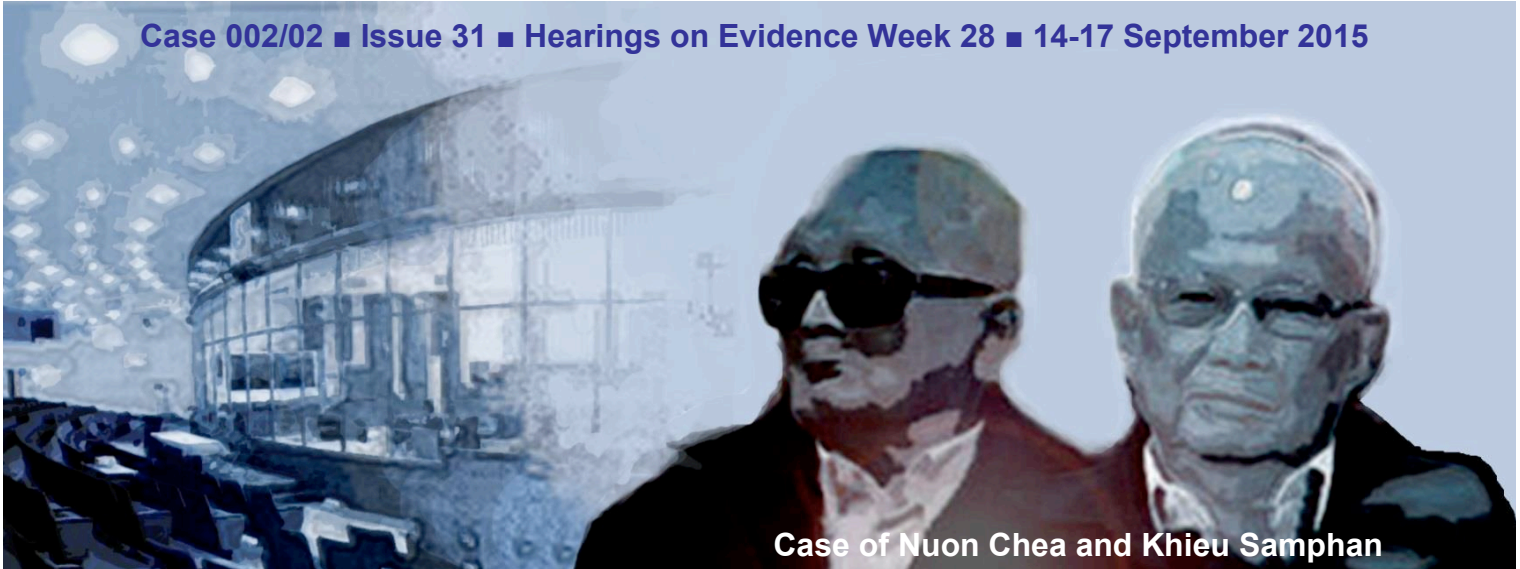


KRT TRIAL MONITOR

Case 002/02 ■ Issue 31 ■ Hearings on Evidence Week 28 ■ 14-17 September 2015



Case of Nuon Chea and Khieu Samphan

A project of East-West Center and the WSD HANDA Center for Human Rights and International Justice at Standard University
(previously known as the UC Berkeley War Crimes Studies Center)

*Cham people were smashed after other New People of 17 April People,
or those who were linked to the former regime or the former society.
Cham people were smashed in a later stage – at the last stage.*

- Witness Seng Srun

I. OVERVIEW

The Trial Chamber continued with the new trial segment on the treatment of the Cham minority this week with the testimony of four persons in relation to the group's targeting in Kang Meas District, Kampong Cham Province. This subject differed from the events at Krouch Chhmar District, discussed in the previous week, and much of the testimony revolved around the massacre of Cham at Wat Au Trakuon pagoda, which was turned into a security center under the Khmer Rouge. The Witnesses and Civil Parties also made reference to the Long Sword Group, which was organized to manage security only after the Southwest Zone forces' takeover of the area in early 1977. This week, the Parties also raised a number of objections related to document admissibility, the characterization of witness testimony, the scope of trial, and the use of repetitious, leading, and speculative questions. The Trial Chamber nonetheless managed to effectively move forward with proceedings by hearing so much testimony in four days this week.

II. SUMMARY OF WITNESS AND CIVIL PARTY TESTIMONY

This week, the Trial Chamber heard the testimony of three witnesses and one Civil Party in relation to the alleged massacre of the local Cham population at Wat Au Trakuon pagoda in Sambour Meas Village, Peam Chi Kang Commune, Kang Meas District, in the DK-era East Zone. Witnesses Seng Srun, Samrit Muy, and Tay Kumhuon held varied security responsibilities in relation to the Commune and the security center, and they testified about their observations of the Cham people's detention. Civil Party Him Man discussed his experience as one of the only two survivors of the massacre.

