

The Court Report

February 2010



The Extraordinary Chambers in the Courts of Cambodia

Moving Forward Through Justice

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Welcome to the 22nd edition of The Court Report. This newsletter is published monthly in an effort to keep the public better informed about court activities.

In the Judicial section, updates from the Pre-Trial Chamber, the Trial Chamber, the Office of the Co-Investigating Judges, the Office of the Co-Prosecutors, and the Victim's Unit are included.

In the Public Information & Outreach section, information is provided regarding the PAS's outreach-"inreach" film screenings, in addition to the response of foreign law student visitors to the court.

The NGO page includes a description of the Transcultural Psychosocial Organization Cambodia (TPO) that details their work with victims and Testimonial Therapy method.

As usual, we have included calendars with upcoming Court and Outreach Information.



Trial Chamber Judges wait during the 7th Plenary Session

American Delegation Visits the ECCC

On 9 February, a group of high-ranking American officials came to court on official business. The officials present included: U.S. Deputy Assistant Secretary of State Scot Marciel, U.S. Ambassador to Cambodia Carol A. Rodley, Deputy Chiefs of Mission Ted Allegra and Melissa Sweeney, and First Secretary Chief Political Economic Section of the U.S. Embassy Phnom Penh Gregory Lawless.

During their time at the ECCC, the group toured the courthouse and received an official welcome and briefing from ECCC management team, including Acting Director of Administration, Tony Kranh.

7th Plenary Session Concludes

On 9 February, the 7th Plenary Session of the ECCC concluded, enacting a variety of rule amendments that will apply to Case 002 and possible following trials. The main concern of the session focused around the 4000 Civil Party applications received for Case 002. The number of applicants, size, complexity and other unique features of ECCC proceedings made it clear that a new form of victim representation was necessary.

The major amendments that were adopted aimed to streamline Civil Party representation. The new system is intended to balance the rights of all parties, to allow the ECCC to function with Civil Party participation, and to enhance the quality of Civil party representation.

Civil Parties will now be represented by two Civil Party Lead Co-Lawyers, responsible for the interests of the consolidated group of Civil Parties. The Lead Co-Lawyers will coordinate advocacy, strategy and in-court presentations of the interests of the overall group of Civil Parties at the trial stage and appeal stage. Civil Party Lawyers may still help to support the Lead Co-Lawyers in the representation of the interests of the

consolidated group.

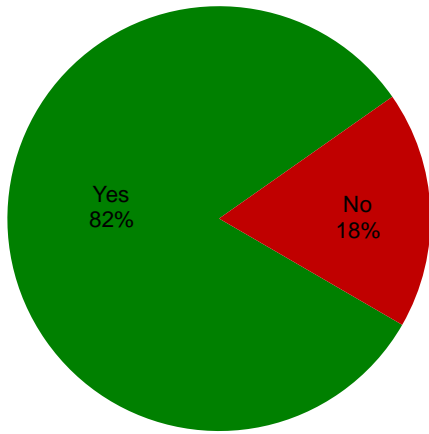
In addition, the 7th Plenary Session renamed the Victims Unit, now the Victims Support Section, and enabled them to develop and implement new programs and measures outside of formalized court proceedings. Now Victims Support Section will be able to collaborate with outside organizations, offer a broader range of services and develop ambitious programmes.



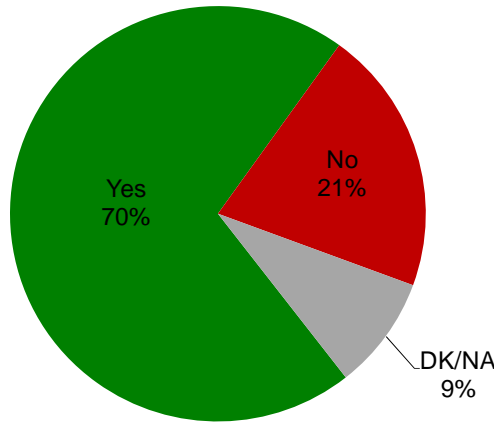
Chief of Public Affairs Reach Sambath leads Scot Marciel, U.S. Deputy Assistant Secretary of State, Carol A. Rodley, U.S. Ambassador to Cambodia, and Ted Allegra, Deputy Chief of Mission, around the courthouse.

