

KRT TRIAL MONITOR

Case 002/02 ■ Issue 42 ■ Hearings on Evidence Week 39 ■ 1-3 February 2016



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)

*"In the past, if I considered all the "Yuons" the enemy
I would have smashed them... but I did not do that. I sent them to the upper level
and whatever measures the upper level did, that was their authority."*

- Witness Meas Voeun

I. OVERVIEW

This week the Trial Chamber heard testimony from three individuals on the treatment of the target groups in the Democratic Kampuchea (**DK**) regime, particularly former Lon Nol soldiers and the ethnic Vietnamese. The week began with Witness Sao Van, the former Chief of the Front in Cheang Tong Commune, Tram Kak District. Mr. Sao testified about the treatment of both the Vietnamese and former Lon Nol officials, which the Witness had a personal connection to as his brother had been an official in the Khmer Republic government. Meas Voeun also testified about the treatment of these two groups from his perspective as a member of the Revolutionary Army of Kampuchea (**RAK**). Finally Ms. En Yoeun returned to testify after her health prevented her from completing her testimony last week.¹ There was some confusion during En Yoeun's testimony as to the reason for her appearance before the Chamber, and it became unclear whether she had indeed made the statement that had been attributed to her. In addition to some objections over the proper use of evidence, the Chamber also dealt with a few procedural issues ahead of the appearance of Expert 2-TCE-95 next week on the treatment of the Cham.

II. SUMMARY OF WITNESS AND CIVIL PARTY TESTIMONY

This week the Trial Chamber heard from three witnesses in total. Sao Van and Meas Voeun both held positions of some authority in the Democratic Kampuchea (**DK**) regime and spoke about the treatment of the ethnic Vietnamese and former Lon Nol soldiers from their experience. The third witness to appear, En Yoeun, did not testify for long as it became clear that a statement attributed to her was not indeed her statement.

A. Summary of Testimony by Witness Sao Van

74-year-old Witness Sao Van, from Srae Khvav Village, Cheang Tong Commune, Tram Kak District, Takeo Province, began his testimony on Monday morning and continued over the

following day.² Sao Van testified about his position in the commune before and after the liberation of Phnom Penh. He also spoke of the treatment of the ethnic Vietnamese as well as former Lon Nol soldiers and officials, including the arrest of his brother, a former member in the Khmer Republic administration.

1. Witness's Background & Positions Held in District 105

The Witness testified that in 1970 he had been a village chief within Cheang Tong Commune within Tram Kak District (District 105) and on 30 April 1971 was promoted to a higher position in charge of the distribution of propaganda. He then said that on 14 September 1971 *Angkar* appointed him to be Chief of the Front in Cheang Tong Commune; a position he maintained until 1975.³ He then said that two months after "the victory of 17 April 1975" the Zone Committee reassigned him to Sector 25, at the time commanded by Yeay Boeun, where he initially assisted relocating those who had been evacuated from Phnom Penh.

Sao Van testified that in 1976 he was appointed as the Chief of the Front in Kien Svay Commune. As Chief he reported to Tram Kak District Chief Yeay Khom; daughter of Ta Mok and wife of Meas Muth, who also introduced him to the local Communist Party of Kampuchea (CPK) members who facilitated his party membership. Sao Van testified that Ta Paun and Ta Saom instructed him to make a biography before he could enter the Party, and that it took nine months for him to achieve full rights status. Asked about a specified description of his own tasks as the Chief of the Front, he claimed that he mostly made military and economic decisions, however overall decisions had to be decided together with the Commune Chief.