A. Summary of Testimony by Witness Seng Srun

The Trial Chamber commenced this week with the testimony of 66-year-old Seng Srun.¹ During his testimony, the Witness testified at length about the execution of several hundred

Chams at a security center at Wat Au Trakuon pagoda, located in Kang Meas District in the Central Zone's Sector 41, in 1977. He also testified about the purges of Central Zone cadres after Southwest Zone forces arrived to replace the authorities in 1976.

1. Personal Background and Experiences Prior to 1976

Seng Srun stated that, before 1975, he was commander of Platoon 308, which was part of Battalion 305, in the Old North Zone. In 1976, he returned to his home in Sambour Meas village, Peam Chi Kang Commune, Kang Meas District. He claimed that, soon thereafter, he was arrested and placed in detention for ten days under the direction of a commune militiaman named Samrit Muy. Seng Srun was then reassigned to work as part of a mobile unit at various worksites and plantations. One of the Witness's tasks was to climb sugar palm trees to produce sugar along with three other group members. This four-member unit was repeatedly referenced throughout Seng Srun's examination as the "sugar palm tree climbers' group."

2. Takeover by Southwest Zone Cadres

The Witness testified that, in early 1976, as cadres from the Southwest Zone arrived in Kang Meas District, all people who had held positions at the Sector, District, or Commune levels were arrested and presumably killed. Seng Srun explained that the new chief of Sector 41, Ao An,² chaired a meeting and told villagers that the purged North Zone cadres were traitors who had joined a conspiracy led by Koy Thuon, the former Zone secretary and DK Minister of Commerce. The OCP later read out documents from S-21 detailing the detention of purged North Zone cadres starting in early 1977 rather than 1976. The Witness replied that he could not recall the exact dates, but he explained that, following the arrests, Ao An came to control Sector 41, and a cadre named Kan led Kang Meas District with his wife Pheap as deputy. Seng Srun further elaborated that Pheap soon thereafter founded an unofficial District-level militia known as the Long Sword Group. The group consisted of nine people,³ all from Peam Chi Kang Commune, and implemented orders for arrests and detention.

3. Treatment of the Cham in Peam Chi Kang and Executions at Wat Au Trakuon

According to Seng Srun, Peam Chi Kang Commune used to have multiple Cham villages. As of 1970, Sach Sou and Tung Soe villages were the most populous ones, with Chams largely working as fishermen and Khmers as rice farmers. The villages were mostly segregated prior to the Khmer Rouge takeover, but the Witness claimed he personally had known some of Chams who worked on the rice fields with him. He elaborated that, after 1976, the Cham were prohibited from practicing religion or wearing traditional clothes, and mosques were turned into warehouses or shelters. He also noted that Wat Au Trakuon, the Buddhist pagoda of Sambour Meas village was turned into a security center.

Seng Srun testified that, one day in March or April 1977, members of the Long Sword Group assigned him and three other members of his palm tree climbers unit to guard about 400 to 500 Cham men, women, and children. The Witness explained that the Cham families had been arrested in villages and worksites across the Commune, and he and his three colleagues were told to guard them as they awaited further movement. He testified that he was told nothing except to ensure that none of the Cham escaped. Seng Srun said that the Long Swords later instructed him to escort the Chams to the gates of Wat Au Trakuon pagoda. Upon arrival there, he witnessed the male Chams were beaten at the temple's entrance, and the children, who could not climb the stairs, were pushed inside. He testified that he later entered the temple to deliver food, and he witnessed the prisoners chained together by a single iron rod. He further explained that music was played at the pagoda the following night in order to mask the sounds of the detainee's executions.

Seng Srun testified that his friend, Moeun, was a security guard at the pagoda who also

occasionally climbed the sugar palm trees. Moeun was not a member of the Long Sword Group. The Witness explained that Moeun confided in him that all the Cham detainees had been killed the night after their arrival at the pagoda security center. Seng Srun testified that Moeun also told him that Cham babies had been smashed against trees, that women were stripped and raped, and that all the corpses had been thrown into pits on the pagoda grounds. Seng Srun also claimed that Moeun confirmed that some members of the involved security forces were only about 15 to 20 years old, and that the executioners competed with one another in killing the highest number of people in the shortest period of time, because the “winner” would be reassigned to oversee a unit. Seng Srun explained that Moeun always had red eyes like a drunk person, and he confirmed that people who did not know him might have been afraid of him. Moeun also told Seng Srun that he and other executioners drank wine with the gallbladders of their victims in order to find greater bravery when they had to kill prisoners. The Defense Teams categorized Seng Srun’s testimony as based on hearsay, asking him repeatedly if he actually saw any killings of Chams at the pagoda himself.

4. Exhumation and Estimated Number of Deaths at Wat Au Trakuon

Seng Srun testified that, after the fall of the regime in 1979, people dug up the mass graves at the pagoda to exhume the corpses and also to search for gold and jewelry buried with them. The Witness explained, that, based on those exhumations, people came to the conclusion that about 35,000 people had been killed at Wat Au Trakuon, a number that is also given at the memorial stupa built there. In Seng Srun’s opinion, however, this figure was too high, and he instead assessed that there had been about 15,000 to 20,000 deaths at most.