70% of Cambodians Say “KR Tribunal Brings Justice”

Are you aware of the trial of Khmer Rouge leaders?



Is trial of Khmer Rouge leaders providing justice?



Survey results source International Republican Institute

Four in five Cambodians are aware of the Khmer Rouge tribunal and a vast majority believe it provides justice, says a survey that was released on 1 February 2010.

The International Republican Institute, an American organization closely affiliated to the US Republican Party, conducted face-to-face interviews with 1,600 Cambodians across the country between 31 July and 26 August 2009. Two-thirds of those surveyed have obtained only primary school education or less, and more than half of them earn less than \$100 each month.

According to the findings, 82 percent of the surveyed responded that they are aware of the trial of Khmer Rouge leaders, and 70 percent said the trial is providing justice.

The survey also found that 86 percent of the urban population surveyed knew the Khmer Rouge trials were broadcast on TV. Eighty two percent of those

from the city said they have watched the trial on TV, while only half of rural

Official Australian Visit to the ECCC

On 1 February 2010, Australian official, Hugh Borrowman, made a visit to the ECCC. The First Assistant Secretary of the South-East Asia Division spent a few hours at the court during his official three-day visit to Cambodia.

Australian citizens working with the trials participated in the briefings and tour. Pre-Trial Chamber Judge, Rowan Downing, helped facilitate a courtroom tour. William Smith, Deputy Co-Prosecutor, spoke of the successes of the tribunal and challenges for the future. Topics also addressed in the meeting included the judicial progress, the public’s participation in the trial, and impacts of Duch’s case in Cambodian society.

Fiona Cochaud, Deputy Head of Mission for

respondents said they had done the same.

However, the number of those aware of the first trial of Duch was only 57 percent, and nearly two-thirds of the respondents did not believe the Duch trial was moving quickly enough, said the survey.

The trial against Kaing Guek Eav, alias Duch, is the first case to go on trial before the Extraordinary Chambers in the Courts of Cambodia. Its substantive hearing took place from 30 March to 17 September 2009. The closing arguments were in the final week of November. During the trial, the court received more than 31,000 visitors in the public gallery and the proceedings were broadcast regularly through TVs and radio stations.

the Australian government in Cambodia, escorted Mr. Borrowman during the visit.



Australian First Assistant Secretary of the South-East Asia Division, Hugh Borrowman listens to a briefing by Australian Deputy Co-Prosecutor William Smith

Judicial Updates

Pre-Trial Chamber

During the reporting period, the Pre-Trial Chamber rendered a decision in relation to one appeal, and also disposed of a number of procedural and other case-management matters. Hearings were also scheduled in relation to three detention appeals for February 2010.

On 28 January 2010, the Pre-Trial Chamber rendered its decision in relation to Khieu Samphan's Appeal against Co-Investigating Judges Order on use of statements which were or may have been obtained by torture. The Chamber declared the appeal inadmissible and therefore did not go into its merits.

At the conclusion of the reporting period, the Pre-Trial Chamber remained seized of 18 appeals and five applications. Of these pending appeals: one is an additional appeal against the order of the Co-Investigating Judges on the use of statements which were or may have been obtained by torture, four are appeals pertaining to a 9 December 2009 order by the Co-Investigating Judges concerning Joint Criminal Enterprise, three are detention appeals. One is an appeal against an order of the Co-Investigating Judges on a request for annulment for abuse of procedure, and another an appeal against an order on request for transcription, two are appeals of orders rejecting requests for annulment and a stay of proceedings, one is an appeal concerning requests for investigative action, a further four appeals in relation to investigative requests were notified in the same reporting period as was an appeal in

relation to the admissibility of Civil Party applications. Of the five of the pending applications, four seek the disqualification of the international Co-Investigating Judge, and the fifth concerns a request for investigations on a staff member of the Office of the Co-Prosecutors pursuant to Internal Rule 35.

