

Cambodia / ECCC

Cambodia Tribunal Allows Victims of the Khmer Rouge to Participate in Proceedings

London, Paris, Brussels, 28 March 2008 - The Redress Trust (REDRESS), the International Federation for Human Rights (FIDH) and Avocats Sans Frontières (ASF), with headquarters in Belgium, welcome the landmark ruling of the Pre-Trial Chamber of the Extraordinary Chambers in the Courts of Cambodia (ECCC) to allow victims of the Khmer Rouge atrocities to participate in the Courts proceedings¹.

Although the decision on the 20th March only applies to this specific case and situation, REDRESS, FIDH and ASF believe that the ruling sets an important precedent in the interpretation of the rules applicable to civil party participation before the ECCC. It is a landmark decision in international criminal justice and a major achievement for victims of gross human rights violations, whose voices have long gone unheard.

According to the Courts decision, victims can be full parties to the criminal proceedings. This allows victims to participate in specific proceedings, such as appeals against provisional detention orders. The Pre-Trial Chamber found that the Tribunals rules make it clear that civil parties have the right to participate in the investigative phase of the procedure. Contrary to the arguments of the Defence, the Pre-Trial Chamber found that civil party involvement did not affect the rights of the Defendant to a fair trial.

The decision follows the participation of victims at a hearing on the appeal against the provisional detention of Mr. Noun Chea, one of the five persons so far indicted by the Tribunal. At the hearing, the Defence had challenged victim involvement at that particular stage of the proceedings. Considering the fundamental character of the issue to be decided upon, the Pre-Trial Chamber invited *amicus curiae* submissions. REDRESS, ASF and FIDH filed an amicus brief on 21st February 2008, arguing that victim participation at this stage is in accordance with international standards².

The Chamber sought guidance in Cambodian law provisions, and found that these were in accordance with international law developments in the area of victim participation.

Background

The ECCC is a hybrid tribunal created as a result of an agreement between the United Nations and the Government of Cambodia. It has jurisdiction to try the top Khmer Rouge leaders who committed serious crimes between 1975 and 1979³. The Tribunal's rules on victim participation are ground-breaking because victims will be permitted to join in the proceedings as civil parties, going beyond the regime of victims' participation before the ICC.

The 20th March 2008 decision is the first ever decision on civil party involvement in proceedings made by this Tribunal.

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¹ The ECCC Pre-Trial Chamber decision of 20 March 2008 on civil party participation in provisional detention appeals is available on the ECCC website:

http://www.eccc.gov.kh/english/cabinet/courtDoc/53/PTC_decision_civil_party_noun_chea_C11_53_EN.pdf

² The FIDH-REDRESS-ASF amicus brief on civil party participation is available on the FIDH website:

<http://www.fidh.org/spip.php?article5326>

³ i.a. genocide, crimes against humanity, war crimes and other breaches of Cambodian criminal law.

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