2. Instructions Regarding Treatment of Former Lon Nol Soldiers

Sao Van testified that he had taken part in two meetings on the treatment of former Lon Nol officials; one at Phnom Trael in either May or June 1975 for cadres from Sector 13, and the other at the old market in Takeo provincial town sometime just after Khmer New Year in 1976. The Witness stated that the first meeting was chaired by Ta Saom, Chief of Sector 13, who instructed attendees on how to prepare for problems that may arise with the re-location of people within the country. The Witness also recalled that special orders were given not to harm Lon Nol soldiers ranked from second lieutenant to colonel, however his statements were inconsistent on this point.⁴ He said that the second meeting mostly dealt with agricultural orders, but that it was also announced that former enemies were now to be trusted, as everyone had to work together to rebuild the country. The Witness further recalled that on another occasion he heard Ta Mok instructing Ta Muth and Ta Saom that they should act more gently towards the lower levels, as people were afraid of them. Sao Van also recalled hearing a speech on the radio given by Khieu Samphan shortly before 17 April 1975 in which he said that no ordinary soldiers or civil servants should be harmed after the country was "liberated;" instead the "seven traitors" would be executed, namely: Lon Nol, Sirik Matak, In Tam, Sosthene Fernandez, Long Boret, Cheng Heng and Son Ngoc Thanh.

Sao Van testified that he never saw any mistreatment of Lon Nol soldiers himself, however he was aware that some were gathered at Wat Champa in Sector 105, although he did not know what happened to these men. Furthermore, the Witness's elder brother, Sao Suom, had held a low position in the Lon Nol government.⁵ The Witness described feeling "jubilant" when he heard the news that former officials would not be targeted. However, his brother was nonetheless arrested and re-located to live in a re-education center in Sector 24 for the duration of the DK regime. Sao Van recalled going to Yeay Khom to ask for his brother's release as he was worried he was not physically strong enough to survive detention. He said Yeay Khom told him not to meddle in this matter, and instructed him to return and deliver his brother's family to the center.

3. Food rations and Conditions in Southwest Zone

President Nil Nonn asked the Witness to describe the living conditions in the Southwest Zone in detail. In response Sao Van testified there were problems with food distribution in Cheang Tong in 1975 when the “new people” arrived in his district, stretching rations further than they had been previously.⁶ He said that in 1976, when he was assigned to Kien Svay Commune, conditions were better as this was an area that produced corn as well as rice. He said in Kien Svay people received 2 *kham*s of rice mixed with corn per person.⁷ Sao Van recalled that this ration was cooked communally every day, under the orders of the upper echelon, who he took to mean Ta Mok. He stated that no distinctions in food rations were made between senior cadres and ordinary villagers, adding that there had never been food shortages in his commune. He recalled receiving “the Chinese aid rice” but could not remember how much or when.

4. Treatment of the Vietnamese

Sao Van also testified about the treatment of Vietnamese in Boeng Khyang Commune, Kandal Steung District, Kampot Province, the area he was working in 1977. He claimed that, after 17 April 1975, 10 Vietnamese families arrived in Boeng Khyang. He said that cadres received instructions from Yeay Khom to take these people to Ang Roka Pagoda so they could be sent “back to their home country.” He recalled orders not to harm or steal from them, however they were told if the prisoners carried arms these should be confiscated. The Witness described this gathering at Ang Roka Pagoda as a protective measure for the Vietnamese, saying that the regiment made a point of telling people that there was no reason to hate the Vietnamese. However, he did say that he had heard Ta Mok order cadres not to sell rice to Vietnamese soldiers anymore, saying that all of it should be used to build up DK instead. The Witness testified that he never saw any executions of Vietnamese people.

5. Witness Demeanor and Credibility

During his testimony, Sao Van appeared to have no problems following proceedings and answering questions put to him clearly. His testimony was largely consistent and also was supported by his previous testimony before the Supreme Court Chamber (SCC). The one recurring issue was the matter of ranks within the Khmer Republic army, with his statements appearing to contradict each other until it was suggested that perhaps he did not have a thorough grasp of military positions. Other minor discrepancies or gaps in memory could be the result of his advanced age and the amount of time that has passed since the events in question.