All matters pertain to Case 002.



The President and Deputy President chair the 7th Plenary session

Trial Chamber

The case against Kaing Guek Eav (alias Duch) closed on 27 November 2009. The Trial Chamber is currently engaged in judgment drafting, with the verdict expected during the first half of 2010.

Supreme Court

There are no decisions currently pending before the Supreme Court Chamber.

Plenary Session

The ECCC's 7th Plenary session took place between 2-9 February 2010. The task of this Plenary was to consider proposed amendments to the Internal Rules that give effect to the directions of the September 2009 Plenary Session concerning the consolidation and streamlining of Civil Party participation in ECCC proceedings. (See related

INFORMATION ON THE WEB:



The ECCC website

www.eccc.gov.kh



The UNAKRT website

www.unakrt-online.org



www.krtial.org



www.cambodiatribunal.org

Office of the Co-Investigating Judges

On 14 January, after two and a half years of judicial investigation, the Co-Investigating Judges announced the closing of the investigation in case 002 under Rule 66 of the ECCC Internal Rules, and informed the parties that they had 30 days to request further investigative action. ([Notice of Conclusion of Investigation](#))

During the first two weeks of January, the Co-Investigating Judges issued 19 orders and four notices in response to legal and investigative requests from the parties.

Two of them were made public:

- The combined order on Co-Prosecutors' two requests for investigative action regarding Khmer Krom and mass executions in Bakan District (Pursat) and the Civil Parties request for supplementary investigations regarding genocide of the Khmer Krom & the Vietnamese

- The Order on Co-Prosecutors' request for investigative action regarding Boeng Trabek and Chraing Chamres re-education offices, and clarification of allegations in the introductory submission.

14 January 2010 was also the start of a 15-day deadline for individuals to submit civil party applications to join the proceedings in Case 002. The deadline expired on 29 January 2010. Up to this date, the Victims Unit received 3982 applications.

Also on 14 January 2010, the Co-Investigating Judges informed the parties in a [Notice pursuant to internal rule 23 concerning placement on the case file of the civil party](#) that all Civil Party applications will be placed on the case file progressively upon the instruction from and subject to any later decision made by the Co-Investigating Judges. The Co-Investigating Judges state that they will make formal decisions on the admissibility of Civil Party applications once all applications have been processed and, in any event, by the time the CIJ issues the Closing Order.

On 27 January 2010, the Co-Investigating Judges sent a [Memorandum regarding the Filing of Civil Party Applications and Complaints](#) wherein they set out that supplementary information in support of initial civil party application needs to be filed by 29 April 2010.

Office of the Co-Prosecutors

Legal Work

In January 2010, the OCP continued to participate in the judicial investigation and the appellate proceedings in Case 002, in which charged persons Kaing Guek Eav alias Duch, Khieu Samphan, Ieng Sary, Ieng Thirith and Nuon Chea are being investigated for crimes enumerated in the Introductory Submission of 18 July 2007. In particular, the OCP filed its responses to the Pre-Trial Chamber to Ieng Sary, Ieng

Thirith and Khieu Samphan's appeals against extension of their provisional detention by the Co-Investigating Judges. The OCP also filed its response to the second Defence request for the disqualification of the International Co-Investigating Judge and for his alleged interference in the administration of justice.

Trial Proceedings

After filing the Final Trial Brief and concluding final oral submissions, the OCP now awaits the judgment of the Trial Chamber in Case 001 that dealt with the Khmer Rouge's S-21 Security Centre in Phnom Penh.

Analysis

Amongst many other activities, the OCP maintained and updated its case management database (CaseMap) and analyzed open source and in-house documents to make further investigative requests to the Co-Investigating Judges. The OCP has filed more than 30 such requests. The OCP also filed applications before the Co-Investigating Judges to place relevant Khmer Rouge era documentation on Case 002.

