016, the Supreme Court Chamber issued its appeals judgement reversing some of the convictions, upholding the rest and confirming the sentences of life imprisonment imposed on Nuon Chea and Khieu Samphan for crimes against humanity.

### Case 002/02

The second trial includes allegations of genocide against the Cham and the Vietnamese, grave breaches of the 1949 Geneva Conventions, forced marriages and rape, purges, persecution of Buddhists, as well as other crimes against humanity that allegedly took place at four security centers, three worksites and the Tram Kak Cooperatives.

Substantive hearings in Case 002/02 commenced on 17 October 2014. Evidentiary hearings began on 8 January 2015 and concluded on 11 January 2017. During the hearings, the Trial Chamber heard the testimony of 114 witnesses, 63 civil parties and 8 experts. On 23 June 2017, the Trial Chamber concluded nine days of closing statements. The trial attracted considerable public interest, with 82,780 persons attending 283 hearing days. The judges are deliberating on their verdict and a trial judgment is expected in the second quarter of 2018.

### Case 003 and Case 004

In 2009, the International Co-Prosecutor filed submissions to request the Co-Investigating Judges to conduct judicial investigations into allegations of crimes relating to five suspects. These are now referred to as Case 003 and Case 004. Case 004 was subsequently severed into three case files: Case 004/01, Case 004/02 and Case 004. Key allegations in Case 003 and Case 004 are genocide, crimes against humanity, grave breaches of the Geneva Conventions of 1949 and violations of the 1956 Cambodian Penal Code, namely homicide.



Photo: ECCC

**Meas Muth,**  
charged in absentia on  
3 March 2015 in Case 003

### Case 003

Meas Muth and Sou Met were initially named as suspects in Case 003. The judicial investigation against Sou Met was terminated on 2 June 2015 following his death. Meas Muth, was charged in absentia in March 2015. He appeared voluntarily before the International Co-Investigating Judge in December 2015, where he was notified of additional charges. On 10 January 2017, the International Co-Investigating Judge concluded the judicial investigation in Case 003 against Meas Muth.



Photo: ECCC

**Im Chaem,**  
charged in absentia on  
3 March 2015 in Case 004

### Case 004/01

On 3 March 2015, the International Co-Investigating Judge charged Im Chaem in absentia in Case 004. On 5 February 2016, the case was severed creating case file 004/01.

On 22 February 2017, the Co-Investigating Judges dismissed the case against Im Chaem, finding she was not subject to the personal jurisdic-



tion of the ECCC which means she was neither a senior leader nor otherwise one of the most responsible officials of the Khmer Rouge regime.

On 20 July 2017, the International Co-Prosecutor filed the notice of Appeal against the Co-Investigating Judges' closing order. The Appeal will be decided by the Pre-Trial Chamber of the ECCC.



Photo: DC-Cam

**Ao An,**  
charged on 27 March 2015  
in Case 004

### Case 004/02

The International Co-Investigating Judge charged Ao An in Case 004 on 27 March 2015 and on 14 March 2016 he expanded the charges. On 16 December 2016, the Co-Investigating Judges concluded the judicial investigation against Ao An and the case was severed creating case file 004/02.



Photo: DC-Cam

**Yim Tith,**  
charged on 9 December 2015  
in Case 004

### Case 004

On 9 December 2015, the International Co-Investigating Judge charged Yim Tith in Case 004. Case 004 remains the case against Yim Tith after the severance of the case and the creation of case files 004/01 and 004/02. On 13 June 2017, the Co-Investigating Judges concluded the judicial investigation against Yim Tith.

**Q10**

How long will the trials take?

The duration of the trials depends on the time required to collect evidence, the number of people on trial, the number of witnesses called and the number of appeals made. When all trials and appeals are completed, the ECCC will be dissolved.

Legal processes take time. Judicial officials and court staff are working towards completing the mission of the ECCC as quickly as possible, while meeting international standards.

**Q11**

Where are the trials taking place?

The trials take place in a large courtroom of the ECCC, which is situated on the outskirts of Phnom Penh on National Road 4, Chaom Chau Commune, Porsenchey District.



