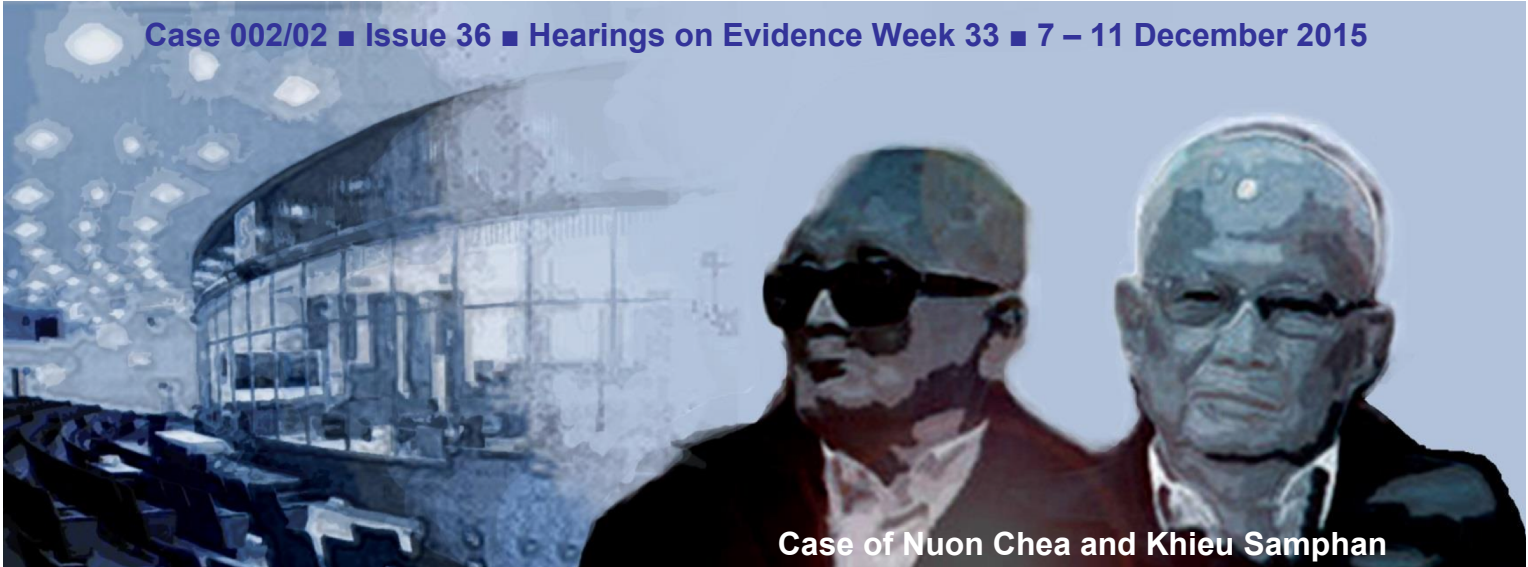


KRT TRIAL MONITOR

Case 002/02 ■ Issue 36 ■ Hearings on Evidence Week 33 ■ 7 – 11 December 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 Stanford University
(previously known as the UC Berkeley War Crimes Studies Center)

*“They were young children, about 8 or 9 years old,
when they carried guns the guns touched the ground.
They arrested people and took them away and killed them.”*

- Witness Prum Sarun

I. OVERVIEW

The Trial Chamber moved through proceedings swiftly this week, marking the first time a week was devoted entirely to testimony about the treatment of the ethnic Vietnamese during the DK period. Over the course of four days, the Chamber heard evidence from a total of five individuals, keeping strictly to time in an apparent effort to maintain efficiency in the lead up to the Christmas break. Mrs. Sao Sak was the first Witness to appear on Monday, concluding her testimony from last week about the treatment of the Vietnamese in Anlong Trea Village. Next the Chamber heard from Civil Party Choeung Yaing Chaet, who testified to surviving the mass killing of his family at the age of 13 and fleeing by boat to Vietnam. Next, Witness Prum Sarun recounted his experiences as a former Lon Nol soldier during the Democratic Kampuchea (DK) period, and his memory of coming across a mass grave at Tuol Tatrung. Witness Oum Son began his testimony on Wednesday and gave evidence related to previous Witness Sean Sung’s testimony about a mass execution at Khsach Pagoda in Sangvaeuy Village, particularly the execution of Chantha, an unmarried Vietnamese woman from that village.¹ After adjourning on Thursday to mark International Human Rights Day, the Chamber took the unusual step of holding hearings on Friday, 11 December, at which point Oum Son completed his testimony and Ong Sam Ian testified about the disappearance of ethnic Vietnamese people from her native village in Svay Rieng Province. No major legal or procedural issues held up proceedings this week, however the Defense Teams, particularly that of Nuon Chea, made a number of small objections and on several occasions expressed doubt about the veracity of the testimony they were hearing.