To date, the OCP has also forwarded more than 2000 criminal complaints to the Co-Investigation for inclusion in Case 002. More criminal complaints are currently under review after the expiry of the deadline of 8 February announced in the media. These were received from individual complainants through the Victims Unit.

Victims Unit

The first month of 2010 was a particularly busy one for the Victims Unit, as it marked the last opportunity for the victims to file a complaint or submit a request to become a Civil Party in Case 002 at the ECCC.

On 14 January 2009, the OCIJ issued the notification of the conclusion of the judicial investigation for Case 002. The deadline for receipt of Civil Party applications was set for Friday 29 January 2010 (15 days after notification of the conclusion of the judicial investigation as prescribed in the Internal Rules). Within that timeframe, the Victims Unit's focus was to ensure that every person who witnessed or was a victim of crimes within the jurisdiction of

the ECCC, or who had information regarding such alleged crimes, had the opportunity to file a Victim Information Form (VIF) before the deadline.

Consequently, the hours of operation for the Victims Unit were extended to 7:00pm on weekdays, and 8:00am – 5:00pm on weekends. In order to keep victims informed, the Victims Unit released a press statement, which was published on the ECCC website. TV and radio spots were also broadcasted. The announcement of the expiry of the deadline was further highlighted through various media.

Three teams were sent on missions to conduct outreach activities. One team was sent to Siem Reap and Banteay Meanchey to deliver OCP Notifications to complainants and to collect VIFs. The other team spent ten days in Pursat Province collecting last-minute VIFs. The third team collected VIFs in Kampong Cham. The outreach missions proved to be very successful as the teams collected a total of 424 VIFs

As a result of the joint efforts of the Victims Unit, other ECCC departments and intermediary organizations, the Victims Unit



Outreach activities in Phnom Srok District, Banteay Meanchey

received 846 new VIFs (526 complaints and 315 Civil Party applications) in the period between 15 and 29 January 2010.

Among many other activities, the office held a meeting on 21 January 2010 when the deadline for the submission of VIFs was drawing near. In attendance were intermediary organizations such as ADHOC, ASF, KID, CJR, CDP, LAC, CHRAC, DC-Cam and TPO.

Another focus of the month has been to expand support to Civil Party lawyers. As part of these efforts, the Victims Unit facilitated access for the Civil Party lawyer to the CaseMap database, which contains summarized information based on the Civil Party applications submitted previously.

During the month of January the Victims Unit received 162 calls on its helpline from victims and interested persons from various provinces around Cambodia. This was a huge increase in the number of calls typically received since it was set up in August 2009. To date the total number of calls to the Helpline Operator is 522. This can be seen as an indicator of the increasing interest of the Cambodian population in the trials of the former Khmer Rouge leaders.



Outreach activities in Phnom Srok District, Banteay Meanchey

Receipt, Registration and Filing of Victim Information Forms By the Victim's Unit in October 2009

Description	Civil Party Applications
Number of Complaints/Civil Party applications received and registered	995
Number of Complaints/Civil Party applications reviewed and processed	160
Number of Civil Party applications filed with OCIJ	118
Number of Complaints filed with OCP	1547



Popular KR Trial Study Tour Resumes

In mid-January, the Public Affairs Section resumed its popular Outreach programme, Khmer Rouge Trial Study Tour that brings villagers to the court and Tuol Sleng museum. Cambodians from around the country come to the court to personally experience and learn about the work of the ECCC.

On 19 January 2010, 365 people from the Svay Rieng province were brought to Phnom Penh by buses provided by the court. As with previous PAS outreach programs, the villagers toured Tuol Sleng Museum and the ECCC courtroom.

Soun Phally was one of the people who left Svay Rieng to see the court for herself. Her parents and relatives were killed by the Khmer Rouge regime.

"It feels like the pain is relieved from my chest," she said. "I feel so happy and thankful for the court."