The courtroom of the ECCC

## Q12

### How does the court work?

The cases are divided in a judicial investigation stage and a trial stage. The judicial investigation begins when the Co-Prosecutors (one Cambodian and one international) file an Introductory Submission, based on their preliminary investigation, to the Co-Investigating Judges (one Cambodian and one international). The Co-Investigating Judges conduct an impartial investigation of all the facts in the Introductory Submission and any Supplementary Submissions to establish the truth. If they find sufficient evidence against a charged person for crimes within the jurisdiction of the court, they issue an Indictment sending the case to trial. If not, they dismiss the case. The Pre-Trial Chamber (composed of three Cambodian and two foreign judges) decides on any appeals against rulings of the Co-Investigating Judges.



Photo: ECCC  
Trial Chamber Judges take seats on January 2015 to the hearing on evidence in Case 002/02

The trial stage begins with an indictment. The Trial Chamber (composed of three Cambodian and two foreign judges) hears evidence and arguments from the Co-Prosecutors, the defence and the civil parties concerning the charges included in the Indictment. After deliberating on the evidence presented and arguments raised during the trial, the Trial Chamber issues a judgment deciding whether an accused is guilty or not guilty. In case the accused is found guilty, the judgment also imposes a sentence and may order reparations for victims. The Supreme Court Chamber (composed of four Cambodian and three foreign judges) decides on appeals against rulings of the Trial Chamber.

**SUPREME COURT CHAMBER: 7 JUDGES**  
4 Cambodian + 3 International



**Appeals will go from the Trial Chamber to the Supreme Court, which is the highest level.**

**TRIAL CHAMBER: 5 JUDGES**  
3 Cambodian + 2 International

**PRE-TRIAL CHAMBER: 5 JUDGES**  
3 Cambodian + 2 International

Deals with appeals in the pre-trial phase of proceedings, such as ruling against an order for provisional detention. It also will settle disagreements described in Question 18 below.





Photo: ECCC

Public attended the announcement of Final Judgement in Case 002/01 on 23 November 2016.

### Q13 Who can attend the trials?

These trials are for the people of Cambodia. Anyone over the age of 18 can attend the trial hearings at the courtroom. Children from 16-18 years old may attend if accompanied by an adult. Foreigners are welcome. All trials will be open to the public at all times, except in special circumstances when the judges decide that the public must be excluded to protect the identity of witnesses or victims.

The ECCC has received a wide range of public support and an unprecedented number of individuals participate in the court's activities. More than 241,000 people, from rural farmers to foreign dignitaries, have attended the public hearings. Nearly 550,000 people had direct exposure to the ECCC so far through the court's robust outreach initiatives, including public hearings and study tours. The vast majority are Cambodians from provinces across the country.

The court provides free bus transportation for groups of Cambodians who want to visit the court. For more information, please contact the Public Affairs Section by phone at +855 (0)23 861 500 or by e-mail at: [pas@eccc.gov.kh](mailto:pas@eccc.gov.kh)

### Q14

If I cannot attend, how can I find out what is happening inside the court?

The trial proceedings can be followed via national and international radio, TV and print media. The ECCC disseminates information about the court throughout Cambodia by video screenings, school visits and public forums as well as through the official website, social media, and publications. Many NGOs have outreach programmes aimed at helping Cambodian people understand the ECCC process. The ECCC, in cooperation with Women's Media Center of Cambodia FM 102 and its substations, broadcasts a weekly radio programme, which summarizes the proceedings and activities every Thursday from 18:00-19:00.

### Q15

How are the Judges appointed?

Cambodian and foreign judges and co-prosecutors are appointed by Cambodian Royal Decree. The Supreme Council of the Magistracy selects Cambodian candidates from currently practicing judges. For international judges and co-prosecutors, the UN Secretary-General submits candidates to the Supreme Council of the Magistracy through the Royal Government of Cambodia. The selected candidates are then appointed by Cambodian Royal Decree.

In order to be selected, both Cambodian and foreign judges have to be persons of high moral character and qualified to be judges in their own countries. They must be honest, independent and must not accept instructions from any person, government or other source.



Photo: ECCC

People line up at the entrance of the ECCC's courtroom to attend public hearings

## Q17

Who decides who can be put on trial?  
Who decides on the charges against them?

Two Co-Prosecutors (one Cambodian and one foreign) collect preliminary evidence of alleged crimes committed and draft a list of suspects. The Co-Prosecutors forward their findings to the two Co-Investigating Judges (one Cambodian and one foreign).