5. Witness Demeanor and Credibility

During his testimony, the Witness was polite and respectful to all the Parties and tried to answer all questions to the best of his knowledge. His testimony was structured and consistent, and he was able to explain all inconsistencies that came up during his examination. He made clear that most of his knowledge about the killings at Wat Au Trakuon came from Moeun – a point that was picked up by both Defense Teams, who insisted that Moeun, who already passed away, was the only source of information about the killings at the security center. They repeatedly asked Seng Srun if he ever saw any killings of Chams himself. The Witness’ credibility was further challenged during the subsequent testimonies this week, as other Witnesses rejected or contradicted many of his claims.

B. Summary of Testimony by Witness Samrit Muy

On Tuesday, the Trial Chamber heard the testimony of 68-year-old Samrit Muy, a rice farmer currently living in Sambour Meas A Village.⁴ This week’s first witness, Seng Srun, alleged that Samrit Muy was chief of the Commune militia from 1973 to 1979. During his testimony, Samrit Muy claimed he was only a member of the militia, and he testified about the arrests of Cham people who allegedly were killed in the security center at Wat Au Trakuon nearby.

1. Personal Background and Roles Under the Regime

In 1972 or 1973, Samrit Muy left his work at a rubber plantation in Peam Chi Kang Commune because of American bombings. He stated that, after his return to his home village elsewhere in the Commune, he guarded his village as a member of the Commune militia from 1974 to 1975.⁵ After the Khmer Rouge takeover in 1975, he worked in the cooperative even as he remained a low-ranking member of the Commune militia. At that point, he was assigned to work throughout Peam Chi Kang Commune rather than just his village, but he remained living in Sambour Meas A Village for most of the regime. He occasionally stayed and worked in Sach Sou cooperative, which was originally a village of only Chams. The Witness explained that his militia group consisted of 12 members and was not involved in arrests, which were left to the

security forces, and after the arrival of the Southwest Zone, the new Long Sword Group.

2. Arrests and Killings of the Cham Population

Following the takeover of the area by Southwest Zone cadres in early 1977, the Witness and other villagers were called to attend a meeting at Peam Stadium in Damnak Svay chaired by Kan, the new Kang Meas District secretary, and Ao An, who introduced himself as chief of Sector 41. The new leaders declared that there were enemies among the people. Samrit Muy explained that, shortly after this meeting, the arrests of Cham people began. The Witness explained that all Cham living in Sach Sou and the rest of Peam Chi Kang Commune were arrested and killed at the security center housed at Wat Au Trakuon pagoda. He testified that only one couple survived the killings.⁶ As the Witness' house was only about 200 meters away from the security center, he could hear cries for help and music played via loudspeakers for approximately one to two hours, from 10:00PM onwards, every three to five days. He confirmed to the Prosecution that, in the evening after the arrests of the Chams from Sach Sou, he heard the loudspeakers playing. Samrit Muy stated that he later learned that Horn was appointed chief of the security center from the arrival of the Southwest Zone cadres until the fall of the DK regime.

3. Cross-Examination with the Testimony of Seng Srun

A considerable amount of Samrit Muy's examination was spent evaluating the earlier testimony of Witness Seng Srun. Samrit Muy confirmed some of the information the latter had given during his testimony, for example that the Long Sword Group was established after the Southwest Zone forces arrived, and that Heng Ly was one of its members. He also agreed that Seng Srun was arrested in 1976 but denied that he himself was involved in any form, stating that he actually brought food to Seng Srun in prison to help him survive. Samrit Muy explained that he did not pay attention to other people's assignments during the DK regime, but that, to his knowledge, Seng Srun was not involved in the arrest of the Chams in any way. Samrit Muy confirmed that he knew Moeun as a security guard at the pagoda and that he was never assigned to climb sugar palm trees. Samrit Muy avoided Moeun because he "was vicious, and he would take people to be killed." Samrit Muy confirmed that he saw a group of Cham being walked to the pagoda's security center, while he was eating dinner at the nearby kitchen, but he was not sure if it was true that Seng Srun was helping to lead the group to the pagoda gates.

4. Witness Demeanor and Credibility

During the four sessions of his examination, the Witness tried to answer all the questions clearly and to the best of his knowledge. The chronology of his testimony was sometimes confusing and contradictory, especially in regard to his period of work as a militiaman. His testimony that he lived in a house only 200 meters from the pagoda was contradicted by the testimony of the subsequent witness, Mr. Tay Kumhuon, who asserted that a security perimeter around the former pagoda forced people living within that area from their houses.

C. Summary of Testimony by Witness Tay Kumhuon

Tay Kumhuon, a rice farmer from Sambour Meas Village, Peam Chi Kang Commune, Kang Meas District, Kampong Cham Province, appeared to testify as a witness on Wednesday of this week.⁷ He had been identified by a prior witness, Seng Srun, as a member of the Long Sword Group, which allegedly oversaw the arrests of Cham people in the District in early 1977.