Just this year PAS introduced a documentary to the program. The video, entitled "About My Father," follows the true story of Phung Guth



Villagers watched the video "About My Father" during a trip to the courthouse

Sunthary. She was a civil party in Case 001 and the film documents her search for the truth about her father's imprisonment at S-21, the infamous former security prison.

"I learned the most from what I saw in the film," said Moeng Sarith, a villager from Svay Rieng province. "I am so happy the film is evidence for the next generation to see."

Representatives from the Office of the Co-Prosecutors, Office of the Co-Investigating Judges, and Victims Unit made short presentations. Chris Robinson, from OCP emphasized that the court "belongs to all the people of all the provinces of Cambodia."

In the end, the villagers were encouraged to form groups and write down questions. The method has already had success in encouraging participation and incorporating Cambodian cultural values into addressing the question and answer portion.

For So Danith, seeing was believing. The 16-year old from Svay Rieng province never learned about the Khmer Rouge during school.

"It is very important for the young generation to learn about Khmer Rouge history," she said. "Hearing from the older generation, you don't believe it. It is better to come and see the evidence that it happened."

The visitors left the court with a better understanding of the court and a hope for justice.

"I feel like the spirit of my family members who died are also watching the ECCC and the trial," said Moeng Sarith.

PAS will continue to host a group of 300 to 500 villagers twice a week until there is a notification of the verdict by the Pre-Trial Chamber.

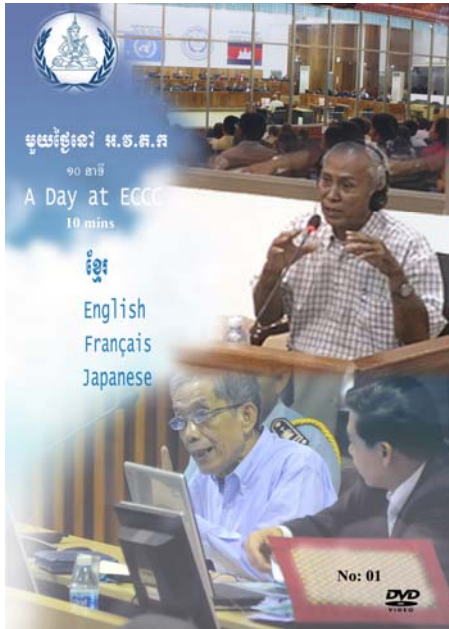


"About My Father" plays on a court TV



Outreach & Public Information

Understanding and Educating with Videos



DVD cover for "A Day at the ECCC"

A Day at the ECCC

More than 30 years after the fall of the Khmer Rouge regime, Cambodia has only just begun to confront its painful past, in search of truth and justice through the legal process with the Extraordinary Chambers in the Courts of Cambodia (ECCC). Its first case against Kaing Guek Eav alias Duch, former chief of the security prison S-21 known as Tuol Sleng, went on trial in March 2009. *A Day at ECCC* showcases the workings of the court in the Duch trial.

Testimony Therapy

Produced by Transcultural Psychosocial Organization (TPO), victims of the Khmer Rouge are encouraged to speak about their experiences. For further information, please refer to TPO's NGO article on page 10.

About My Father

Produced in 2009 by the Bophana Center and Bophana Production, with a grant from Foundation Open Society Institute, it follows the journey of a civil party in the trial of Khmer Rouge cadre Duch. Phung-Guth Sunthary has been conducting investigations into the death of her father, who was imprisoned and executed at the S-21 security center. Through her eyes the challenges of the long-anticipated trial against former Khmer Rouge

A film screening on 11 February in Kampong Thom province



Voices of Foreign Visitors

On 21 January, 15 students from Handong International Law School, Seoul, South Korea, visited the court and received briefings from OCP, OCIJ, Defense Section, and Public Affairs Officer.



Mimi Kim

Freshman interested in developing countries

"[Visiting the court] was a really unique experience."



Edward Yoo

Freshman taking a law and development course

"Today was a wealth of knowledge."