The Co-Investigating Judges scrutinize the findings they have received and carry out independent, impartial investigations before deciding whether to issue an indictment sending the case to trial or to dismiss the case.

## Q18

What if the Co-Prosecutors or Co-Investigating Judges disagree on whether to take a case to trial?

They will try to reach an agreement, but if they cannot, then the five judges in the Pre-Trial Chamber will meet to make a decision on whether to take the case to trial. The decision on whether to take a case to trial or not does not depend on a single individual.



Photo: ECCC

Public attended the hearing in Case 002/02 in 2015.

## Q16

How do the Judges reach decisions?

The judges will try to reach unanimous agreement on any decision made. If they cannot all agree, then a decision requires what is called a 'super-majority'. In the Trial Chamber and in the Pre-Trial Chamber, a decision requires the vote of at least four of the five judges. In the Supreme Court Chamber, a decision requires the vote of at least five of the seven judges. Given the composition of the chambers, every decision must have the support of both Cambodian and foreign judges.



## Q19 What do the trial Judges do?

The trial judges hear the evidence presented by the prosecution and defence, and by civil parties; they then consider both sides of the case, discuss among themselves and decide whether the accused person is guilty or not guilty. If the accused is found guilty, the judges also decide on the sentence and may award reparations. The trial judges must issue a written judgment explaining the reasons for their decision. If any judges disagree with the decision, they must also explain their reasons for voting differently from the majority. All the judgments will be made public.

## Q20 What evidence can be used at the trials?

The Trial Chamber judges, the Co-Prosecutors, the defence and the lawyers representing civil parties can present evidence during trials. Examples of evidence:

- documents;
- physical evidence, such as mass graves or former prisons; and
- statements and testimonies by victims, perpetrators, witnesses and defendants.

Thousands of documents have been collected and hundreds of mass graves, prisons and memorials have been mapped by the Research Committee of the Salvation Front (Renakse), the Documentation Center of Cambodia (DC-Cam) and the Cambodian Genocide Program. These are being made available to the court. In Cambodian courts, all legally obtained evidence can be considered. It is up to the court to decide upon the importance of each piece of evidence.



Photo: ECCC

*Nuon Chea and Khieu Samphan in dock during the pronouncement of final judgement in Cae 002/01 by Supreme Court Chamber on 23 November 2016.*

## Q21 What crimes can be tried? Do the trials use Cambodian law or international law?

The ECCC can try certain crimes under Cambodian law and certain crimes under international law. The judges have to decide whether crimes were committed and by whom. The challenge for the Co-Prosecutors is to present enough evidence to prove individual guilt for particular crimes.

The crimes that can be tried before the ECCC are listed below.

### **Crimes under Cambodian law:**

- murder
- torture
- religious persecution

## Crimes under international law:

### ■ genocide

Acts intended to destroy in whole or in part a national, ethnic, racial or religious group. Genocide can be committed by killing members of a group or by other means, such as causing serious bodily or mental harm, inflicting conditions calculated to cause the physical destruction of the group, imposing measures intended to prevent births or forcibly transferring children to another group.

### ■ crimes against humanity

Serious crimes committed as part of a large-scale attack against any civilian population. The specific crimes include murder, extermination, enslavement, deportation, torture, imprisonment, persecution on political, racial and religious grounds, rape and other inhumane acts.

### ■ grave breaches of the 1949 Geneva Conventions

These are war crimes committed in the context of an armed conflict and include unlawful treatment of civilians or prisoners of war, attacks on civilian targets, destruction of educational and religious institutions

### ■ destruction of cultural property

Such as theft or damage of historical buildings, archaeological sites, museums, art, and important book collections

### ■ crimes against internationally protected persons (diplomats)



## What rights do the Defendants have?

Defendants (charged Persons and accused) have rights under Cambodian and international law. These include the right to:

- a fair and public hearing by a competent, independent and impartial tribunal;
- be presumed innocent until proven guilty;
- engage legal counsel of his or her choice, both Cambodian and international;
- have adequate time and facilities to prepare his or her defence;
- be tried in his or her presence and without undue delay;
- have legal counsel provided by the court if he or she does not have enough money to pay for it; and
- have the opportunity to examine the witnesses against him or her and to present his or her own witnesses.