1. Wat Au Trakuon Pagoda Security Center and the Long Sword Group

Tay Kumhuon confirmed that Wat Au Trakuon pagoda, located in Sambour Meas Village, Peam Chi Kang Commune, was transformed into a security center in 1976. He recalled that, prior to

1975, the arriving Khmer Rouge forces forcibly defrocked a monk named Chea Maly, who was also the Commune chief. Tay Kumhuon explained that his house was initially 50 meters from the pagoda, but that he was later moved one kilometer outside the security center's perimeter, as his house was occupied by security guards and civilians were not allowed into the pagoda's immediate surroundings. He testified that he often saw one or two people – but never a group – escorted inside the compound of the pagoda while he ate dinner at the kitchen across from the security center's gates. Tay Kumhuon did not recognize the arrested people, but he recalled seeing that they and their children were tied up and escorted by militia. The Witness testified that other villagers told him that, whenever music played at the pagoda, people were killed. He further stated that he could hear music playing around 10:00PM, as he returned to his house from nighttime work. The Witness testified that, although he knew the names of the security chiefs of Peam Chi Kang Commune were Kan and Horn, he had never met them. Horn was the chief of the Wat Au Trakuon security center. Members of the security forces stayed and worked within the premises of the pagoda.

The Witness testified repeatedly that many people were “smashed” within the pagoda under the Khmer Rouge. After the fall of the regime in 1979, the Witness and other villagers went to the pagoda to see the grave pits. He did not observe the pits himself, but others told him about the skeletal remains and normal clothes inside and the stench of death. He testified that there was no way of knowing if the clothes belonged to a particular ethnic group.

2. Cham Population and Arrests in Peam Chi Kang Commune

Tay Kumhuon testified that Chams were relocated to live throughout Peam Chi Kang Commune only after the arrival of the Khmer Rouge. He did not know where they originally came from. He observed that the Cham did not practice any traditions, and they lived like Khmer people. The Witness claimed that, by 1979, there were no longer Cham people staying in his village.

The Witness initially denied witnessing the arrests of the Cham, as he claimed that he was busy working and living on the other side of the river. However, he later told the Prosecution about an event while he was working in the rice fields: Khmer Rouge soldiers accused him of being Cham and pointed a gun at his neck, until they realized he was Khmer and released him. The Witness explained that he was terrified, and that he also saw two or three Cham people arrested as they were working nearby. Tay Kumhuon clarified to the Civil Party lawyer that, if he had been confused for a Cham person, he would have been killed. He also testified that his relatives were arrested even though they were Khmer; he did not know the reasons for their arrest.

3. Denial of Membership in Long Sword Group

Regarding the Long Sword Group, Tay Kumhuon claimed he had no contact with them, but he told Defense Counsel that all of the group's members looked very young. He claimed not to recognize any of the names of alleged Long Sword Group members, which Counsel read out before the Chamber. Tay Kumhuon reiterated that he was never a member of the Long Sword Group, insisting that he was assigned to guard the rice barn and plow the rice fields at Koh Touch. He was repeatedly asked about and refused the assertion of Witness Seng Srun that he was a member of the District-level Long Sword Group under the DK regime. Tay Kumhuon testified that, after the Khmer Rouge's arrival, he was assigned to plow the rice fields, but militiamen later arrived to force him to become a soldier by pointing a gun at him and threatening his family. However, he claimed he was released the next day to keep working at the rice field. Tay Kumhuon also told the Prosecution that he used to hear people talking about the Long Sword Group, but he did not know about their activities. Eventually, the Witness responded that he was part of the Group but was not involved in any of its activities due to his bad background. He said he was never given a long sword to hold and was instead reassigned to plow the fields. He denied Seng Srun's allegation that he was actually the leader of the Long

Sword Group and a deputy chief at Wat Au Trakuon pagoda. Tay Kumhuon asserted instead that Seng Srun was a soldier. In addition, he told Defense Counsel Anta Guissé that Seng Srun's testimony about escorting Cham prisoners to the pagoda indicated that Seng Srun was in fact a part of the Long Sword Group. Tay Kumhuon nonetheless denied that he was Seng Srun's superior, explaining that Horn oversaw the work of the security center.

4. Witness Demeanor and Credibility

Tay Kumhuon's credibility was called into question when he denied the previous statements of his WRIs with the OCIJ and when he provided inconsistent statements throughout his testimony. For example, the Witness was asked to clarify his previous statement regarding his involvement in the Long Sword Group and his role in relation to Wat Au Trakuon security center. When confronted about inconsistent statements to the OCIJ, the Witness admitted to giving "wrong statements in some parts of the WRIs in 2009." He explained that he gave these statements one month after he had recovered from a disease, which he claimed was the result of suffering he endured under the DK regime. He strongly denied the allegations of Seng Srun, declaring, "I categorically reject this statement! I can't accept it." After he expressed his plans to confront Seng Srun in person after the Court hearing, the OCP asked the Chamber to remind Tay Kumhuon not to threaten another witness.