B. Summary of Testimony by Witness Meas Voeun

Meas Voeun, alias Svay Voeun, was the second witness to testify this week.⁸ The 68-year-old rice farmer from Kampong Speu Province was questioned on his experience as a member of the RAK, as well as the treatment of both Lon Nol soldiers and the ethnic Vietnamese before and during the DK regime.

1. Command & Communication Structures in West Zone, including Division 164

Meas Voeun testified that he held the position of Deputy Commander of Division 1; the ground force of the South West Zone. Meas Voeun stated that he reported to Ta Seun as the Commander of Division 1, who was subordinate to Son Sen. Although Son Sen was Chief of the General Staff, the Witness said that Ta Mok was superior to him, as he held the role of Commander in Chief of all three military branches.

The Witness testified to the presence of the Naval Division 164 on Koh Kong and the communication structures between the two divisions, stating that both branches were equally

powerful. According to the Witness, both divisions received the same orders from the upper echelon, and although there was no direct sharing of information, there was often collaboration. The Witness stated that there were regular meetings between heads of the military that would be relayed by the regional commander to him and then he would relay these orders down to lower levels.

2. Treatment of Lon Nol Soldiers and Officials

Under questioning from international Defense Counsel for Nuon Chea, Victor Koppe, the Witness testified to the treatment of Lon Nol soldiers and officials after the liberation of Phnom Penh. The Witness recalled that former Lon Nol soldiers raised white flags above their houses. He said that his orders were not to harm the “enemy” if they raised a white flag, however they were to confiscate their weapons. He testified that he had never heard of the execution of any Lon Nol soldiers who had raised the white flag, however stated that he could not speak for the soldiers of other zones, as he only knew what was happening within the South West Zone. Meas Voeun further stated that he was reassigned to Kampot approximately one week after the fall of Phnom Penh, and thus he did not know what had happened to the Lon Nol military that had been captured in the capital after that.

3. Treatment of Vessels Found in DK waters

The Witness testified that, in an effort to prevent boats entering and fishing in DK territorial waters, Division 1 and Naval Division 164 would cooperate to “chase away” these vessels. The Witness stated that when a vessel was suspected of encroaching on territorial waters the division would deploy a ship to inspect what kind of vessel it was, and stated that if it was a fishing boat they would simply chase it away. If the vessel opened fire upon their boats, they would return fire. The Witness testified to the regular presence of refugee boats travelling through DK waters from Vietnam in an effort to get to Thailand. According to him in these circumstances the vessel would be captured and the passengers sent to Kampong Som. Although the Witness testified to receiving orders from Meas Muth to let these people pass, he stated that instead they would be sent to divisional headquarters in Kampong Som with the intention that they would be returned to their own country.⁹ The Witness spoke of one instance when Thai fishing boats encroached into DK territorial waters. He said that measures were taken to approach the boats, however the Thais began firing at them, and ships and planes were sent to attack KR forces and they had to retreat. Meas Voeun said that after this incident he hardly ever came across Thai fishing boats.

4. Treatment of the Vietnamese

The Witness testified on the treatment of the ethnic Vietnamese and recalled hearing of a plan to eliminate them during the DK period. The Witness stated that the Vietnamese who lived in Cambodia were considered to be distinct from those arriving by boat as refugees. He said that those already living in DK were seen as dishonest and eager to cause trouble. He stated that since 1970 the government “peacefully” sent Vietnamese people back to Vietnam, however after 1975 there were instructions to “smash” those remaining. Meas Voeun later contradicted this statement, saying “I did not witness how the policy were (sic.) towards them, I only knew they were not allowed to live in Kampuchea.” He also described instructions from Ta Seun, the division commander, to gather up the Vietnamese and send them to the upper echelon. The Witness further testified to his personal connection to the ethnic Vietnamese, describing how his aunt had married a Vietnamese man and both were arrested under the KR regime.