## Who can be a witness?

A witness is a person who can give a first-hand or factual account relevant to investigations and trials falling within the jurisdiction of the court. Such a person could be a victim or another person who has relevant information. This factual account amounts to “evidence”. Evidence given by a witness during investigations becomes part of the case file, or, if given during the trial, it becomes part of the formal record of the hearing. Anyone considered important in establishing the truth could be asked to give such evidence during the investigations and trials, including experts.



Q24

Do I have to give information to the court?

If a Co-Prosecutor or a Co-Investigating Judge wants to interview you, you must tell the truth. However, you have the right to remain silent if you think the answers may incriminate you.

Everyone has the right to call a lawyer to advise him/her and to be present during all questioning.

Q25

What if I want to give information about someone who I believe committed serious crimes during the Khmer Rouge period?

As investigations into all cases in front of the ECCC have been concluded, a victim no longer can apply to become a civil party. However, a victim could still apply to become a complainant and/or a witness. Victims Support Section is available to advise on the proceedings.



The Supreme Court Chamber pronounced the final judgement in Case 002/01 against Nuon Chea and Khieu Samphan on 23 November 2016.

Photo: ECCC

Q26

What support is given to witnesses and victims giving testimony, and to people who may be distressed by hearing the testimony?

As it can be emotionally distressing to testify at the trials about the Khmer Rouge era, the court arranges psychological support for witnesses. Persons not testifying but nonetheless in need of counselling and support should contact their provincial office of the Mental Health Committee of the Ministry of Health or specialist NGOs that have clinics and doctors available in different provinces, such as Transcultural Psychosocial Organization and Social Services of Cambodia.



Photo: ECCC

The full Appeal Judgement is released: (From left) S-24 survivor Chin Met and S-21 survivors Chum Mey and Bou Meng, all Civil Parties in Case 001, display the Appeal Judgement books

Q27

How can victims participate in the trials?

Victims may want to file a complaint to the Office of the Co-Prosecutors informing them about crimes they believe have been committed. Victims who have suffered physical, psychological and material harm as a result of a crime investigated by the court have been allowed to become civil parties. Civil parties have the right to choose a lawyer. If needed, the ECCC helps them organize common legal representation. Civil parties can also organize their civil party action by becoming members of an association of victims.

Once a case goes to trial, two Civil Party Lead Co-Lawyers (one Cambodian, one foreign) will coordinate the representation of the consolidated civil party interests. Please note that the deadline to submit an application to become a civil party has passed for all cases and no more civil parties can be admitted at this stage.



Photo: ECCC

Civil Party UCH Sunlay appears before the Trial Chamber in the Courts of Cambodia in Case 002/02 against Nuon Chea and Khieu Samphan on 01 March 2016.

## Victims Participation

The Victims Support Section (VSS) has been established to assist victims who wish to participate in the proceedings of the ECCC. The VSS is the central contact point between the ECCC and victims or their representatives. It informs victims of their rights relating to participation and reparations and enables them to file complaints and Civil Party applications to the ECCC. The VSS supports the work of the Co-Prosecutors and the Co-Investigating Judges by processing complaints and Civil Party applications.

In addition, the VSS maintains contact with victims and their lawyers regarding the status of their complaints and applications and keeps them updated regarding developments in individual cases. Staff also assists victims with obtaining legal advice and legal representation as well as psychosocial support.

VSS also works closely with the ECCC's Civil Party Lead Co-Lawyers to advocate the interests of those victims who have applied for Civil Party status during the trial stage and beyond.

Q28

Will victims be entitled to compensation?

If an accused is convicted by the ECCC, victims may ask the court to make an order of reparations. Under Cambodian law, civil parties may claim compensation in criminal cases for damages they suffered from the crimes being tried. The ECCC can award collective and moral reparations that acknowledge the harm suffered by the civil parties and provides benefits to them but it cannot award individual financial compensation.

Q29

Why is the United Nations involved?

In June 1997, the then Co-Prime Ministers, Prince Norodom Ranariddh and Samdech Hun Sen, wrote to UN Secretary-General Kofi Annan requesting assistance from the United Nations in prosecuting the crimes of the Khmer Rouge. They asked for support because the Cambodian judiciary lacked sufficient resources and expertise to undertake such a complex task, especially given the magnitude of the alleged crimes.



Source: United Nations

*Then senior minister Sok An meets then UN Secretary-General Kofi Annan in January 2003 to discuss the establishment of the Khmer Rouge trials*



Q30

Why are the Khmer Rouge leaders not on trial at the International Criminal Court in The Hague or the International Court of Justice?