D. Summary of Testimony by Civil Party Him Man

At the end of this week, Civil Party Him Man, a 66-year-old Cham man born in Sach Sou Village, began to testify about his experience as one of the sole survivors of the massacre of Chams at Wat Au Trakuon pagoda in Peam Chi Kang Commune, Kampong Cham Province.⁸ He did not complete his testimony and will reappear at a subsequent hearing for further examination by the Prosecution and the Defense Teams.

1. Evacuation and the Arrests of Cham

Him Man testified that half of the Cham living in Sach Sou Village were evacuated to other places after 1975, and that the remaining families were called for a meeting in which they were informed of prohibitions on anything related to Islam. After the meeting, Cham people were required to cut their hair and to eat pork. One man named Tam, who practiced Islam despite the ban, was taken away and killed. Him Man recalled another meeting, after which Chams started to disappear continually and in greater numbers. Chams were sometimes taken away during mealtime if they refused to eat pork or continued their religious practice

2. Escape from Execution at Wat Au Trakuon

In 1976, after the Chams had lived and mingled with Khmers, the Cham were made to stay at home. The Long Sword Group gathered all the Cham of Sach Sou Village, including the Witness, on one afternoon to go to Au Trakuon pagoda. The Civil Party confirmed that 200 to 300 Cham were taken to the pagoda that day. Him Man claimed that he knew the Cham were being taken to their execution, so he and his wife stepped out of the back of the line of escorted Chams as they were heading to the pagoda. When confronted by the guards, he and his wife claimed to be searching for a lost cow, and they entered bushes ostensibly in search of the animal, but in reality to find a place to hide from the Long Sword Group. They hid in the bushes, roughly 50 meters from the pagoda's pits, until 7:00PM, when he heard the screams of Chams for help and for "Allah." He knew then that the Cham detainees were being executed.

Him Man claimed that, the next day, he went to villagers' houses in the west of Sach Sou Village to search for any remaining Chams there. Unfortunately, he realized that he and his wife were the only two survivors, and he went back to hide with his wife in the bush near the pagoda. They moved to hide in a pond, where he claimed they stayed mostly submerged for

eight days and lived off of rats and water hyacinth. He claimed the Khmer Rouge fired M-79 grenades into the pond. Him Man testified that they barely ate anything and hid for a total of three months and 29 days. He spoke with great animation as he described finding and eating a fresh papaya. He testified that, after leaving the pond, they were caught, beaten, and detained. Just as they were about to be killed at Wat Au Trakuon, the District chief, Kan, ordered Him Man's release in order to use his fishing skills to serve the Long Sword Group. Villagers at Sambour Meas urged him not to eat too much or he would be killed. When he and his wife were sent to be killed on a later occasion, the motor of the boat that would have transported them to the execution was broken, and they survived due to the arrival of Vietnamese forces soon thereafter.

III. LEGAL AND PROCEDURAL ISSUES

This week, the Chamber heard a variety of legal and procedural objections by the Defense Teams, including Counsel Victor Koppe's submissions on the International Co-Prosecutor's request to call three additional witnesses regarding the treatment of the Cham, the Khieu Samphan Defense's objection to the OCP's use of a document while examining Samrit Muy, and several other objections on characterization of witness testimony, scope, and the use of repetitious, leading, or speculative questions.

A. Submissions of Counsel Victor Koppe on the ICOP's Request for More Witnesses

On the morning of 17 September, Defense Counsel for Nuon Chea, Victor Koppe, was given time to make several submissions related to International Co-Prosecutor Nicholas Koumjian's written request for three additional witnesses in relation to the trial segment on the treatment of the Cham. Counsel Koppe firstly noted that only Mr. Koumjian (**ICOP**), and not his national counterpart, Co-Prosecutor Chea Leang, signed the request (document E366). Counsel noted that two of the three witnesses were previously requested by both Co-Prosecutors on 9 May 2014 and had been identified as 2-TCW-938 and 2-TCW-894. 2-TCW-938 already testified in Case 002/01 in early 2012 and has been interviewed five more times in the Case 004 investigation. Counsel quoted the ICOP's consideration that the two witnesses were essential to proving that the "mass killings of Cham people [specifically in Sector 41] were conducted pursuant to a policy of the CPK leaders." Mr. Koppe reiterated that, in August 2015, the Trial Chamber decided not to summons the two of them for the upcoming trial segment on the Cham. Counsel asked for clarification of two elements: why did Chea Leang decline to co-sign the E366 request after having previously signed it in May 2014, and why file this request now, in the midst of hearing evidence on the Cham and after the Trial Chamber already chose not to summons these individuals.