5. Witness Demeanor and Credibility

Overall the Witness seemed to follow the proceedings well and was clear as to what he could and could not recall, asking for clarification when needed. Some questions arose over the

Witness's feelings towards the Vietnamese, particularly his comments such as "the spirit of revenge lives on; we hate the *Yuon* people. Even in Cambodia now there are still *Yuon* living." Despite this, monitors observed that he generally responded to questions in a clear and frank manner.

C. Summary of Testimony by Witness En Yoeun

On Wednesday, the Trial Chamber continued the testimony of Witness En Yoeun who had begun her testimony last week, but was postponed due to her poor health.¹⁰ The Witness was called upon to testify on the treatment of ethnic Vietnamese during the DK regime, however it became clear that a DC-Cam statement that was the grounds for her appearance had been wrongly attributed to her and thus ultimately she was only able to speak about her collective marriage and experience working in a mobile unit.

1. Witness's Background

En Yoeun had some trouble remembering her age, however estimated that she was approximately 15 years old on 17 April 1975.¹¹ She testified that shortly after that she was assigned to a mobile unit in Svay Rieng Province, near the Vietnamese border, clarifying that she was not sent to a children's unit because she was "fully fledged." She said that life in the mobile unit was difficult: food was limited and many resorted to eating stalks from banana trees. She said that that many people wanted to get married because married people were moved from the mobile units to the cooperatives, where living and working conditions were better.

2. Treatment of the Vietnamese in her region

Although she appeared as a witness in the segment on the treatment of the Vietnamese, she had limited knowledge about the topic. When asked, En Yoeun testified to not having seen any Vietnamese people in her commune, saying that the only Vietnamese people she ever saw were those living on the Cambodia-Vietnamese border, but she did not know anything about them. Under examination by International Counsel for Nuon Chea, the Witness recalled that there was shelling near her commune about once or twice a month, however she could not confirm whether that was Vietnamese artillery or not.

3. Witness's Group Wedding Ceremony and Marriage

The Witness told the Chamber that she volunteered to take part in a group wedding ceremony in 1977 in order to be moved from her mobile unit back to a cooperative, where life was less harsh. She said had met her husband before their wedding, during her time in the mobile unit while he was working in a nearby fishing unit. She stated that many couples were married in 1977, and said that during her group wedding ceremony, many recited vows to the effect that they would stay with their respective partners for their 'whole life'. She testified that anyone who refused marriage was taken away for "re-education," and if they still refused then they would be taken to Svay Tontum, although she could not say what happened to people there. En Yoeun noted that it was known that marriages must be consummated, however she said she and her new husband were not forced to do so, and they both slept in their respective families' homes on the first night. Although she was not forced herself, she said she had heard that others who refused to consummate their marriages were taken to the commune office and forced to, in order to 'fulfil marriage obligations' before being sent to the West. The Witness testified to being three months pregnant when she and her husband were sent to the West.

4. Witness Demeanor and Credibility

The President announced prior to the hearing of the testimony of En Yoeun that she was "a bit

frightened,” possibly as a result of the misunderstanding surrounding the DC-Cam statement wrongly attributed to her. Much of her testimony relied on the accounts of others or was based on what she had heard during her husband’s interview with DC-Cam. The Witness consistently denied that she had ever been interviewed by the documentation center, saying that the Trial Chamber must have erred in their decision to have her testify at proceedings. She mentioned various people, including her husband, who would be more suited to respond to questions.

III. LEGAL AND PROCEDURAL ISSUES

This week, significant issues arose concerning admission and use of documents. The doubt raised during Witness En Yoeun’s testimony that she was, in fact, the person quoted in a statement used by the OCP led to a protracted procedural debate on her presence in the courtroom, and finally on Wednesday the Chamber dealt with matters related to next week’s appearance by an Expert Witness in the Cham segment.