The International Criminal Court (ICC) in The Hague was established in 2002. The ICC can only hear cases about crimes that took place after its creation. The International Court of Justice only hears cases between states.

Q31

Is the ECCC a Cambodian or an international court?

The Khmer Rouge tribunal is a Cambodian court with international elements. It combines Cambodian and international judges, prosecutors, and defence lawyers. The ECCC applies both Cambodian and international law. Criminal tribunals with national and international elements are called 'hybrid', 'internationalized' or 'mixed' courts.

Q32

Are there any other courts in the world like the ECCC?

While the structure of the ECCC is unique, criminal tribunals combining national and international elements have recently been used in other contexts including Sierra Leone, East Timor, Kosovo and Bosnia.



Photo: ECCC

High school students from Kompong Thom attend an outreach programme and read about the development of the ECCC

Q33

Why was this model chosen for the ECCC?

The hybrid tribunal model is seen as a way to provide full national involvement in the trials while at the same time ensuring that international standards are met. Unlike tribunals for Rwanda or the former Yugoslavia, these trials are not removed from the place where the crimes occurred. They are held in Cambodia, conducted mainly in Khmer, open to participation by Cambodian people and reported via local television, radio and newspapers.

### Q34

#### How much will the trials cost?

The expenditures of the ECCC from its inception in 2006 until the end of December 2015 amounted to US\$ 262.9 million. The preliminary expenditure for 2016 was US\$ 30.2 million.

FINANCE	Cambodia	United Nations	Total
Expenditure 2006-2015	\$ 62.1 million	\$ 200.8 million	\$ 262.9 million
Revised budget 2016	\$ 6.6 million	\$ 23.6 million	\$ 30.2 million

ECCC expenditure and budget



Photo: ECCC

The courtroom of the ECCC.

### Q35

#### How is the court financed?

The ECCC is financed by voluntary contributions. Some 30 countries have joined the Cambodian government in funding the court. Donations earmarked for the ECCC are kept separate from other donor funds committed to development assistance in Cambodia. Japan is the largest foreign donor, with its financial support accounting for 31 percent of all international and national contributions.

From the inception of the court, the Royal Government of Cambodia

contributed in cash and in kind make a total of \$41.5 million, making it the 2nd largest contributor to the ECCC after Japan. It is followed by the United States, Australia, the European Union and Germany. Japan and the European Union are the major donors to the Cambodian side of the budget.

### Q36

#### How can I find out more information about the Khmer Rouge and the trials?

The ECCC's Public Affairs Section is the first point of contact for public information about the court. For more information, please contact us by phone: +855 (0)23 861 500 or by email: [pas@eccc.gov.kh](mailto:pas@eccc.gov.kh)



Photo: ECCC

Both national and international media regularly report on the proceedings in the Khmer Rouge tribunal



ECCC on the TV: Officials of the court and parties in Case 002/01 appear in a national TV debate shortly before the delivery of judgment

Photo: ECCC

**Q37**

What roles do NGOs play?

Many local and international NGOs take an active interest in the Khmer Rouge trials. Their support ranges from offering witnesses and victims psychological counselling to providing information or legal advice and representation. NGOs also conduct unique community outreach programmes to complement the work of the ECCC.

**Q38**

Where can I find support services?

The ECCC's Victims Support Section and Witness-Expert Support Unit provide a range of assistance to victims and witnesses. While the Government and some NGOs provide mental health services, other NGOs and associations offer legal assistance and information outreach services.



# Resources on Khmer Rouge Trials

## MEDIA

### Reading

All Cambodian newspapers provide regular coverage of the ECCC. The court also issues its online monthly newsletter **The Court Report** available on the ECCC website. ECCC publications, including the Case 001 Trial and Appeal Judgment books and Case 002/01 Trial Judgment book, are being made available at national libraries and local government offices across Cambodia. The Documentation Center of Cambodia (DC-Cam) in Phnom Penh has set up a public information room where people can read documents, watch videos and access other information. The center also disseminates its work to the public and facilitates discourse on issues related to the Khmer Rouge and the ECCC through the Center's monthly magazine **Searching for the Truth**. Copies of the magazines are available at DC-Cam's Public Information Room (Monday through Friday, 8:00 to 17:00).

