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On The Cover

Approximately 20 km north of the great Angkor Wat Temple complex in the Siem Reap Province of Cambodia and near the foot of the Kulen Mountains, one comes upon the extraordinarily beautiful small Banteay Srei Temple or "Citadel of the Women." Consecrated on 22 April 967, it was built by Yajnavaraha, Counselor to King Rajendravarman. Sometimes described as the "Jewel of Khmer Art, Banteay Srei enshrines important elements of Hindu mythology and belief. The photograph was taken by Markus Zimmer in mid-March 2010 during his three-month assessment of the Extraordinary Chambers of the Courts of Cambodia and the UN Assistance to the Khmer Rouge Trials.

From the Executive Editor

By Markus Zimmer

DISPATCH FROM PHNOM PENH

Greetings to all IACA members and friends from the Extraordinary Chambers in the Courts of Cambodia (ECCC). The ECCC functions as a unique *ad hoc* temporary criminal court whose limited jurisdiction extends to what qualify as crimes and serious violations of Cambodian penal law, international humanitarian law, and international conventions recognized by Cambodia and committed between 17 April 1975 and 6 January 1979. Although the ECCC was established under Cambodian law, it functions more as a hybrid legal system managed and operated through a dual organizational framework. The United Nations Assistance to the Khmer Rouge Trials (UNAKRT) comprises the international component of that framework, the ECCC the national or Cambodian component. UNAKRT's function is support-oriented with Cambodians leading the tribunal. Its judges include nationals drawn from the Cambodian courts and internationals from France, Poland, Austria, Japan, Sri Lanka, Australia, New Zealand and Netherlands, reflecting a dizzying assortment of civil and common law system backgrounds. That framework of separate national and international components working in concert also extends to most key offices, from prosecution to defense teams and across court-support and administration functions.



The Cambodian court system, heavily influenced by French colonialists during nearly a century of political and economic domination, features investigating judges. ECCC criminal investigations are initiated by prosecutors who, after a preliminary effort, hand over that role to the investigation judges who, after a sustained effort, hand it over to the trial judges whose inquiry into the truth is joined by prosecution and defense. The ECCC is the only *ad hoc* tribunal featuring the investigation judge mechanism. As is characteristic of the *ad hoc* international criminal tribunals and their hybrids, case progress at the ECCC is described by some as glacial, with elderly and ill defendants held in pretrial detention for years. But these tribunals deal with complicating factors unknown in most national court systems. At the ECCC, translation and interpretation of case files and court proceedings encompass three languages, the native Khmer, English, and French. And the criminal charges being adjudicated involve crimes committed in the latter 1970s, often in remote areas throughout this semi-developed country. Occasionally, witnesses sought by the tribunal reside in floating villages on Cambodia's largest inland lake, Tonle Sap, where there are no set postal addresses. Entire villages sometimes float from one area of the lake to another between the wet and dry seasons, creating unprecedented challenges for process servers.

Ad hoc tribunals pursue horrendous criminal enterprise masterminds, the senior leaders, leaving lesser prosecutions to the national and local courts whose records are mixed. Here in Cambodia, there have been few. This bitter irony is not lost on victims, many of whom lost everything and everyone close to them, who survived. Paradoxically, it does not manifest itself in open public outrage, demands for retribution, violence against suspects, or other typical western reactions. The challenge of a life which for many borders on day-to-day subsistence may leave precious little energy and will to focus on revenge. There is, however, considerable interest in the ECCC's live-streamed public proceedings to which Cambodians increasingly have access.

The first lesson of the justice curriculum must be that it is imperfect. To be certain, significant progress has been achieved, but Cambodia reminds us that much remains to be made.