II. SUMMARY OF WITNESS AND CIVIL PARTY TESTIMONY

This week the Chamber heard from a total of one Civil Party and four witnesses, the first of which commenced her testimony of the week before. Each person testified about their experience of the treatment Vietnamese during the DK regime, particularly related to killings and disappearances.

A. Summary of Testimony by Witness Sao Sak

Witness Sao Sak was born in 1953 in Anlong Trea Village, Praek Chrey Commune, Kampong Leav District, Prey Veng Province, as a child of a half-Vietnamese mother and a Khmer father.² She remained in her native village throughout the DK period, and was therefore able to provide testimony on the treatment of ethnic Vietnamese people in her village, but could not speak to any nationwide policies.

1. Treatment of the Ethnic Vietnamese in Anlong Trea

On Monday Sao Sak concluded her testimony from Friday, 11 December. Under questioning from the Office of the Co-Prosecutors (**OCP**), she elaborated on topics covered last week, in particular concerning a number of ethnic Vietnamese individuals she had known in Anlong Trea. She testified to knowing several Vietnamese families who had disappeared and stated that after they disappeared she had never heard from them again. Importantly, the Witness specified that the disappearances continued even after the cadres in her village were replaced. The Witness explained that it was difficult to distinguish between Khmer and Vietnamese people because they had no accents or distinguishing features, and thus she assumed that the village chief had reported to Khmer Rouge (**KR**) cadres on people's ethnicity.

2. Witness Demeanor and Credibility

Just as she did last week, Sao Sak gave consistent and concise responses to questions. The Prosecution asked her extensively about the fate of various individuals who had lived in or around her village during the DK regime, and the Witness was clear and direct when she did not know the answers. While she did suggest that people who disappeared from Anlong Trea had been killed, she explained clearly that this was a conclusion she had made on her own. Overall Sao Sak's testimony was consistent and she remained calm and measured throughout proceedings.

B. Summary of Testimony by Civil Party Choeung Yaing Chaet

On Monday afternoon Choeung Yaing Chaet, an ethnic Vietnamese fisherman from Ruessei Dangkuoch Village, Paek Kri Commune, Kampong Leng District, Kampong Chhang Province began his testimony.³ In 1975 the Civil Party was 12 or 13 years old and lived with his parents and four siblings. He testified to witnessing their deaths at a mass execution and subsequently fleeing to Vietnam. During his testimony, the Civil Party occasionally became confused over questions of time, especially concerning differences between the Vietnamese and Western calendars. Although his testimony was largely consistent, some discrepancies did arise concerning numbers, which could be the result of the events happening to him at such a young age, and a serious head injury he suffered in 1975.

1. Family's Relocation to Dar Village

Civil Party Choeung Yaing Chaet testified that his family began to experience ethnic-based mistreatment after the KR arrived in his village of Ruessei Dangkuoch in 1975. He said that cadres forced his family and 30 others to move to Russie Kandal Village in Kampong Chhnang, under threat of death, and that after 1 month there, where he worked in a fishing unit, his family was again relocated to Dar Village approximately 15 to 20 kilometers away. In Dar Village, which was under the control of Ta Pheang, some inhabitants were tasked with fishing and others with harvesting rice.⁴ The Civil Party estimated the presence of approximately 1,000 to 2,000 families in Dar, all of whom had work duties; his being to grow potatoes.

2. Mass Killing of 1975 and Survival of Civil Party

Choeung Yaing Chaet testified that after approximately one month of arriving in Dar Village, not long after Khmer New Year 1975, he survived a mass execution that claimed the lives of his entire family.⁵ He told the Chamber that his family was picked up by a group of eight armed soldiers, tied up and walked one kilometer into the forest. Mr. Choeung then described witnessing each of his family members being walked, one by one, to a pit 100 meters away and executed. The Civil Party recounted being the last of his family to be led towards the execution pit. He was made to kneel down, and someone hit him three times in the back of the neck with an axe. After this he lost consciousness and fell into the pit. He testified that he woke up an unknown amount of time later lying on the bodies of his family. On waking up, the heavily injured Mr. Choeung hid in the forest, where he observed another execution of approximately 40 people. After one day and one night of walking he found his way to a floating Vietnamese village named Cheung Krus where an ethnic Vietnamese man named Ta Ly gave him shelter and treated his wounds. Ta Ly then hid Choeung Yaing Chaet on a boat taking his own family to Vietnam in order to help Choeung Yaing Chaet escape the regime.