The Asian International Justice Initiative (AIJI), a collaborative project of the East-West Center, Hawaii and the War Crimes Studies Center, University of California at Berkeley, publishes the **KRT Trial Monitor**, which contains weekly reports, summaries and legal analysis of the trials of the ECCC in both Khmer and English languages.

### Internet

You can find out the latest developments in the Khmer Rouge trials by visiting the website of the ECCC: [www.eccc.gov.kh](http://www.eccc.gov.kh). Up-to-date text, pictures and videos about the court can be also followed through social media outlets:

- Facebook: [www.facebook.com/krtribunal](http://www.facebook.com/krtribunal)
- YouTube: [www.youtube.com/krtribunal](http://www.youtube.com/krtribunal)
- Flickr: [www.flickr.com/krtribunal](http://www.flickr.com/krtribunal)
- Twitter: [www.twitter.com/krtribunal](http://www.twitter.com/krtribunal)

For more information regarding the United

Nations assistance to the ECCC, visit the website of UNAKRT at [www.unakrt-online.org](http://www.unakrt-online.org)

Webcasts of the proceedings can be found at Cambodia Tribunal Monitor: [www.cambodiatribunal.org](http://www.cambodiatribunal.org)

Other relevant sites include:

The Documentation Center of Cambodia: [www.dccam.org](http://www.dccam.org)

The Asian International Justice Initiative (AIJI): [www.krtmonitor.org](http://www.krtmonitor.org)

Twitter: [www.twitter.com/krt\\_monitor](http://www.twitter.com/krt_monitor)

Facebook: [www.facebook.com/krtrialmonitor](http://www.facebook.com/krtrialmonitor)

The Cambodian Genocide Program at Yale University: [www.yale.edu/cgp](http://www.yale.edu/cgp)

Genocide Watch: [www.genocidewatch.org](http://www.genocidewatch.org)

### Radio

**Cambodian National Radio** (FM 96, FM 105.75 and AM 918) as well as the private and NGO radio stations regularly report on the work of the ECCC. The following

programmes may be of special interest:

### The ECCC's weekly radio

programme *Khmer Rouge on Trial*, is broadcast live every Thursday evening from 18:00-19:00 on **Women's Media Centre of Cambodia (WMC)** FM102.

**Radio Free Asia (RFA)** Khmer language broadcasts on:

- AM 13.865 /15.785 daily 19:30-20:30
- AM 7.580 /13.740 daily 05:30-06:30
- FM 105 daily 06:00-07:00 and 20:30-21:30
- FM 102 daily 07:00-08:00 and 22:30-23:30
- FM 93.5 daily 06:00-07:00 and 20:00-21:00

**Voice of America (VOA)** Khmer language broadcasts on:

- AM 1575, 6060, 7130, 15340 daily 05:00-05:30
- AM 1575, 5955, 71, 55 daily 20:30-21:30
- FM 105 daily 7:00-7:30 and 21:30-22:30
- FM 93.5 daily 05:30-06:00
- FM 102 daily 06:00-06:30 and 20:30-21:30

### Radio France International (RFI)

broadcasts in Khmer from 7:00 to 20:00 on:

- FM 92 Phnom Penh
- FM 92 Siem Reap
- FM 94.5 Battambang

- FM 94.5 Kampong Cham
- FM 94.5 Sihanoukville
- FM 102 Phnom Penh (from 21:30-22:30)

### Television

All Cambodian television stations include regular coverage of the progress of the ECCC in their news and public affairs programmes. The following three stations feature special programming:

**CTN** and **CNC** maintains a special van at the court for live transmissions of the proceedings, as well as frequently covering the ECCC during morning shows and news broadcasts.

**TVK, Hang Meas Tv, SeaTv, BayonTv,** and **Apsara TV** frequently covers the ECCC in news broadcasts.

International television stations, such as **BBC, Al Jazeera, CNN, NHK** and **Channel News Asia**, also cover developments at the ECCC.