"It was very distinct Cambodia than where we have been traveling; it was a breath of fresh air."

Court Calendar



Recent Decisions / Orders

Pre-Trial Chamber

20 January 2010: Decision on Ieng Sary's Expedited Request for Extension of Page Limit for Appeal against the OCIJ's Order on the Application at the ECCC of the Form of Liability Known as Joint Criminal Enterprise.

All decisions and orders are available at: http://www.eccc.gov.kh/english/court_doc.list.aspx

27 January 2010: Decision to determine appeal on written submissions and directions for a reply.

27 January 2010: Decision on Admissibility of the Appeal against Co-Investigating Judges' Order on Use of Statements which were or may have been Obtained by torture.

Recent Court Activities



Khieu Samphan during his 12 February appeal against his detention

Pre-Trial Chamber Hearings:

11 February 2010: Public hearing of Ieng Sary's appeal against extension of provisional detention.

12 February 2010: Public hearing of Khieu Samphan's appeal against extension of provisional detention.

15 February 2010: Public hearing of Ieng Thirith's appeal against extension of provisional detention

7th Plenary Session

The ECCC's 7th Plenary session took place between 2-9 February 2010. The task of this Plenary was to consider proposed amendments to the Internal Rules that give effect to the directions of the September 2009 Plenary Session concerning the consolidation and streamlining of Civil Party participation in ECCC proceedings.



Proceedings during the 7th Plenary Session

Scheduled Public Hearings

Trial Chamber Hearings:

None scheduled

Supreme Court Chamber Hearings:

None scheduled

TPO: Justice and Healing After the Khmer Rouge



A monk and a survivor during a testimony ceremony

What are effective and culturally accepted approaches to trauma healing in Cambodia? How can Cambodians use their cultural competences to deal with the aftermath mass atrocity?

The Transcultural Psychosocial Organization Cambodia (TPO) tries to find answers to these questions when working with Khmer Rouge survivors, who struggle with long-term stress and trauma. Most victims of mass atrocity and severe human rights violations avoid talking about what happened to them. In most cases, it is extremely difficult for the victims to put their experiences into narration. They often suffer from frightening thoughts and memories and are unable to tell a coherent story of what they experienced.

Remembering the traumatic experience brings up painful emotions. The tendency of survivors to keep silent about their past prevents emotional processing of

the events. Moreover, it hinders the fight against violations of human rights and the prosecution of those who are responsible for acts of torture and genocide.

For these reasons TPO introduced Testimony Therapy to civil parties of the ECCC. In Testimony Therapy, victims of Khmer Rouge are invited to talk about their traumatic experiences. In cooperation with a counselor they can restore their painful memories and convert them into a written document: a testimony. The testimony is read aloud and delivered to the survivors by monks from a local pagoda in a Buddhist ceremony, in the presence of other survivors and/or community members.

This practice allows victims to express and process painful experiences, to restore their dignity and to honor the spirits of the dead. The integration of religious practices - chanting, blessing, purification, protective strings - reflects the significance of traditional coping mechanisms in

Cambodia's spirit based culture.

Attempts at healing of trauma after gross human rights violations have been compared to efforts at "repairing the irreparable". A "healing approach" would, therefore, not aim at closure of the trauma, but rather at a symbolic reparation that is "good enough" to help victims to (1) "feel satisfied that sufficient action have been taken to make amends for their suffering", and to (2) achieve a psychological state in which victims can live with their trauma and "use it for social and personal good". The testimony method has the potential to address both of these reparative aspects and can lead to considerable relief and significant emotional recovery for the victims.

TPO provides culturally appropriate training, counseling, group and family therapy, clinical interventions and implements community mental health and psychosocial programs at a community grassroots level. TPO's Justice and Healing after the Khmer Rouge Regime project aims to provide psychological support to Khmer Rouge survivors, who are participating in the Extraordinary Chambers in the Courts of Cambodia (ECCC).