Counsel then acknowledged that his team was "completely taken by surprise," claiming that the three witnesses' relevant statements were "buried" in the "tsunami of 8,155 pages" thus far disclosed from the Case 003 004 investigations. He therefore demanded, "Either we are given extra resources immediately, or we stop hearing evidence on the Cham right now and you give us time to examine evidence from Case 004."⁹ Before closing, Counsel Koppe noted that the evidence this week related to events at Wat Au Trakuon and in Sector 41, both of which Ao An – a charged person in Case 004 – allegedly oversaw. Counsel therefore requested the Trial Chamber "to stop hearing evidence on the Cham in respect of Wat Au Trakuon and Peam Chi Kang Commune until the investigation against An has been closed." Defense Counsel Anta Guissé supported her colleague and added that their opposition to the ICOP's request related to their larger opposition to the disclosure of elements from an ongoing investigation into a trial whose own investigation was supposedly closed in 2011.¹⁰ She explained, "We find ourselves in procedural imbroglio, and we cannot cope with it as the Defense."

Judge Lavergne pointed out that the "8,000 pages" had been disclosed since the end of 2014, and he further noted that the Defense for Nuon Chea had referred to records of interviews in

Case 004 in its appeals filings before the Supreme Court Chamber. Assistant Prosecutor Dale Lysak categorized Counsel Koppe's submissions as a "stunt without any notice." He also explained that the ICOP made his submission when he did because, as the Case 004 investigation has progressed, the witnesses previously known to the Chamber had changed their statements and "have come clean to testify on the existence of orders from above to identify and kill all the Cham." He denied that this evidence was "buried" in a "tsunami," explaining that instead the OCP made a specific filing disclosure of just the interviews of 2-TCW-938. Counsel Koppe described Mr. Lysak's accusation of a Defense "stunt" as "quite outrageous," and he reiterated his request to know why National Co-Prosecutor Chea Leang did not sign the request. The national side of the OCP declined to make additional comments.

B. Discussion on the OCP's Attempt to Use a Document Not Admitted into Evidence

During the OCP's examination of Witness Samrit Muy on 15 September, Counsel for Khieu Samphan, Anta Guissé, objected to the Prosecutor's citation of document E319/19.3.93. Counsel argued that the Chamber had not yet admitted the document into evidence, and this document's admissibility was subject to the Defense's submission. Deputy Prosecutor Smith rebutted that whether the Chamber had admitted the document or not, the document was on the case file and the person referenced in this document related to the Long Sword Group. Judge Jean-Marc Lavergne asked Mr. Smith to confirm whether the Chamber would hear the witness in the document. Mr. Smith responded that the witness had not been put on the Trial Chamber's list to appear. Judge Lavergne then sought clarification if Counsel Guissé objected to the admissibility of the document or to the obligations of the Prosecution. Counsel responded that both issues were the subjects of her objection to the OCP's attempt to use the document. After Judge Claudia Fenz noted the possibility of exceptions to Rule 87(4)'s guidelines on admissibility of new evidence, Counsel Guissé emphasized that exceptional circumstances could not apply to a document facing Defense objections. The Prosecutor argued that the Chamber would miss out on the unique evidence he sought to present to Witness Samrit Muy. After deliberating, the Trial Chamber sustained Counsel Guissé's objection, as the OCP's document had not yet been submitted to the Chamber and Khieu Samphan's Defense had objected. Following this ruling, the President also instructed all Parties to only present documents admitted pursuant to Internal Rules 87(3) and (4).

C. Other Objections Related to Questioning Practices

The Parties raised several objections concerning practices of questioning witnesses throughout the week. On 14 September, Counsel Victor Koppe objected to the OCP's reading out of names in two S-21 records in order to refresh Witness Seng Srun's memory. Mr. Koppe argued that the Witness did not work for S-21 security center, Sector 30, or Sector 41, so he could not speculate on the matter. Following deliberation, the Trial Chamber overruled Mr. Koppe's objection. During Counsel Koppe's examination of Witness Seng Srun on 15 September, Prosecutor Smith raised two objections against Koppe's line of questioning regarding the Witness' interview records, calling such questioning "leading and unfair." The Deputy Prosecutor argued the Witness was not in a position to see who was rounding up Cham people taken to Wat Au Trakuon. In response to this, Counsel Koppe asserted that he was only summarizing the Witness' testimony to determine that the Witness was a part of the Commune militia. After deliberating, the Trial Chamber decided to overrule the OCP's objection.

IV. TRIAL MANAGEMENT

The Trial Chamber effectively heard the testimony of three witnesses and one Civil Party this week in four days of hearings. It also dealt with a number of unforeseen legal and procedural issues without sacrificing time allocated for evidentiary hearings.

A. Attendance

Nuon Chea waived his right to be present in the courtroom and observed proceedings from the holding cell while Khieu Samphan was present in the courtroom during all sessions this week.

Judge Attendance: All Judges were present in the courtroom throughout the week, with the exception of international reserve Judge Martin Karopkin, who was absent on 14 and 15 September.

