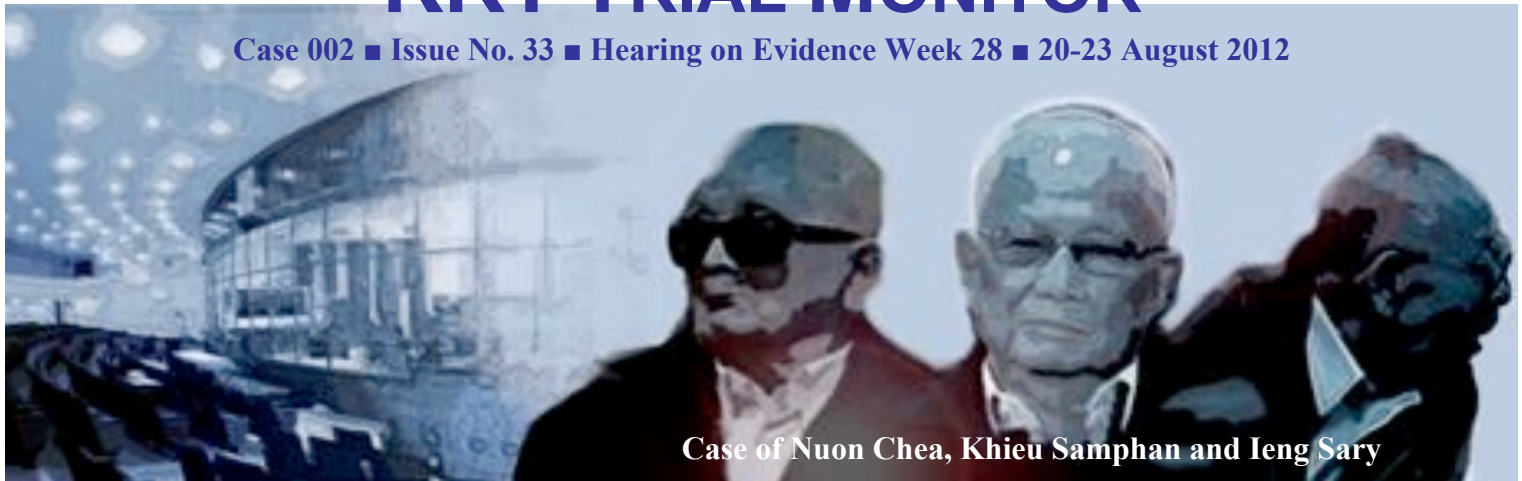


# KRT TRIAL MONITOR

Case 002 ■ Issue No. 33 ■ Hearing on Evidence Week 28 ■ 20-23 August 2012



Case of Nuon Chea, Khieu Samphan and Ieng Sary

Asian International Justice Initiative (AIJI), a project of East-West Center and UC Berkeley War Crimes Studies Center

*I would like to underscore that the courtroom is not an appropriate place for the witness to become aware of documents that may give information about his wife... I believe that it is the Court's duty to ensure that all people are treated with dignity and with the right to respect their privacy.*

- Ms. Anta Guissé,  
International counsel for Khieu Samphan

## I. OVERVIEW

With the sustained efforts of the Chamber to conduct proceedings expeditiously, four testimonies were heard throughout the week. Mr. Suong Sikoeun, a high-ranking cadre from the Ministry of Foreign Affairs (**MFA**), and Ms. Sa Siek, an artist attached to the Ministry of Propaganda and Education, concluded their respective testimonies from the previous week. A new witness, Mr. Kim Vun, testified about his experience as a child worker at the party's printing house, and later, as a photographer and writer in the Ministry of Propaganda and Education. Kim Vun completed his testimony in two trial days, giving time for the Chamber to begin hearing the testimony of Civil Party Mr. Em Oeun, who practiced medicine during the DK. He testified about medical practices during the DK and the policies that were implemented during the period.