A. OCP and Nuon Chea’s Requests to Admit New Documents

On Tuesday the Trial Chamber heard submissions on the OCP’s request to admit six documents into Case 002/02 to be used in the questioning of Witness 2-TCW-1008. Senior Assistant Prosecutor Vincent de Wilde D’Estmael stated that there should not be any particular difficulty with the Internal Rule 87(4) motion given the timely manner of its inclusion and that the documents were also proposed by the Nuon Chea Defense team. Subsequently, International Civil Party Lead Co-Lawyer Marie Guiraud and the Nuon Chea Defense team submitted no objection to the inclusion of these six documents.

During the submission by the parties International Co-Lawyer for Nuon Chea, Victor Koppe took to opportunity to remind the Trial Chamber of a pending oral request by his team for the admission of three documents including DC-Cam statement of Nam Lan, which he would like to use when questioning Witness 2-TCW-1008 (Meas Voeun). Mr. Koppe claimed that the statements contained discussions about Vietnamese fishermen, boats, Thai fishermen and policies at the sea, so it was very important that he be allowed to use it when questioning the Witness. Mr. de Wilde d’Estmael did not object to the inclusion of these documents but noted that Counsel Koppe should submit 87(4) requests in a more timely manner in future.¹² After some deliberation the Chamber decided to admit all of the requested documents, with written reasons to follow.

B. Objections on the use of Documents during the Examination of Meas Voeun

On Wednesday morning Victor Koppe objected to the use of Document E3/1094, a monthly report from Office 401 to Sector 38. In his objection he read from the transcript of 4 October 2012 in which the same document was put to the same Witness, and it was established that the Witness had left the Sector by this time and thus could have no first-hand knowledge of this report. Despite this, the President permitted the OCP to use the document, agreeing with Mr. de Wilde d’Estmael’s argument that it could be relevant to this segment, an argument that Mr. Koppe described as “disingenuous.” The Defense Team for Khieu Samphan then objected to the procedure that had been followed by the OCP, stating that introductory questions must first be asked before using the document to question the witness, however the OCP said that since these introductory questions had been asked in 2012 it would be repetitive to do this, and also argued that the Defense Teams regularly omit to ask introductory questions. The President reprimanded the OCP for this, stating “if one party across the other side committed an error, the other parties should not repeat the error.”

C. Identity issues related to En Yoeun’s Appearance Before the Chamber

As mentioned above, there were questions raised during the testimony of En Yoeun about the

identity of the person in the DC-Cam statement that formed the basis for her appearance before the court.¹³ Vincent de Wilde d'Estmael stated that the interview was of a man named Chun Kei, the same name as En Yoeun's husband, and that near the end of the interview a neighbor is also quoted, and this neighbor gave her name as En Yoeun. However after questioning began the Witness denied knowledge of the entirety of the quotes attributed to her, particularly in relation to the Vietnamese. The Co-Prosecutors attempted to reconcile these inconsistencies, however she consistently stated that she had not been interviewed in 2005, but rather her husband was. She stated that her husband "really wanted to come here. I said it was not proper for me to testify, it was my husband." Victor Koppe then argued that the statement should not be used her examination as it had clearly not originated from her. He also expressed doubts about the general standard of DC-Cam statements, claiming that it was not guaranteed the statement had been taken in "a proper legal manner." The Defense Team for Khieu Samphan argued that Witnesses should be heard to the extent that they are giving statements as to the manifestation of the truth subject to Rule 83. The international Lead Co-Lawyer for Civil Parties, Marie Guiraud, requested she be permitted to confront the Witness with an interview of a person from the same village. The Trial Chamber ruled to continue hearing the testimony of En Yoeun, however prohibited the use of the DC-Cam interview, as its provenance could not be firmly established.