## INFORMATION SERVICES

### Legal Documentation Centre relating to the Extraordinary Chambers in the Courts of Cambodia (LDC)

St. 1129 & 1130, S/K Phnom Penh Thmey, Sen Sok District, Phnom Penh, Kingdom of Cambodia  
Tel: +855 23 901 031/95 752 969  
Email: [info@ldc-eccc.gov.kh](mailto:info@ldc-eccc.gov.kh)

### Asian International Justice Initiative (AIJI)

1F, No. 7, Street 360, BKK I, Chamkamon District, Phnom Penh  
Website: [www.krtmonitor.org](http://www.krtmonitor.org)

### Bophana Audiovisual Resource Centre

64 Oknha Men, Street 200, Sangkat Boeung Raing, Khan Daun Penh, Phnom Penh  
Tel: 023 992 174  
Email: [communication@bophana.org](mailto:communication@bophana.org)  
Website: [www.bophana.org](http://www.bophana.org)

### Cambodian Human Rights Action Committee (CHRAC)

No. 9Eo, Street 330, Boeung Keng Kang III, Khan Chamkar Mon, Phnom Penh, Cambodia

Tel: 023 301 415

Email: [chrac@forum.org.kh](mailto:chrac@forum.org.kh) and

[chracsecretariat@yahoo.com](mailto:chracsecretariat@yahoo.com)

Website: [www.chrac.org/eng](http://www.chrac.org/eng)

### **Cambodia Human Rights and Development Association (ADHOC)**

No. 3, Street 158 (Oukghna Troeung Kang),

Sangkat Boeung Raing, Khan Daun Penh

Phnom Penh

Tel: 023 990 544 / 218 653

Email: [adhoc@forum.org.kh](mailto:adhoc@forum.org.kh)

Website: [adhoc-cambodia.org](http://adhoc-cambodia.org)

### **Cambodia Justice Initiative/Open Society Justice Initiative (CJI/OSJI)**

2nd Floor, Room No. 222, Phnom Penh

Center, Phnom Penh

Tel: 023 221 793

Email: [cji@online.com.kh](mailto:cji@online.com.kh)

Website: [www.babcambodia.org/cji](http://www.babcambodia.org/cji)

### **Documentation Center of Cambodia (DC-Cam)**

No. 66 C, Preah Sihanouk Blvd, Phnom Penh

Tel: 023 211 875

Email: [dccam@online.com.kh](mailto:dccam@online.com.kh)

Website: [www.dccam.org](http://www.dccam.org)

### **International Centre for Conciliation (iCfC) Cambodia**

No. 96, Sothearos Blvd, Sankat Tonle Bassac

Khan Chamkarmorn, Phnom Penh

Tel: 023 695 65 12/555 09 25

Email: [Cambodia@centerforconciliation.org](mailto:Cambodia@centerforconciliation.org)

Website: [www.centerforconciliation.org](http://www.centerforconciliation.org)

### **Youth for Peace (YfP)**

No. 4-6 G, Street 513, Sangkat Beung Kak I,

Khan Tuol Kork, Phnom Penh Office

Tel/Fax: 023 881 346 / 991 346

Email: [director@yfpcambodia.org](mailto:director@yfpcambodia.org)

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

### **Kdei Karuna( KDK)**

Address: #69, Sothearos Boulevard, Sangkat

Tonle Bassac, Khan Chamkarmon, Phnom

Penh. Tel: +855 23 695 65 12

Email: [program@kdei-karuna.org](mailto:program@kdei-karuna.org)

### **Khmer Art Academy**

Address: Khmer Arts Theater, St. 135,

Takhmao District, Kandal Province.

Contact Person: John Shapiro, Executive

Director Sophiline Cheam Shapiro, Artistic

Director Tel: +855 23 425 780

Email: [info@khmerarts.org](mailto:info@khmerarts.org)

### **Peace Institute of Cambodia(PIC)**

Address: #4-6G, St. 513, Sangkat Beung

Kak I, Khan Tuol Kok, Phnom Penh

Contact Person: Mr. Ean Sochet, Acting

director Tel: +855 23 881 346

Email: [peaceinstitutecambodia@gmail.com](mailto:peaceinstitutecambodia@gmail.com)

### **Youth Resource Development Program (YRDP)**

Address: #93, St. 590, Sangkat Beng Kak

II, Khan Tuol Kork, Phnom Penh Contact

Person: Mr. Cheang Sokha, Executive

Director Tel: +855 23 880 194

Email: [pcu@yrdp.org](mailto:pcu@yrdp.org); [director@yrdp.org](mailto:director@yrdp.org)