## II. SUMMARY OF WITNESSES' TESTIMONY

The Defense continued their examination of two witnesses from the previous week, hearing testimony from intellectual and self-proclaimed historian Suong Sikoeun, and artist Sa Siek. Two new witnesses also took the stand: Kim Vun, a worker involved in DK's media efforts, and Civil Party Em Oeun, the first KR medical practitioner to testify before the Chamber.

### A. Suong Sikoeun's Testimony

Former director of the information and propaganda section of the MFA, Suong Sikoeun, was examined by international counsel for Ieng Sary, Mr. Michael Karnavas on Monday. The Witness was questioned about the testimony he gave over the past weeks on the MFA's structure and decision-making process, as well as his interactions with the leaders of DK.

## 1. Insights into Pol Pot's Power

Suong Sikoeun indicated that he knew Pol Pot from 1956, when they were both teaching at Chamroeun Vichea School. He taught history and geography while Pol Pot taught French literature. He said he only found out that Pol Pot was the party secretary when he joined the CPK in 1971. The Witness described Pol Pot as “handsome and a very polite and friendly person,” and added that, “nobody could imagine that he could become the secretary of the party.” According to Suong Sikoeun, “following the victory of 1975, he (Pol Pot) became convinced that his position in everything was correct,” and refused to accept any opposing opinion. The Witness said that, as such, the determination of the party lines at that time relied solely on one man. “[T]his led to the crimes of this massive scale... that’s why it led to this disaster and tragedy,” he disclosed.

Aiming to highlight Pol Pot’s “micromanaging” tendencies, Karnavas revisited statements of the Witness that demonstrated how Pol Pot made decisions during the DK. According to Suong Sikoeun, Pol Pot was “meticulous in his leadership” and “left no room for others to intervene in his decision.” He confirmed that since Pol Pot was responsible for the contents of the *Black Book*,<sup>1</sup> Ieng Sary and the other leaders had no hand in its writing. The Witness moreover asserted that Pol Pot ordered the performance of certain tasks at the MFA through his nephew Saloth Ban,<sup>2</sup> the Ministry’s secretary general. As the party secretary, Pol Pot was responsible for establishing DK’s foreign policy: Pol Pot “monopolized all affairs, and he had enjoyed this automatic authority to manage the affairs of the Party and things that are relevant to the CPK,” recalled the Witness.

Additionally, Karnavas revisited Suong Sikoeun’s testimony characterizing Ieng Sary as an “administrator” who merely supervised the cadres. The Witness clarified that while the Standing Committee appointed and supervised cadres in the MFA, it was Pol Pot who ultimately decided on appointments, particularly to posts overseas.<sup>3</sup> “The MFA was the transit point; it’s not the place where decision was made,” said Suong Sikoeun. Pressed further, the Witness confirmed his 2009 OCIJ statement wherein he stated that appointment of ambassadors was not decided by the MFA, “it was an Office 870 decision, *i.e.*, Pol Pot’s decision.”

## 2. Resolving Statements Inconsistent with Other Witness Testimony

Karnavas confronted Suong Sikoeun with statements by previous witnesses that were inconsistent with his testimony. Counsel stated that, according to So Hong (also known as Saloth Ban), he received Koy Thuon’s confession in the morning of 7 January 1979 from Suong Sikoeun. According to the Witness’ testimony on 7 August, however, it was Saloth Ban who gave him Koy Thuon’s confession. Suong Sikoeun maintained: “I actually did not receive any confessions from anyone myself... It would be virtually impossible for me to hand in this confession to So Hong.”

Counsel also brought Suong Sikoeun’s attention to a publication of expert witness David Chandler (D108/50/1.75), which contains the following passage: “Some 30 members of the UNEK, including Touch’s son, were allowed back into Cambodia in 1973 after being vetted by Cambodians in Beijing.” Suong Sikoeun, asserting that there was no vetting process in the Beijing Embassy, remarked, “Do you believe David Chandler, or do you believe me? Because I was there myself.” He added that, “Those who requested to be returned to Cambodia, they came. They decided to return to Cambodia on a voluntary basis.”

