

Center for Justice and Accountability

Torture, Former Combatants, Political Prisoners, Terror Suspects, & Terrorists

<https://cja.org/what-we-do/litigation/khmer-rouge-trials/>

Campaign and Advocacy

Cambodia experienced its most violent history during the short lived rule of Pol Pot and the Khmer Rouge regime. From 1975 to 1979, cities were emptied and the population was placed in forced labor camps, and those perceived to be loyal to the former Republic were executed. Nearly 2 million civilians died during the Khmer Rouge regime, and as many as 800,000 of these deaths were violent deaths. The crimes left the country and its survivors destabilized, traumatized, and in need of justice. After decades of suffering in silence, survivors of this violent past are finding some measure of justice in the Extraordinary Chambers in the Courts of Cambodia (ECCC). CJA represents 145 Cambodian Americans as civil parties in ECCC cases against former Khmer Rouge leaders accused of genocide, crimes against humanity, and other atrocities.

After reaching a period of stability in 1997, the Cambodian government with the assistance of the United Nations established the Extraordinary Chambers in the Courts of Cambodia (ECCC), an internationalized tribunal with a mandate to prosecute the senior leaders of the Khmer Rouge and those most responsible for Khmer Rouge atrocities. The court's hybrid nature includes Cambodian and international crimes and mixed procedure. Perhaps the most innovative development was the system of victim participation, where victims of the crimes tried before the court can participate directly as civil parties and [seek collective and moral reparations](#) for the harms they suffered.

[Read more on the structure of the ECCC.](#)

Kaing Guek Eav (alias Duch) was the first Khmer Rouge leader brought to justice by the ECCC in Case No. 001. As a former head of the notorious Tuol Sleng security center or S-21, in which more than 15,000 prisoners were executed or died from torture and/or poor detention conditions, Kaing Guek Eav was indicted and tried for serious human rights violations including crimes against humanity and grave breaches of the Geneva Conventions of 1949.

Unlike the four Khmer Rouge leaders indicted by the ECCC in Case No. 002, Kaing Guek Eav confessed to his charges and made a public apology to the victims' relatives. Yet he also argued that he was acting under duress: he was following orders and trying to protect his own life. During the 77 days of trial, nine expert witnesses, 17 fact witnesses, seven character witnesses and 22 Civil Parties were heard before the Trial Chamber. The proceedings were followed by more than 31,000 people at the court building.

On July 26, 2010, the ECCC found Kaing Guek Eav guilty of crimes against humanity and grave breaches of the Geneva Conventions of 1949 and sentenced him to 35 years of imprisonment. The 35-year sentence, less than the maximum life sentence, amounted to only 19 years in prison because the Court found that Kaing Guek Eav could get credit for time served in detention. The verdict prompted appeals from both Co-Prosecutors, who stated that the sentence was inadequate, and the Defendant, who maintains he was just following superior orders and was merely a witness to the events of 1975-1979.

On February 3, 2011, the Supreme Court Chamber issued a decision partially confirming the judgment but overturning the Trial Chamber sentence. The Supreme Court Chamber decision stated that the Trial Chamber had erred in law by attaching insufficient weight to the gravity of Duch's crimes and did not adequately consider the aggravating circumstances in the case. In addition, the decision erred by providing too much weight to the mitigating circumstances in the case. As a result, the Supreme Court Chamber imposed the maximum sentence of life imprisonment on Duch. The appeals decision also granted the appeal of 10 civil party applicants that had previously been rejected by the Trial Chamber and affirmed the Trial Chamber's decision to compile and post all statements of apology and acknowledgement of responsibility made by Duch during the ECCC proceedings. A collection of Duch's statements of apology and acknowledgment of responsibility have been compiled and are available [to view here](#). Duch is currently serving out his life sentence in Kandal prison in Cambodia.

CJA represents 45 Civil Parties in Case No. 002 against the two remaining senior leaders of the Khmer Rouge: Brother Number Two under Pol Pot, Nuon Chea, and former Head of State Khieu Samphan. Both individuals were accused of designing and implementing Khmer Rouge policies that resulted in approximately two million deaths.

In the first trial, [Case 002/01](#), the Court found defendants guilty of the forced transfer of the population and the targeting of former Khmer Republic officials. During the close of the first trial, CJA client and civil party Sophany Bay [testified to the harms](#) inflicted upon her and her family during the forced evacuation of Phnom Penh, and the continued impact of these harms on her and her community in the United States diaspora. The court sentenced the senior leaders to life imprisonment and awarded reparations to the 3,867 victims participating in the trial. Mrs. Bay and several other CJA clients featured prominently in the final judgment against the senior leaders. Watch the verdict [here](#).

[Read more about Case 002/1 here.](#)

The second and final trial against Nuon Chea and Khieu Samphan, [Case 002/2](#), concluded on January 11, 2017 and covered a broader range of atrocities not addressed in the first trial. On November 16, 2018, the Trial Chamber convicted Nuon Chea and Khieu Samphan

of genocide against the Vietnamese, grave breaches of the Geneva Conventions of 1949, and crimes against humanity, including forced marriage and rape in the context of forced marriage. Nuon Chea was also separately convicted of genocide of the Muslim Cham. In addition to imposing life sentences on the defendants, the Court endorsed thirteen collective and moral reparations projects for the victims that focus on remembrance, therapy and psychological assistance, and documentation and education.

On August 4, 2019, Nuon Chea died in Cambodia. The ECCC is currently assessing what impact, if any, his death has on the pending appeals before the ECCC Supreme Court Chamber in Case 002/2.

[Read more about Case 002/2 here.](#)

The ECCC has now formally closed its investigations into Cases 003, 004, and 004/2, the final cases likely to be tried before the ECCC. These cases focus on crimes committed by Yim Tith, Meas Muth, and Ao An, respectively, high-ranking military and/or regional commanders of the Khmer Rouge regime. These crimes, including genocide, crimes against humanity, and war crimes, resulted in the deaths of tens of thousands of Cambodians. To date, CJA has filed 105 civil party applications for Cases 003, 004 and 004/2 combined.

These cases have proved the most controversial and may ultimately be the most important cases pursued by the ECCC, in large part because, unlike Cases 001 and 002, they target individuals who are still affiliated with the current Cambodian government. In all three cases, the Co-Investigating Judges have issued split decisions on whether the Defendants should be indicted. The National Co-Investigating Judges have ruled to dismiss the charges for lack of jurisdiction while the International Co-Investigating Judges have found that the ECCC did have jurisdiction.

On December 19, 2019, the Pre-Trial Chamber continued the procedural deadlock by issuing a split ruling on the appeal of the Co-Investigating Judges decisions in Case 004/2, with the International judges ordering indictments to proceed to trial and the National judges calling for dismissals. The [continued uncertainty](#) around the legal effect of the split decision is damaging to victims for whom the ECCC offered the promise of justice more than four decades following the atrocities of the Khmer Rouge regime.

[Read more about Case 003 here.](#)

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***"We will never catch all the torturers—but we will always catch some,
and none of them will ever know who is next."***