3. Boat trip to Neak Loeung & Bartering of Vietnamese people for salt and rice

Although there was some confusion over how long Choeung Yaing Chaet stayed at Ta Ly's house before boarding the boat to Vietnam, he was able to clearly explain that Ta Ly obtained permission for his family of eight to travel to Vietnam, and hid the Civil Party on their boat. He recounted how he accompanied them for three nights on the boat until reaching the Tonle Bunmuk, outside the Royal Palace in Phnom Penh. There, Ta Ly urged him to board a ferry with 50 or 60 other ethnic Vietnamese people leaving to Neak Loeung. The Civil Party testified that before being allowed to board the ferry, each person was questioned about his or her ethnicity, and only ethnic Vietnamese were allowed on the boat. He testified that the ferry took one night to get to Neak Loeung. He then claimed that, on arrival, the number of passengers was counted as they disembarked from the boat, and then a number of bags of rice and salt were loaded onto the boat to return to Phnom Penh. The Witness concluded that this was a bartering process in which he and the other ethnic Vietnamese on the boat were being traded for rice and salt and said he had heard it described as such by the Vietnamese authorities.⁶

4. Arrival in Vietnam and Return to Cambodia in 1982

The Civil Party testified that after he arrived in Neak Loeung, he continued to the Vietnamese village of Tcho Dop. There he was allowed to stay in a school for seven days, where they distributed rice, sleeping mats and mosquito nets. After a week in Tcho Dop he was sent to a refugee camp in Dak Chou where he worked tending water buffalo until returning to Cambodia in 1982. The Civil Party described his life in Vietnam as very hard, as he had no land of his own and limited opportunities to earn money or obtain food. The harsh living conditions in the camp prompted him to return to Cambodia in 1982, where he found that his house had been burned down, leaving him without any documents, including his family book (or *lang tai*).⁷

5. Civil Party Victim Impact Statement and Questions to the Accused

Initially the Civil Party took the opportunity provided by the Chamber to ask questions to the Accused, although made no victim impact statement. He asked: "I suffered from the loss of my parents, family members and am by myself with my head injury. If they were in my position, how would they feel?" After asking his two questions, the President asked to confirm with the Civil Party that he did not wish to also make a victim impact statement. The Civil Party confirmed he had no statement to give, however national Civil Party lawyer Pich Ang asked the Bench to permit him to explain the situation to the Civil Party again, as he argued Mr. Choeung had misunderstood his right to give a statement. The President dismissed this request however, and moved on with the next witness.

C. Summary of Testimony by Witness Prum Sarun

74 year-old Witness Prum Sarun, from Krapeu Kang Cheung Village, Phnom Sampov Commune, Banan District, Battambang Province was introduced to the Chamber on 8 December.⁸ His testimony was related to the treatment of ethnic Vietnamese people in the DK armed forces and to alleged killings at Tuol Tatrong. He further testified on the treatment of former Lon Nol soldiers by KR cadres and detailed his knowledge of other detention centers and killings sites, such as Wat Kiriom. The Witness concluded his testimony after 4 sessions in the morning of 9 December.

1. Background and Position during DK Regime

Prum Sarun testified that, prior to the DK era, he had been a member of the Khmer Republic, or Lon Nol army for three and a half years and spent six months in Thailand undertaking language studies for the military. After 17 April 1975, Prum Sarun was made a Platoon Chief in Company 4, Battalion 1, which was stationed along with Battalion 2 in his hometown of Krapeu Kang Cheung. The Witness stated that he spent most of his time as Platoon Chief harvesting rice. Mr. Prum testified that both battalions were under the control of Ta Chham, the District Chief in Sector 3 in the Northwest Zone. The Witness testified that Ta Hong, the village company chief, was his immediate supervisor, while Ta Kroch was chairman of Battalion 1.

2. Treatment of Former Lon Nol Soldiers

When asked about the treatment of former Lon Nol officials in the DK period, Prum Sarun stated that he witnessed an event on 17 April 1975 where persons who were thought to have held a position in the former regime were walked away by soldiers and never seen again. He also testified to seeing a Khmer Republic soldier and his wife shot to death on the same day, although he did add that family members of Lon Nol officials were not usually targeted. Prum Sarun recalled that, while in Chanlos Kdoang, he came across the body of Ta Oeum, his former Khmer Republic unit chief, who the Witness said had been taken away and “smashed.” He was unable to provide details about the survival of other former Lon Nol soldiers. However, he said that all former soldiers were monitored closely and forced to make an annual biography that was then sent to the upper echelon. The Witness said that this applied to him too, and that although he feared death every day, he was kept alive because he worked hard in the rice fields.

3. Treatment of Vietnamese in Battalions 1 and 2

Witness Prum Sarun further testified about the treatment of ethnic Vietnamese people in the two battalions stationed in his commune. He recalled that his supervisor, Ta Kroch, relayed an order to him that every battalion had to report the identities of Vietnamese people to the upper echelon. Mr. Prum told the Chamber that there were no Vietnamese people in his own battalion, claiming that there were only a few people with Chinese backgrounds, and that they lived under the same conditions as the ethnic Khmer people. In addition, the Witness stated that he himself saw the arrest of other Vietnamese people from Battalion 2 who were tied up individually with scarves and walked away toward the West.⁹ He testified that four young children of KR cadres, armed with guns, carried out the arrest. He guessed that the group had later been killed, but had no first-hand knowledge of what happened to them, saying that he did not dare ask questions at the time out of fear for his life.

