

# AMNESTY INTERNATIONAL

## PUBLIC STATEMENT

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### **Cambodia: Extraordinary Chambers in the Courts of Cambodia - New International Co-Prosecutor should commit to fulfilling the Tribunal's mandate**

Amnesty International calls on the new International Co-Prosecutor of the Khmer Rouge Tribunal, Andrew Cayley, to expand the prosecution strategy. He should also fully explain the strategy publicly.

Three years into the work of the Extraordinary Chambers in the Courts of Cambodia (ECCC), the Prosecution has identified only ten suspects as being “senior leaders” or “most responsible” for massive human rights violations that took place between 17 April 1975 and 6 January 1979.

Unless more cases are investigated and prosecuted, it is highly questionable whether the current caseload would fulfil the mandate of the Tribunal

On 7 September 2009, the Acting International Co-Prosecutor decided to proceed with filing two new introductory statements, naming five new suspects, relating to 40 situations of murder, torture, unlawful detention, forced labour and persecution. The National Co-Prosecutor opposed the decision to increase the total number of persons before the ECCC from five to ten. The Cambodian government also spoke out against additional investigations, apparently seeking to exert influence over the tribunal.

This positive decision was undermined when the Acting International Co-Prosecutor announced that he did not intend to conduct any further preliminary investigations into additional suspects, stating that the five new cases would be the last to be prosecuted by the ECCC.

Amnesty International calls on the new International Co-Prosecutor to review that decision, which will only continue the current impunity for the worst possible crimes, and proceed with further investigations and prosecutions.

The ECCC has an enormous responsibility to deliver justice to millions of Cambodian victims of the heinous crimes committed under Khmer Rouge rule. The ECCC must set the highest example of competence, independence and impartiality in all its actions, to counter impunity for crimes of concern to the international community.

In light of his predecessors' success in warding off interference and expanding the Prosecution's cases, Amnesty International urges the International Co-Prosecutor to develop a comprehensive prosecution strategy that reflects the crimes committed under its jurisdiction. Such a strategy should include taking into account the types of crimes, the context in which they were committed and the communities and groups affected.

The ECCC has come a long way. The hearings that have taken place over the last eight months in the case against Kaing Guek Eav, also known as Duch, have at long last provided an opportunity for victims and the general public to hear testimonies presented before the ECCC.

This has marked the important beginning of addressing three decades of impunity, and must not be jeopardised at whim and by politics.

Should the new International Co-Prosecutor decide not to conduct further investigations into other crimes nor to prosecute other suspects, the people of Cambodia, including survivors and their relatives around the world deserve an explanation. Moreover he should publicly explain his decision to the UN, the ECCC and its donors. The Office of the Co-Prosecutors should issue a detailed public report explaining the decision, including:

- setting out the scope of investigations that have been conducted by the Office;
- setting out the reasons for selecting these situations for investigation and for not investigating others;
- an explanation of the criteria applied in determining which persons were “most responsible” for the crimes in situations investigated;
- an explanation of why only ten persons have been identified as being most responsible, despite the massive scale of the crimes.

**Background:**

The Agreement between the United Nations and the government of Cambodia define the mandate of the ECCC:

“to bring to trial senior leaders of Democratic Kampuchea and those most responsible for the crimes and serious violations of Cambodian laws related to crimes, international humanitarian law and custom, and international conventions recognized by Cambodia, that were committed during the period from 17 April 1975 to 6 January 1979”.

The police and prosecutors in ordinary Cambodian courts have failed to investigate and prosecute the thousands of perpetrators that would not qualify as being “senior leaders” or “most responsible”.

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Public Document

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