## **LEGAL ASSISTANCE**

### **The Bar Association of the Kingdom of Cambodia**

No. 10-11 Croix Rouge Khmère, Street 180,

Boeung Raing, Daun Penh, Phnom Penh

Tel/Fax: 023 220 237/ 023 213 658

### **Cambodian Defenders Project (CDP)**

#1 LEO, Street #450, Sangkat Toul Tum Pong

II, Phnom Penh

Tel/Fax: 023 214 029/012 901 199

Email: [cdp@cdpcambodia.org](mailto:cdp@cdpcambodia.org)



Website: [www.cdpcambodia.org](http://www.cdpcambodia.org)

### **Cambodia Human Rights and Development Association (ADHOC)**

No. 3, Street 158 (Oukghna Troeung Kang),  
Sangkat Boeung Raing, Khan Daun Penh  
Phnom Penh

Tel: 023 990 544 / 218 653

Email: [adhoc@forum.org.kh](mailto:adhoc@forum.org.kh)

Website: [adhoc-cambodia.org](http://adhoc-cambodia.org)

## **NGO MENTAL HEALTH SERVICES**

### **Jesuit Service Cambodia**

House 18D, Street 568, Phnom Penh

Tel/Fax: 012 418 818/ 023 880 140

Email: [denisecoghlan@yahoo.com.au](mailto:denisecoghlan@yahoo.com.au)

Website: <http://www.jrscambodia.org/>

### **Transcultural Psychosocial Organisation (TPO)**

No. 2&4, Corner of Hanoi Street & Oknha  
Vaing Road, Phnom Penh Thmey,  
Phnom Penh

Tel: 023 636 6991/ 2 / 3

Email: [admin@tpocambodia.org](mailto:admin@tpocambodia.org)

Website: [www.tpocambodia.org](http://www.tpocambodia.org)

### **Social Services of Cambodia (SSC) - Phnom Penh in the National Institute of Public Health**

# 82, E1 & E2, Street 69 BT, Sangkat Boeung  
Tompun, Khan Meanchey, Phnom Penh

Tel: 012 333 103/ 012 811 825

Fax: 023 881 430

Email: [info@ssc.org.kh](mailto:info@ssc.org.kh)

Website: [www.ssc.org.kh](http://www.ssc.org.kh)

### **SSC - Kampong Speu**

National Road 4, Phnom Dey Village,  
Chbar Morn Commune, Chbar Morn  
District (3 km west of Kampong Speu  
Market) Mrs. Heng Srey: 012 803 533

## **GOVERNMENT MENTAL HEALTH SERVICES**

### **Battambang:** Referral Hospital

Outpatient Psychiatric Department  
Prek Mahatep Village, Svay Po Commune  
Dr. Oum Nhil: 012 889 897

### **Kampong Cham:** Referral Hospital

Outpatient Psychiatric Department  
7th Village, Kampong Cham Commune

Mr. Sor Savuth: 012 892 092

**Kampong Thom:** Referral Hospital  
Psychiatric Consultation Ward  
Kampong Thom Commune,  
Stuoeng Sen District  
Dr. Ort Bunky: 011 864 887

**Kandal:** Chey Chumneas Hospital  
Centre for Child Mental Health  
No.47, Street 198, Takhmao  
Tel: 023 300 534, 023 983 348  
Dr. Bhoomi Kumar: 012 482 854

**Phnom Penh:** Mittapheap Khmer-Soviet  
Hospital  
Outpatient Psychiatric Department  
Prof. Ka Sunbaunat: 012 865 440  
Dr. Ang Sody: 012 622 487

## **VICTIMS ASSOCIATIONS**

### **Association of Khmer Rouge Victims in Cambodia**

Email: [president@akrvc.org](mailto:president@akrvc.org)

### **Ksem Ksan**

Tel: 012 712 148

Email: [info@ksemksan.org](mailto:info@ksemksan.org)



The ECCC has received a wide range of public support and an unprecedented number of individuals participating in the court's activities. More than 241,000 people, from rural farmers to foreign dignitaries, have attended the public hearings. More than 550,000 people had direct exposure to the ECCC so far through the court's robust outreach initiatives, including public hearings and study tours.









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[www.facebook.com/krtribunal](https://www.facebook.com/krtribunal)  
[www.flickr.com/krtribunal](https://www.flickr.com/krtribunal)  
[www.youtube.com/krtribunal](https://www.youtube.com/krtribunal)  
[www.twitter.com/krtribunal](https://www.twitter.com/krtribunal)

**Moving forward through justice**