4. Bodies at Tuol Tatrong and Other Possible Execution Sites

A good deal of Prum Sarun’s testimony centered on his experience at Tuol Tatrong in the western part of his commune near Koy Mountain. He claimed that he found a number of swollen and reeking corpses there when he passed by, tending water buffalo. During his testimony, confusion arose over the exact number of bodies he saw, and their state of decay, with the Defense Teams arguing that his use of the word ‘skeletons’ implied the people had died a long time ago. Ultimately Prum Sarun testified that he saw some skeletons as well as four fresh corpses with

smashed skulls. Prum Sarun said that he had surmised that the bodies were of the Vietnamese people from the other battalion who had disappeared, although when pressed he admitted that he was not confident on the ethnicity or identity of the bodies. In addition to Tuol Tatrong, this Witness also described visiting to Wat Kiriom after January 1979, where he claimed to have seen a cave half-filled with dead bodies. He testified that during the DK era people were detained temporally near this pagoda in Daum Commune.

5. Witness Demeanor and Credibility

Witness Prum Sarun answered questions directly and notably avoided using hearsay in his testimony. There were nonetheless several gaps in his memory, which he often attributed to the state of fear he was in when witnessing the events he was describing. Particularly concerning his testimony about the treatment of the Vietnamese, the Witness became rather inconsistent particularly concerning numbers, for instance the number of bodies he saw at Tuol Tatrong. President Nil Nonn had to remind the Witness to speak more clearly into the microphone regularly throughout his testimony and he claimed to forget several key points, which could be due to his advanced age.

D. Summary of Testimony by Witness Oum Son

Mr. Oum Son, 64, from Trapeang Russei Village, Boeng Mealea Commune, Svay Leu District, Siem Reap Province began his testimony in the late morning of 9 December.¹⁰ His testimony related to alleged executions of Vietnamese people at Wat Khsach in Chi Kraeng District, Siem Reap Province. He testified on the disappearance of Vietnamese families from his village in late 1978 and in particular the execution of a Vietnamese woman named Chantha. Oum Son testified to having witnessed the above events with his friend Sean Sung, who earlier testified before the Chamber on 27 October.¹¹

1. Background of the Witness and Vietnamese People in his Village

Witness Oum Son made some general comments about the situation in his village during DK era first, claiming that he was a simple field worker in a mobile unit during that time. In addition to his role as a field worker, he was also given night guard duty between 7 and 9pm. However, he claimed that this did not indicate he had any authority. He testified that his mobile unit was assigned to work in Sangvaeuy Village, Chi Kraeng District, during this time, and he said that he slept not far away from Wat Khsach Pagoda. New People reportedly settled in this region after 1975, including the family of Ta Kut and Yea Ma and their granddaughter Chantha. The witness testified that the family was of Vietnamese ethnicity but spoke Khmer clearly and had lived in the region for a long time. He also said that, overall, there were quite a lot of Vietnamese families living in the region who disappeared after 1976 and that Chantha's family was the last remaining family living in the region at that time.

2. Situation & Alleged Executions at Khsach Pagoda

The Witness testified to sleeping close to Wat Khsach; a pagoda which had previously been dismantled and had no monks living in it after 1975. He added that militiamen guarded the road towards the pagoda. A large portion of his testimony focused on events he witnessed at the end of the rainy season in 1978. He testified that approximately 25 people with Vietnamese accents were transported to Wat Khsach and temporally detained in the library hall there. He claimed that he heard screams at around 7pm in the evening and subsequently went to investigate. The Witness told the Chamber he saw three young militiamen standing outside of the pagoda and accusing the detainees of being 'Yvon.' Later he claimed to have witnessed the detainees being tied up, walked to a pit, and executed one by one. He also said he saw older babies and children killed with bamboo clubs and toddlers being smashed against coconut trees. The Witness claimed to know two of the executioners, namely Khut and Moy. He testified that a few days later

he found approximately 100 dead bodies in a pond by the pagoda with gallbladders hanging in the trees surrounding them.

3. Death of Chantha and her family

The other key part of Oum Son's testimony related to the execution of the Vietnamese woman Chantha and her grandparents. He testified to hiding in a canal in front of the fence of the pagoda with his friend Sean Sung. The Witness claimed that, despite the fact that it occurred at around 7:00pm, he saw the scene clearly because the area was lit up by gas lamps. He testified to seeing Chantha and her family surrounded by militiamen. Ta Khut was executed first, then Yea Ma, and finally Chantha. Although he first said that Chantha had her gallbladder removed because she was an unmarried woman, he later admitted he made this conclusion himself after seeing gallbladders hanging on trees.¹² Although he repeatedly claimed to have been terrified at the time he observed the executions, he repeatedly said he stayed there for three hours, despite Sean Sung's prior testimony that they left their hiding place after one hour.