D. Oral Arguments on the Admission of New Documents and Use of Torture-tainted Evidence

After finishing the testimony of En Yoeun in the late afternoon of Wednesday, the Trial Chamber heard Parties' responses to two separate motions made by the Defense for Nuon Chea to admit new evidence in anticipation of hearing Expert Witness Ysa Osman (2-TCE-95) the following week.¹⁴ The Defense Team was questioned over the tardy nature of this application, as most of the documents they sought to be admitted had been available for a long time. In response Mr. Koppe cited the lack of capacity of his Defense team who were tasked with preparing the case at the same time as upcoming Appeals before the SCC. International Co-Prosecutor Nicholas Koumjian complained that he was at a disadvantage, as he had to read the approximately 200 pages so close to representing his view on them. Regardless, he went through each proposed document one by one, objecting to all but seven, most of which were either authored by the Expert himself or the product of interviews with him. He objected to the rest on the grounds that they were either irrelevant or were of dubious legal foundation. The Defense Team for Khieu Samphan had no objection to any of the proposed documents, stating that they would all help to get a more detailed understanding of the truth.

The OCP and Civil Party Lawyers strongly objected to the proposed admission of two documents from S-21, citing the recent SCC ruling on this issue.¹⁵ Asked by Judge Lavergne for clarification on the intended usage of these two documents, Mr Koppe claimed that there were already many "confessions" from S-21 on the case file and that the Defense requested them because the Expert had based many conclusions in his books on S-21 confessions of alleged rebellion leaders. He explained that he did not plan to make use of the documents, however wanted to have them on the case file for the record and to request a translation into English afterwards as they were only provided in Khmer up to this point. He also clarified that other documents he intended to rely on originated from the Krouch Chhmar Security Center and therefore he could still use them, as it had not been established that all documents produced there were the product of torture.

Taking all the above comments into account, the Chamber released a memorandum on 8 February, the day before the Expert Witness was scheduled to appear, ruling on the Nuon Chea Defense's request. The Trial Chamber admitted 9 of the 15 documents requested in the first request, and 9 of the 14 documents in the second request.¹⁶ Written reasons for this decision will be released in due course.

IV. TRIAL MANAGEMENT

The Trial Chamber heard the testimonies of three witnesses over the course of three days this week. Witness En Youen appeared before the Trial Chamber after recovering from her health issue last week and was accompanied by a staff member from the Transcultural Psychosocial Organization.

A. Attendance

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

Judge Attendance: All Judges were present in the courtroom through all sessions this week.

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

Parties: All Parties were properly represented in the courtroom throughout the week with the exception of Mr. Pich Ang, national Civil Party Lead Co-Lawyer, who was absent on 3 February for personal reasons.

Attendance by the public:

DATE	MORNING	AFTERNOON
Monday 01/02/2016	<ul style="list-style-type: none">Approximately 128 students from Hun Sen Serey Pheap High School, Takmao Downtown, Kandal Province	<ul style="list-style-type: none">Seven foreign observers
Tuesday 02/02/2016	<ul style="list-style-type: none">Approximately 100 students from Hun Sen Takmao High School, Takmao Downtown, Kandal ProvinceThree foreign observers	<ul style="list-style-type: none">No public attendance
Wednesday 03/02/2016	<ul style="list-style-type: none">Approximately 110 students from Asia Europe High SchoolThree foreign observers	<ul style="list-style-type: none">Approximately 110 students from Asia Europe High School

B. Time Management

This week the Trial Chamber strictly enforced time limits during questioning in order to successfully conclude the testimonies of three witnesses over the course of three days. The President encouraged efficiency; often interrupting Parties to remind them to ask simple questions and avoid repetition, even occasionally suggesting that they rephrase questions. The Chamber did not blindly keep to time limits though; granting 15 additional minutes to the Co-Prosecutors when they questioned Meas Voeun. On Wednesday the the Chamber concluded proceedings 20 minutes late in order to conclude a procedural discussion related to the upcoming appearance of Expert Witness 2-TCE-95 next week

C. Courtroom Etiquette

During proceedings this week Monitors again noted several instances of disagreement and

tension between Co-Counsels Koppe and De Wilde, but generally proceedings ran without incident. However, on Wednesday afternoon shortly after En Yoeun began testifying, Trial Monitors observed that National Deputy Co-Prosecutor Srea Rattanak answered his phone while the Witness was responding to a question put by him. The Chamber did not address the incident and no reprimand was issued.