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Tel: 023 6366 991, 023 6366 992
Email: admin@tpocambodia.org,
Website: www.tpocambodia.org

Outreach Calendar



Recent Activities- ECCC and Partner NGOs

26 January 2010: 300 teachers-in-training from Siem Reap province visited the ECCC to learn general information about court and tour S-21. NGO International Center for Reconciliation brought 20 villagers from Kampong Cham to tour S-21 and receive a briefing at the court.

28 January 2010: 300 teachers-in-training from Siem Reap province visited the ECCC to learn general information about court and tour S-21.

29 January 2010: Youth for Peace group visited the ECCC to get feedback on their grassroots information posters and learn more about the court. 30 students from Royal University Law and Economy visited the court and received a briefing from a Public Affairs Officer.

1 February 2010: Australian First Assistant Secretary of the

South-East Asia Division made an official visit to the ECCC and spoke with fellow Australians working at the court.

4 February 2010: Professor Joern Dosch of Geneva led a small group that met with the Chief of Public Affairs, Reach Sambath.

9 February 2010: US Deputy Assistant Secretary of State Scot Marciel made an official visit and toured the court room.

11 February 2010: The Public Affairs Section hosted a Khmer Rogue Study Tour and brought 400 villagers from the Siem Reap province to attend the pre-trial hearing.

12 February 2010: 230 students and teachers visited the court from Kampong Thom province and attended the pre-trial hearing.

15 February 2010: The Public Affairs Section hosted an Khmer Rogue Study Tour and brought 300 people from the Kampong Thom province to the court to watch the proceedings in the pre-trial hearing.

16 February 2010: 350 villagers from Svay Samsib village, Prey Veng visited the court and were briefed by representatives from OCP, PAS and VU. As part of the program, they also toured S-21.

17 February 2010: Four Japanese lawyers visited the court and received briefings from a Public Affairs Officer and Senior Assistant Prosecutor. The lawyers are in Phnom Penh to assist Cambodian students under the cooperation between the Japanese Federation of Bar Association and the Bar Association of the Kingdom of Cambodia.

19 February 2010: 50 provincial participants with the organization Youth for Peace (YFP) visited the court.



An American delegation including US Deputy Assistant Secretary of State, Scot Marciel (seated center), and US Ambassador to Cambodia, Carol A. Rodley, made an official visit to the ECCC

Scheduled Activities- ECCC and Partner NGOs

24 February 2010: A group of 14 teachers and students from International School of Phnom Penh Secondary will visit the court and be briefed by a Public Affairs Officer. The trip is a part of the school's experiential learning week.

25 February 2010: 300 people from Village Thlork, Svay Rieng will visit the court and will be briefed by representatives from OCP, PAS and VU. As part of the program, they will also tour S-21.

1 March 2010: As part of a school visit program, a Public Affairs team will visit Bak Tuk High school and speak to 7,500 students about the ECCC.

3-5 March 2010: An 8-person delegation from the Serbian War Crimes Court will visit the ECCC.

3-5 March 2010: The International Center for Transitional Justice (ITCJ) will carry out a three-day workshop on Outreach in Transitional Justice at the ECCC.

9 March 2010: 300 people from Koh Kong Bak Khlang will visit the court and will be briefed by representatives from OCP, PAS and VU. As part of the program, they will also tour S-21

11 March 2010: 300 people from Don Sor Commune, Svay Rieng will visit the court and will be briefed by representatives from OCP, PAS and VU. As part of the program, they will also tour S-21



Find out more about the ECCC

"Everyone can be involved in the process"

Extraordinary Chambers in the Courts of Cambodia

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On the Web

ECCC

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UNAKRT

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Twitter

<http://twitter.com/KRTribunal>

Flickr

<http://www.flickr.com/photos/ktribunal>

Facebook

<http://www.facebook.com/ktribunal>



**** Do you want to visit the Khmer Rouge Tribunal? ****

The ECCC welcomes visitors. For more information, contact: info@eccc.gov.kh