4. Witness Demeanor and Credibility

Defense counsel challenged the credibility of this Witness. Defense Counsel Victor Koppe stated plainly that he did not believe the witness' testimony at all, and essentially waived his right to ask questions.¹³ Several details of the Witness's story were inconsistent, and contradicted testimony of the same events previously given by Sean Sung on 27 October. Late on Friday afternoon, international Defense Counsel for Khieu Samphan steadily broke down his evidence until eventually he admitted that he was not sure about many details of his testimony after all. In the face of challenges, the Witness repeatedly affirmed that he was telling the truth, although his demeanor seemed quite defensive to trial monitors.

E. Summary of Testimony by Witness Ong Sam Ian

The final Witness to testify this week was Ms. Ong Sam Ian, a 63 year-old woman from Kraham Kor Village, Chantrei Commune, Romeas Haek District, Svay Rieng Province.¹⁴ Her testimony was brief as the Khieu Samphan Defense Team asked her no questions, and the Nuon Chea Defense Team's examination took only around 20 minutes. Although this witness appeared during a segment on the treatment of the Vietnamese, her testimony largely centered around unrelated topics, such as the working conditions at a dam site and the treatment of her brother who was a former Khmer Republic soldier.

1. Description of Vietnamese Families in Chantrei Commune, Svay Rieng Province

This Witness testified that she had remained in her native village of Kraham Kor until approximately one week before the Khmer Rouge defeat in 1979, when she was forcibly relocated to Takeo. She recalled three or four ethnic Vietnamese residents of her village who she said had been born there, although she did not know them well. Ong Sam Ian testified that two unarmed people came to arrest two or three mixed-race Vietnamese families in 1977. Although she said it was impossible to distinguish between the mixed-race and full Khmer ethnic groups in her village, the identities of the people with Vietnamese backgrounds was common knowledge. The Witness testified that after the Vietnamese villagers were arrested they were sent to work in rice fields during the rainy season, but beyond outside of that she was unsure what happened to them. She never saw any of them again, and she explained, "No one discussed the matter."

2. Living Conditions in Svay Rieng during the DK Regime

Despite her appearance in the trial segment on the Vietnamese, the Witness was asked questions about the treatment of Buddhists during the DK regime. She responded that, after

1975 religion was forbidden, pagodas were closed, monks were disrobed, and statues were taken down. Defense Counsel, Victor Koppe, also asked her about Vietnamese bombardment in her village between 1970 and 1979; she confirmed having heard shelling coming from the East and that she once had to flee westward with her mobile unit, but no one was injured. The Witness was asked many questions about her younger brother, Meas Sakhun, who was arrested in 1978 and never seen again. She said that at the time she had been told he was being sent to work at Kampong Chhnang airfield; his fellow soldiers later on told her that he had been executed.

3. Witness Demeanor and Credibility

Ong Sam Ian responded to questions clearly and calmly throughout her testimony on Friday. The Bench reprimanded Prosecution counsel for frequently employing compound questions, saying that even they found it hard to follow. However, despite the witness' limited level of education, she was able to follow and answer the questions.

III. LEGAL AND PROCEDURAL ISSUES

This week legal and procedural issues did not delay proceedings at all. The Chamber sped through hearings without any significant disturbances for the first time in several months. Some minor objections were made, particularly from the Defense's side of the Chamber. On Monday the Trial Chamber pronounced its oral decision on the admission of new witnesses in this segment who have come to light during the investigations into Cases 003 and 004.

A. Trial Chamber's Oral Decision on Admission of New Witness

On 7 December 2015, the Trial Chamber issued an oral ruling on the OCP's request to admit a new witness on the treatment of the Vietnamese.¹⁵ The Trial Chamber found that although DC-Cam interviewed the proposed witness in 2007, this interview contains minimal information relevant to the treatment of the Vietnamese and WRIs recently disclosed by the Office of the Co-Investigating Judges (OCIJ) interview contains more detailed information. The Chamber is satisfied that this evidence on the treatment of Vietnamese was not available before the opening of the trial. Consequently the OCP request was granted and the Witness was assigned the pseudonym 2-TCW-1000, at the same time admitting all of his WRIs into evidence.