D. Translation and Technical Issues

On Tuesday and Wednesday morning this week Monitors in the media room noted that the video link did not work for the first one or two minutes of each day, leaving them with only the audio link to monitor proceedings. This issue was addressed quickly, and was the only noteworthy technical interruption to proceedings. There were also a few false translations from Khmer to English, and monitors also noted a consistent mistranslation of Division 164 to 'Division 64' during the testimony of Meas Voeun.¹⁷ Further, Monitors noted the interchangeable translation of the terms "Youn" and "Vietnamese," despite specific instructions from the President to avoid this last week.¹⁸

E. Time Table

DATE	START	MORNING BREAK	LUNCH	AFTERNOON BREAK	RECESS	TOTAL HOURS
Monday 01/02/2016	9:10	10:17-10:42	11:37-13:33	14:45-15:05	16:05	4 hours 14 minutes
Tuesday 02/02/2016	9:05	10:08-10:34	11:31-13:30	14:40-14:59	16:06	4 hours 17 minutes
Wednesday 03/02/2016	9:04	10:15-10:32	11:36-13:30	14:46-15:07	16:21	4 hours 45 minutes
Average number of hours in public session				4 hours and 25 minutes		
Total number of hours in public this week				13 hours and 16 minutes		
Total number of hours, day, weeks at trial				528 hours and 50 minutes		
145 TRIAL DAYS OVER 42 WEEKS						

*This report was authored by Alexander Benz, Borakmony Chea, Melanie Hyde, Caitlin McCaffrie, Elizabeth Orr, Thi Son, Lina Tay and Penelope Van Tuyl 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 EN Yoeun previously testified before the Chamber on 27 January 2015, see CASE 002/02 KRT TRIAL MONITOR, Issue 41, Hearings on Evidence week 38 (25-28 January 2016)p. 6.

² Witness SAO Van (2-TCW-989), alias Sao Pauk, previously appeared before the Supreme Court Chamber in 2 July 2015 during the Appeal Hearings in Case 002/01, see CASE 002/01 KRT TRIAL MONITOR, Issue No. 1, First Set of Appeal Hearings (2-6 July 2015) (21 July 2015) p. 3-5. The Witness was part of a request by Nuon Chea to remove this witness from the list to testify in Case 002/02, on the grounds that it was previously able to “wholly address the relevant issues for which it sought to hear the witness, namely the treatment of former Khmer Republic soldiers and officials. It further submits that all of the parties had an opportunity to put questions to the Witness in the appeal hearing and that it would therefore be repetitive and inefficient” to hear the Witness again. The OCP and LCLCP both argued that the witness was a Trial Chamber witness, and not a Nuon Chea witness to withdraw, also submitting that other documents have become available since the appeal hearings, including the witness’s DC Cam statement, which will be useful in ascertaining the truth. See Trial Chamber: Decision on Nuon Chea Defense Request to Withdraw a Witness from the Case 002/02 Trial Witness List (26 January 2016) (E346/2/2) This week the Witness was questioned in the following order: President NIL Nonn; international assistant prosecutor Dale LYSAK; national lead co-lawyer for civil parties, PICH Ang; international co-counsel for Nuon Chea, Victor KOPPE.

³ However, in a later answer he testified that he was only Chief of the Front in 1972 and 1973.

⁴ The Witness was inconsistent on the exact positions quoted: he also said that only colonel to second lieutenant should be spared and on another occasion he gave a contradictory statement by claiming the order was set from colonel upwards; although there could have been problems with the translation. Under questioning by International Assistant Co Prosecutor Mr Dale Lysak he admitted that he was not sure about the ranking system in the DK regime.

