

AMNESTY INTERNATIONAL

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Extraordinary Chambers in the Courts of Cambodia: Internal Rules must meet international standards

Amnesty International today called on the judges of the Extraordinary Chambers in the Courts of Cambodia (ECCC), as they open their plenary session, to ensure that the draft Internal Rules meet the highest standards of international justice.

The Internal Rules, due to be considered and adopted at this session, govern many important aspects of how the ECCC will work in practice. They must ensure that the ECCC trials are conducted fairly and that they fully implement the rights of victims. Although the Internal Rules are based on procedures in Cambodian law, there is a requirement that they are consistent with international standards.

This is the first time that the judges will meet in plenary to consider the Internal Rules since they were unable to reach agreement on a first official draft in November 2006. Amnesty International reviewed that draft and noted significant flaws, in particular:

- o The draft Internal Rules failed to establish an effective mechanism to provide protection and support to victims and witnesses.
- o Although the draft Internal Rules provided for reparations for victims, the scope and forms of reparations are vaguely defined and, in some instances, inconsistent with international law and standards).
- o The draft Rules fail to incorporate rules necessary to ensure the protection and support of survivors of sexual violence.
- o International rules prohibiting trials in absentia were not fully incorporated into the Rules.

To assist the Court in addressing some of these flaws, the organization submitted recommendations to the ECCC to effectively address victims and witnesses issues in the Internal Rules.

Since the November plenary, a committee within the ECCC has worked on the draft Internal Rules and has prepared a revised version which will now be considered by the judges. Unfortunately, the ECCC decided not to make the revised Internal Rules public, therefore it is not known to what extent the flaws in the previous version have been addressed.

Amnesty International urges the judges to ensure that the Internal Rules fully respect the right to a fair trial and the rights of victims. The organization believes that both aspects are fundamental to the credibility and the success of the ECCC. Anything less would seriously undermine the important and long overdue effort to ensure justice for the people of Cambodia.

Background

In June 2003, the United Nations and the government of Cambodia signed an agreement to establish the ECCC to bring “to trial senior leaders of Democratic Kampuchea and those who

were most responsible for the crimes and serious violations of Cambodian penal law, 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.”

On November 2006, the ECCC published a draft of the Internal Rules and invited submissions from civil society. The Internal Rules define their purpose to “consolidate applicable Cambodian procedure for proceedings before the ECCC and, pursuant to Articles 20, 23, and 33 of the ECCC Law and Article 12.1 of the Agreement, to adopt additional rules where these existing procedures do not deal with a particular matter, or if there is uncertainty regarding their interpretation or application, or if there is a question regarding their consistency with international standards.”

The judges met to consider the Rules at the end of November but did not reach agreement on a number of issues.

In January, Amnesty International issued: *Extraordinary Chambers in the Courts of Cambodia: Recommendations to address victims and witnesses issues in the Internal Rules effectively* (AI Index: ASA 23/001/2007). The paper was submitted to the ECCC, including the committee considering the draft Internal Rules.

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