B. Use of Torture-Tainted Evidence

The use of torture-tainted evidence originating from S-21 confessions was again raised as an issue during the course of this week's proceedings.¹⁶ First, on Tuesday, Judge Fenz interrupted international Defense Counsel for Nuon Chea, Victor Koppe, as he questioned Choeung Yaing Chaet, asking him to specify the source of the information he was citing. When he read the E3 number it became clear to the other Parties that this was a document from S-21, which Prosecutor Joseph Andrew Boyle pointed out. The President instructed Victor Koppe to change his line of questioning.¹⁷ On Friday afternoon, Mr. Koppe objected to Senior Assistant Prosecutor Vincent de Wilde d'Estmael's use of a biography that originated in S-21, asking "is the prosecution now doing what I'm always reprimanded for?" After a lengthy deliberation by the Bench, the Chamber overruled the objection on the grounds that the Prosecutor was only using biographical information was being used by the OCP, not a confession. The Parties continue to await the Trial Chamber's impending decision on the use of torture-tainted evidence.

C. Trial Chamber's Discussion on Civil Party to be Heard Next Week

Scheduling issues were the focus during the fourth session of Friday, 11 December. Firstly the Trial Chamber announced that it had become aware that Civil Party 2-TCCP-869, originally scheduled for the following week, wished to forfeit her upcoming testimony as a Civil Party. National Lead Co-Lawyer for the Civil Parties, Pich Ang, told the Chamber that this person no

longer wishes to testify due to psychological trauma she suffers when among crowds. He said attempts by his office to contact her had so far been unsuccessful, confirming that nobody was yet certain whether she also wished to forfeit her Civil Party status. Judge Claudia Fenz replied that the Civil Party’s medical report did not indicate sufficient hardship to excuse the Civil Party from testifying, also adding that if necessary the person could be summoned as a witness and supported by the Transcultural Psychosocial Organization (TPO). Senior Assistant Prosecutor Vincent de Wilde d’Estmael said that his office would not compel the Civil Party to testify, but added that the Prosecution was worried about a succession of deaths of persons scheduled to testify about the events in Prey Veng Province, and therefore recommended calling 2-TCW-843 and 2-TCW-957 instead. The President responded that the Trial Chamber would take all opinions into account on both issues and will announce a new schedule in due course.

IV. TRIAL MANAGEMENT

This week the Trial Chamber heard from four witnesses and one Civil Party over the course of four days, interrupted on Thursday by a judicial recess for International Human Rights Day. Proceedings ran smoothly all week and were not marked by significant interruptions.

A. Attendance

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

Judge Attendance: All Judges were presented in the courtroom throughout the week.

Civil Parties Attendance: Approximately ten Civil Parties observed proceedings from inside the courtroom throughout the week.

Parties: Most Parties were properly represented in the courtroom this week. National Defense Counsel for Khieu Samphan, Kong Sam Onn, was absent from Wednesday afternoon until the end of the week due to personal reasons. The Greffier also notified the Chamber that standby counsel for Khieu Samphan, Mr. Kevin Saunders, would be late on 9 December due to traffic congestion on the road to the Court.

Attendance by the public:

DATE	MORNING	AFTERNOON
Monday 07/12/2015	<ul style="list-style-type: none"> ▪ Approximately 100 students from Sok An Prey Sondaek High School, Treang District, Takeo Province ▪ Three foreign observers 	<ul style="list-style-type: none"> ▪ Approximately another 100 students from Sok An Prey Sondaek High School, Treang District, Takeo Province ▪ Two foreign observers
Tuesday 08/12/2015	<ul style="list-style-type: none"> ▪ Approximately 150 students from Sok An Khvao High School, Treang District, Takeo Province ▪ Eight foreign observers 	<ul style="list-style-type: none"> ▪ Approximately 150 students from Sok An Khvao High School, Treang District, Takeo Province

<p>Wednesday 09/12/2015</p>	<ul style="list-style-type: none"> ▪ Approximately 170 villagers from Kep District, Kep Province ▪ Five foreign observers 	<ul style="list-style-type: none"> ▪ Approximately 150 villagers from Tuek Chhou District, Kampot province ▪ Ten observers from Cambodia Center for Human Rights (CCHR), Phnom Penh
<p>Friday 11/12/2015</p>	<ul style="list-style-type: none"> ▪ 70 students and four teachers from Por Ampel High School, Treang District, Takeo Province ▪ Two villagers ▪ One foreign observer 	<ul style="list-style-type: none"> ▪ 81 students from Por Ampel High School, Treang District, Takeo Province ▪ One villager ▪ Two foreign observers

B. Time Management

This week saw the Trial Chamber keep strictly to schedule, with the President often stepping in to limit long or convoluted responses. President Nil Nonn also reminded lawyers to keep their questions short and clear to avoid misunderstandings. As a result of such conscientious efforts to move forward after a week of break, the Trial Chamber successfully managed to conclude the testimonies of four Witnesses and one Civil Party over the course of four days. On December 11, the President notified Parties that upcoming Civil Party 2-TCCP-689 wished to forfeit her status as a Civil Party before the ECCC due to health issues, so he announced that the Chamber would rearrange the planned appearances for the following week.