⁵ Sao Van testified that his brother was the “third assistant to the quarter committee” in Phnom Penh, but could not elaborate on what that position entailed.

⁶ The term “new people” refers to people who were relocated after the evacuation of Phnom Penh on 17 April 1975. Those who were already living in the villages before the arrival of “new people” are referred to as “base people.”

⁷ The Witness stated that he understood a kilogram of rice to consist of 10 *khams*, and therefore 2 *khams* would have been one fifth of a kilogram.

⁸ Witness MEAS Voeun (2-TCW-1008) was questioned in the following order: President NIL Nonn; international co-counsel for Nuon Chea, Victor KOPPE; international senior assistant prosecutor Vincent DE WILDE D’ESTMAEL; national civil party co-lawyer LOR Chunthy; international co-counsel for Khieu Samphan, Anta

⁹ MEAS Muth is currently charged with Genocide and Crimes against Humanity under Case 003.

¹⁰ This week Witness EN Voeun (2-TCW-849) was questioned in the following order: national deputy co-prosecutor SREA Rattanak; international senior assistant prosecutor Vincent DE WILDE D'ESTMAEL; international civil party lead co-lawyer, Marie GUIRAUD.

¹¹ When EN Yoeun first appeared on 27 January she testified to being 65 years old today, which would make her 25 at the start of the DK period, however today she testified that she was 55 or 56 years old, which corresponds to her subsequent testimony that she was only 15 when the KR took control of PP.

¹² Internal Rule 87(4) states that 'During the Trial, either on its own initiative or at the request of a party, the Chamber may summon or hear any person as a witness or admit any new evidence which it deems conducive to ascertaining the truth. Any party making such request shall do so by reasoned submission. The Chamber will determine the merit of any such request in accordance with the criteria set out in Rule 87(3). The requesting party must also satisfy the Chamber that the requested testimony or evidence was not available before the opening of the trial.' This issue was also raised last week, see CASE 002/02 KRT TRIAL MONITOR, Issue 41, Hearings on Evidence week 38 (25-28 January 2016).

¹³ It was Mr. Ysa Osman from the Documentation Center of Cambodia who took the disputed statement. Ysa Osman is to appear as an Expert Witness in the treatment of the Cham next week and has been given the pseudonym 2-TCE-95.

¹⁴ In these requests, the Defense listed 29 documents including newspaper articles, interviews with the Expert and others, former OCIJ notes, legal opinions on the crime of genocide, and two S-21 "confessions." See: Nuon Chea Defense Team "Nuon Chea's First Rule 87(4) Request for Admission into Evidence of 15 Documents Relevant to Ysa Osman's (2-TCE-95) Testimony (on Background, Independence and Impartiality and Death Tolls)" (2 February 2016) E367/3, and Nuon Chea Defense Team "Nuon Chea's Second Rule 87(4) Request for Admission into Evidence of 14 Documents Relevant to Ysa Osman's (2-TCE-95) Testimony (on the Khmer Sar, the Khmer Serei and Les Kosem)" (3 February 2016) E367/5.

¹⁵ Supreme Court Chamber "Decision on Objections to Document Lists Full Reasons" (31 December 2015) F26/12, pp. 11-37.

¹⁶ Trial Chamber "Decision on Nuon Chea's Requests for Admission of Documents Relevant to the Testimony of 2-TCE-95 (8 February 2016) E367/7.

¹⁷ These mistranslations included translating the Khmer term 'elder brother' to the word in English 'relative' and name 'Kus' to 'Krous.'

¹⁸ The term "*yuon*" is a derogatory term used for people of ethnic Vietnamese background. Last week interpreters were warned by the President to be mindful of carefully translating these two terms, as the distinction is often critical in this segment of the Trial in particular, see CASE 002/02 KRT TRIAL MONITOR, Issue 41, Hearings on Evidence week 38 (25-28 January 2016).