Civil Parties Attendance: Approximately ten Civil Parties observed the proceedings each day from inside in the courtroom.

Parties: All the Parties were properly represented in the courtroom throughout this week. National Civil Party Lead Co-Lawyer Pich Ang was absent for three sessions on 15 September, due to personal matters.

Attendance by the public:

DATE	MORNING	AFTERNOON
Monday 14/09/2015	<ul style="list-style-type: none">• Approximately 70 villagers from Bati District, Takeo Province	<ul style="list-style-type: none">▪ Three foreign observers
Tuesday 15/09/2015	<ul style="list-style-type: none">▪ Approximately 130 villagers from Tbong Khmum District, Tbong Khmum Province	<ul style="list-style-type: none">▪ Five foreign observers
Wednesday 16/09/2015	<ul style="list-style-type: none">▪ Approximately 110 villagers from Ou Reang Ov District, Tbong Khmum Province▪ 11 foreign observers	<ul style="list-style-type: none">▪ Seven foreign observers
Thursday 17/09/2015	<ul style="list-style-type: none">▪ Approximately 110 villagers from Kampong Cham Province▪ Approximately 150 students from National University of Management, Phnom Penh▪ 12 foreign observers	<ul style="list-style-type: none">▪ Six foreign observers

B. Time Management

Even as it sought to strictly adhere to its schedule of four witnesses this week, the Trial Chamber demonstrated flexibility in approving the Parties' requests for additional time to examine the witnesses. For example, on 14 September, President Nil Nonn granted an additional 20 minutes to Assistant Prosecutor Dale Lysak to finish his examination of Witness Seng Srun. The Defense then requested an additional 30 to 40 minutes for the same Witness, and the President allowed Counsel Guissé to continue her examination of Seng Srun the following morning. President Nil Nonn offered the OCP an additional ten minutes to examine Witness Samrit Muy, but he halted Civil Party lawyer Martine Jacquin's examination of Witness Tay Kumhuon after her failure to adhere to repeated instructions and her intrusion into the Defense Teams' time allocations. After the Defense Teams' request for more time to review Case 004 documents in relation to the events in Kang Meas District and Sector 41 (see III.A), the Trial Chamber decided to begin the testimony of Civil Party Him Man, the final person to testify in relation to those sites, but to resume his testimony after a week's adjournment.

Therefore, the President announced, proceedings in the week of 21 September would be adjourned, and proceedings would resume on 28 September instead.

C. Courtroom Etiquette

Civil Party lawyer Martine Jacquin’s examination of Witness Tay Kumhuon on 16 September provoked numerous objections from the Defense Teams. After Khieu Samphan’s Counsel, Kong Sam Onn, objected to a clearly hypothetical question, Ms. Jacquin voiced irritation, stating, “Thank you, Counsel, for telling me how I should put questions to the Witness, but I am free to put questions the way I want.” The Chamber did not agree with the lawyer, as it repeatedly sustained objections to her questions’ phrasing. President Nil Nonn raised his voice to instruct Ms. Jacquin to raise her microphone or lean into the microphone, as her voice repeatedly went unheard even as she asked lengthy questions. The President interrupted her multiple times to prevent extremely hypothetical questions for Witness Tay Kumhuon.

D. Translation and Technical Issues

On 15 September, the interpreter translated the name of a village in Peam Chi Kang Commune into two different names in the English, causing confusion for the Parties, rendering it simultaneously as both “Sambour Meas Kor” and “Sambour Meas A.” During the 16 September hearing, the interpreter mistakenly rendered the Khmer-to-English translation including “20 centimeters” as “20 meters,” and “relieved” as “released.” There were no substantial technical interruptions this week. Overall, the proceedings ran smoothly.

E. Time Table

DATE	START	MORNING BREAK	LUNCH	AFTERNOON BREAK	RECESS	TOTAL HOURS
Monday 14/09/2015	9:02	10:17 – 10:30	11:53 – 13:32	14:42 – 15:02	16:03	4 hours and 49 minutes
Tuesday 15/09/2015	9:02	10:23 – 10:41	11:32 – 13:31	14:44 – 15:01	16:08	4 hours and 32 minutes
Wednesday 16/09/2015	9:03	10:15 – 10:31	11:32 – 13:31	14:45 – 15:02	15:59	4 hours and 24 minutes
Thursday 17/09/2015	9:03	10:04 – 10:33	11:33 – 13:31	–	15:06	3 hours and 36 minutes
Average number of hours in session				4 hours and 20 minutes		
Total number of hours this week				17 hours and 21 minutes		
Total number of hours, day, weeks at trial				402 hours and 47 minutes		
106 TRIAL DAYS OVER 31 WEEKS						

*This report was authored by Judith Kaiser, Joy Scott, Daniel Mattes, Lina Tay, Penelope Van Tuyl, and Oudom Vong as part of the KRT Trial Monitoring and Community Outreach Program. KRT Trial Monitor is a collaborative project between the East-West Center, in Honolulu, and the WSD HANDA Center for Human Rights and International Justice at Stanford University (previously known as the UC Berkeley War Crimes Studies Center). Since 2003, the two Centers have been collaborating on projects relating to the establishment of justice initiatives and capacity-building programs in the human rights sector in Southeast Asia.