C. Courtroom Etiquette

Courtroom etiquette was strained on a number of occasions this week. On Tuesday and Wednesday Defense Counsel Victor Koppe’s line of questioning was interrupted several times by the Chamber, and on each occasion Koppe expressed disapproval. In particular, on 9 December, during examination of Witness Oum Son, Koppe expressed his frustration to the Chamber when he was prevented from asking the Witness a question, saying: “So are you saying that I am not allowed to ask the question whether the Witness is in fact lying?” When the President told him to move on, he sat down and concluded his questioning after only three minutes. On the same day, Counsel Koppe interrupted Judge Fenz while she was putting questions to Witness Prum Sarun, causing her to reply forcefully that “Counsel Koppe, you will have leave to ask question later. Please don’t interrupt.” The previous day the President scolded international Assistant Prosecutor Joseph Andrew Boyle for the way he raised an objection, also adding “you should not use this stage to teach another party how to put question.”

D. Translation and Technical Issues

No significant technical issues held up proceedings this week, however there were several translation problems that caused some confusion. For example, on Friday all Parties complained of translation issues provided by the interpreters from Khmer to English in relation to whether Victor Koppe raised an “objection” or an “observation” during examination of Witness Ong Sam lan by international Senior Assistant Prosecutor Mr. de Wilde d’Estmael. President Nil Nonn subsequently warned interpreters to pay close attention to the different meanings of these two words. Later on, international Judge Claudia Fenz interrupted Victor Koppe’s questioning of the Witness to clarify a translation issue from Khmer to English over whether the Witness said “he was carried back” or “he was carried in a bag.” Monitors noted number of examples of mistranslations from Khmer to English throughout the week; during examination of Civil Party Choeung Yaing Chaet on 7 December, an interpreter translated the number “60 to 70 boats” in Khmer to “50 to 60 boats” in English; on 8 and 9 December, the interpreter repeatedly translated

the period of time “1975 until 1982” in Khmer to “the whole time” in English; and throughout the week interpreters used the pronouns “she” and “he” interchangeably.

E. Time Table

DATE	START	MORNING BREAK	LUNCH	AFTERNOON BREAK	RECESS	TOTAL HOURS
Monday 07/12/2015	9:08	10:09 – 10:30	11:31 – 13:32	14:39 – 15:00	16:00	4 hours 9 minutes
Tuesday 08/12/2015	9:02	10:10 – 10:30	11:30 – 13:31	14:41 – 15:00	15:56	4 hours 14 minutes
Wednesday 09/12/2015	9:00	10:11 – 10:31	11:33 – 13:30	14:40 – 15:00	16:00	4 hours 23 minutes
Friday 11/12/2015	9:00	10:13 – 10:31	11:30 – 13:33	14:35 – 14:54	16:01	4 hours 21 minutes
Average number of hours in session				4 hours and 16 minutes		
Total number of hours this week				17 hours and 7 minutes		
Total number of hours, day, weeks at trial				463 hours and 57 minutes		
123 TRIAL DAYS OVER 36 WEEKS						

*This report was authored by Alexander Benz, Borakmony Chea, Caitlin McCaffrie, Lina Tay, Penelope Van Tuyl, and Talisa zur Hausen 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 AIJI staff; and
- photos are courtesy of the ECCC.

Glossary of Terms

Case001	<i>The Case of Kaing Guek Eavalias “Duch”</i> (CaseNo.001/18-07-2007-ECCC)
Case002	<i>The Case of Nuon Chea, Ieng Sary, Ieng Thirith, and Khieu Samphan</i> (CaseNo.002/19-09-2007-ECCC)
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
DSS	Defense Support Section
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 SEAN Sung testified on 27 and 28 October 2015, see CASE 002/02 KRT TRIAL MONITOR, Issue 34, Hearings on Evidence week 31 (26-28 October 2015) pp. 1-3.

² Witness SAO Sak (2-TCW-886) was questioned in the following order: international co-prosecutor, Nicholas KOUMJIAN; international Civil Party lead co-lawyer, Marie GUIRAUD; international co-lawyer for Nuon Chea, Victor KOPPE; international co-lawyer for Khieu Samphan, Anta GUISSÉ. For a summary of her testimony from 11 December, see CASE 002/02 KRT TRIAL MONITOR, Issue 35, Hearings on Evidence week 32 (30 November – 3 December 2015) pp. 6-7.

³ Civil Party CHOEUUNG Yaing Chaet (2-TCCP-241) was questioned in the following order: Civil Party lawyer, Lyma NGUYEN; international assistant prosecutor, Joseph Andrew BOYLE; Judge Claudia FENZ; international defense counsel for Nuon Chea, Victor KOPPE; international co-lawyer for Khieu Samphan, Anta GUISSÉ; national co-lawyer for Khieu Samphan, KONG Sam Onn.

⁴ According to the Witness Ta Pheang was the village chief of the Kampong Leng District.

⁵ The Defense Counsel for Nuon Chea repeatedly objected and asked for clarification regarding the Vietnamese calendar the Civil Party was referring to. This was due to the fact that his described events would have otherwise fallen outside of the scope of proceedings in Case 002/02. His objections were overruled, however, since the Trial Chamber used the Khmer New Year the Civil Party stated as a time reference.

⁶ Both Defense Teams objected to the use of the terms ‘barter’ or ‘trade’ in reference to the Civil Party’s experience of crossing the border to Vietnam and the subsequent exchange of rice and salt bags. They repeatedly stated that there was no evidence that the return of rice and salt was related to the movement of ethnic Vietnamese people.

⁷ The Civil Party explained in his testimony that every family had a *lang tai*, or family record book, but he was vague about whether these were checked by the Khmer Rouge cadres during the regime to determine family ethnicity were Vietnamese.

⁸ Witness PRUM Sarun (2-TCW-945) was questioned in the following order: President NIL Nonn; national deputy co-prosecutor, SONG Chorvoin; international senior assistant prosecutor, Vincent DE WILDE D’ESTMAEL; national civil party lead co-lawyer, PICH Ang; Judge Jean-Marc LAVERGNE; international co-lawyer for Nuon Chea, Victor KOPPE; international co-lawyer for Khieu Samphan, Anta GUISSÉ.

⁹ During his testimony, PRUM Sarun gave different answers for the number of Vietnamese people he saw taken away. Initially he said it was only the two Vietnamese people from Battalion 2, but later he claimed it was three or four entire Vietnamese families. This discrepancy was left unresolved.

¹⁰ Witness OUM Son (2-TCW-949) was questioned in the following order: President NIL Nonn; international senior assistant prosecutor, Vincent DE WILDE D'ESTMAEL; international civil party lead co-lawyer, Marie GUIRAUD; international defense counsel for Nuon Chea, Victor KOPPE; international defense counsel for Khieu Samphan, Anta GUISSÉ.

¹¹ For more information on Mr. SEAN Sung's testimony, see CASE 002/02 KRT TRIAL MONITOR, Issue 34, Hearings on Evidence week 31 (26-28 October) pp. 1-3.

¹² During his testimony, Mr. SEAN Sung had described witnessing Chantha's disembowelment in great detail, whereas OUM Son said they did not witness that act first-hand.

¹³ Victor KOPPE's opening question to the Witness was: "I only have one question put to you because with all due respect I do not believe a word of your story. I put to you that you never witnessed any executions, you never saw any dead bodies, never heard any prisoners in the library of the Wat." The President did not allow Counsel to pose this question, after which Victor Koppe ceded the floor to the Defense Team for Khieu Samphan.

¹⁴ Witness Mrs. ONG Sam Ian (2-TCW-848) was questioned in the following order: President NIL Nonn; national deputy co-prosecutor, SREA Rattanak; international senior assistant prosecutor, Vincent DE WILDE D'ESTMAEL; international co-lawyer for Nuon Chea, Victor KOPPE.

¹⁵ The Civil Party Lead Co-Lawyer did not object to this request, however Defense Counsel for Khieu Samphan argued that the request was tardy, as the OCP knew of the existence of this witness during the Case 002 investigation, and the Defense Team for Nuon Chea argued that if this witness were to appear, he should only do so after the investigation into Case 003 comes to a close. For a summary of the Defense objections to this request see CASE 002/02 KRT TRIAL MONITOR, Issue 35, Hearings on Evidence week 32 (30 Nov – 3 Dec 2015) p 7.

¹⁶ The Trial Chamber has been faced with objections over the use of torture-tainted evidence many times during Case 002/02, see CASE 002/02 KRT TRIAL MONITOR, Issue 17, Hearings on Evidence week 14 (27-30 April 2015), CASE 002/02 KRT TRIAL MONITOR, Issue 18, Hearings on Evidence week 15 (4-8 May 2015), CASE 002/02 KRT TRIAL MONITOR, Issue 19, Hearings on Evidence week 16 (18-21 May 2015), CASE 002/02 KRT TRIAL MONITOR, Issue 20, Hearings on Evidence week 17 (25-28 May 2015), CASE 002/02 KRT TRIAL MONITOR, Issue 23, Hearings on Evidence week 20 (15-17 June 2015), CASE 002/02 KRT TRIAL MONITOR, Issue 24, Hearings on Evidence week 21 (22-25 June 2015).

¹⁷ Counsel Koppe argued that "I don't see how you can surmise so easily that [the author of the document] was tortured" and "There are many other sources" for this information. However he did not provide any other sources to back up his claim.