Unless specified otherwise,

- § the documents cited in this report pertain to the *Case of Nuon Chea and Khieu Samphan* before the ECCC;
- § the quotes are based on the personal notes of the trial monitors during the proceedings;
- § the figures in the *Public Attendance* section of the report are only approximations made by KRT Trial Monitor staff; and
- § photographs are courtesy of the ECCC.

Glossary of Terms

Case 001	<i>The Case of Kaing Guek Eav alias "Duch" (CaseNo.001/18-07-2007-ECCC)</i>
Case 002	<i>The Case of Nuon Chea, Ieng Sary, Ieng Thirith, and Khieu Samphan (CaseNo.002/19-09-2007-ECCC)</i>
CPC	Code of Criminal Procedure of the Kingdom of Cambodia (2007)
CPK	Communist Party of Kampuchea
CPLCL	Civil Party Lead Co-Lawyer
DK	Democratic Kampuchea
ECCC	Extraordinary Chambers in the Courts of Cambodia (also referred to as the Khmer Rouge Tribunal or "KRT")
ECCC Law	Law on the Establishment of the ECCC, as amended (2004)
ERN	Evidence Reference Number (the page number of each piece of documentary evidence in the Case File)
FUNK	National United Front of Kampuchea
GRUNK	Royal Government of National Union of Kampuchea
ICC	International Criminal Court
IR	Internal Rules of the ECCC Rev.8 (2011)
KR	Khmer Rouge
OCIJ	Office of the Co-Investigating Judges
OCP	Office of the Co-Prosecutors of the ECCC
VSS	Victims Support Section
WESU	Witness and Expert Support Unit

¹ Mr. SENG Srun (2-TCW-880) was questioned in the following order: President NIL Nonn; international assistant prosecutor Dale LYSAK; national Civil Party Lead Co-Lawyer PICH Ang; international co-lawyer for Nuon Chea, Victor KOPPE; international co-lawyer for Khieu Samphan, Anta GUISSÉ.

² AO An was chief of Sector 41 and deputy secretary of the Central Zone, under Zone Secretary KE Pauk. In March 2015, amid his investigation of Case 004, International Co-Investigating Judge Mark Harmon charged AO An with crimes against humanity and premeditated homicide.

³ Seng Srun identified five of the nine "long swords" as: Reay Kchouy (presently Seng Srun's brother-in-law); Tay Kumhuon (presently a member of the Wat Au Trakuon pagoda committee and also a witness this week); Heng Ly; Yoeun; and, Ta Ngay.

⁴ Mr. SAMRIT MUY (2-TCW-883) was questioned in the following order: President NIL Nonn; national deputy prosecutor SREA Rattanak; international deputy prosecutor William SMITH; international co-lawyer for Nuon Chea, Victor KOPPE; national counsel for Nuon Chea, LIV Sovanna; international co-lawyer for Khieu Samphan, Anta GUISSÉ; national co-lawyer for Khieu Samphan, KONG Sam Onn.

⁵ The Witness later testified he guarded his village starting in 1973, not 1974.

⁶ The survivor to whom the Witness was referring is Civil Party Mr. HIM Man, who began his testimony on Thursday the 17th, this week.

⁷ Mr. TAY Kumhuon (2-TCW-873) was questioned in the following order: President NIL Nonn; national deputy prosecutor SREA Rattanak; international deputy prosecutor William SMITH; international Civil Party lawyer Martine JACQUIN; international Judge Jean-Marc LAVERGNE; international co-lawyer for Nuon Chea, Victor KOPPE; international co-lawyer for Khieu Samphan, Anta GUISSÉ; national co-lawyer for Khieu Samphan, KONG Sam Onn.

⁸ Mr. HIM Man (2-TCCP-252) was questioned in the following order: President NIL Nonn; national Civil Party lawyer LOR Chunthy; international Civil Party Lead Co-Lawyer Marie GUIRAUD; international senior assistant prosecutor Vincent DE WILDE D'ESTMAEL.

⁹ On 23 September 2015, the Trial Chamber sent a memo to the directors of the Office of Administration (**OAC**) requesting clarification on additional resources for the Defense Teams in Case 002/02. The Chamber asked the OAC if the Nuon Chea Defense team had formally requested additional resources any time since January 2015, and if extra resources could be made available to deal with the ongoing disclosures from investigations. See Trial Chamber, “Request for clarification on additional resources for Defense teams in Case 002/02” (23 September 2015), E369.

¹⁰ Counsel Guissé made reference to her team’s written submissions from earlier in the month. See Khieu Samphan Defense Team, “Submissions of the Defense for Mr. Khieu Samphan on the Co-Prosecutors’ Disclosure Obligation” (24 August 2015), E363.