Moreover, Karnavas asked the Witness to comment on Chandler's testimony on 24 July 2012 on biographies, wherein Chandler said as follows: "I don't think that there is any sinister purpose in making or requesting members of the staff of S-21 to prepare biographies... it is just a practice that was universal." Appearing to contradict Chandler's opinion, Witness clarified that the only biography he produced during DK was "written under special, extraordinary circumstance" after he was implicated as a CIA agent.<sup>4</sup>

### **3. Suong Sikoeun's Meeting with Witness Rochoem Ton<sup>5</sup>**

Towards the end of his examination, Suong Sikoeun admitted that he met with Rochoem Ton, a witness who testified from 25 July to 2 August. Suong Sikoeun stated that he asked Rochoem Ton for a copy of the latter's interview with the Documentation Center of Cambodia, which was published in the *Searching for Truth* magazine. Rochoem Ton acquiesced and went to Suong Sikoeun's house in Malai; from there, an ECCC vehicle fetched Rochoem Ton and brought him to the ECCC to testify. They met a second time at the Mittapheap Hotel, near the Wat Koh pagoda, again upon Suong Sikoeun's request. Suong Sikoeun claimed that he thought Rochoem Ton had not yet concluded his testimony when they met. When asked what the purpose of their meeting was, Suong Sikoeun said he wanted to ask Rochoem Ton what kinds of questions were asked so he "could be able to provide the full testimony before the Chamber." There was no indication, however, if Rochoem Ton responded to Suong Sikoeun's queries.

### **4. Witness Demeanor and Credibility**

Having been testifying before the Chamber for several days in a span of three weeks, Suong Sikoeun willingly and confidently answered Karnavas' questions. There were, however, a few instances when he seemed confused and could not follow counsel's line of questioning, particularly relative to dates and contents of biographies. Suong Sikoeun's frail health also became apparent when he informed the Chamber that he was too tired to continue testifying on Monday. Nonetheless, he proceeded to testify in the afternoon, as Karnavas indicated that he only needed 10 minutes to conclude his examination of the Witness.

### **B. Sa Siek's Testimony**

Beginning Monday afternoon until Tuesday morning, Witness Sa Siek continued her testimony from the previous week.<sup>6</sup> The Witness was questioned on her work as a singer during the DK, her knowledge of statements leaders allegedly made, and CPK policies that were imposed at that time.

#### **1. Personal Background of Witness**

Sa Siek joined the revolution in 1972 when she was about 14 years old. She recounted that she did not join the revolution for political reasons but because she wanted to cultivate her talent for singing the traditional Khmer music, "Ayai." She explained that, although she knew very little about the revolution, she joined the district art performance group after the Lon Nol *coup d'état*, upon invitation by their village chief. She believed that she was later transferred to the "center" arts group because of the recommendation of Tiv Ol,<sup>7</sup> who saw her perform in Sector 20.

#### **2. The Evacuation of Phnom Penh**

The Witness confirmed that, after the "liberation" of Phnom Penh, she saw Khieu Samphan while her arts group was at the Chit Ros Mountain<sup>8</sup> waiting to enter the capital on instructions from their superiors, Hou Nim, Tiv Ol and a certain "Sao." She noted that Khieu Samphan

appeared calm and "...was not overjoyed with the victory." When pressed by Judge Jean-Marc Lavergne whether Khieu Samphan appeared "anguished," Sa Siek replied, "I'm afraid I have not observed his behavior. I did not understand his personal sentiment back then." She further testified that she could not recall any of the six speeches<sup>9</sup> attributed to Khieu Samphan that were allegedly broadcast on *Voice of FUNK* around the time of the evacuation. She reiterated that she stayed overnight at the Olympic Stadium when she arrived in Phnom Penh three days after liberation. She was transferred to the Ministry of Propaganda the next morning. According to Sa Siek, she saw only male soldiers and no civilians or residents.

### **3. Work at the Ministry of Propaganda and Education**

According to the Witness, the Ministry of Propaganda was later combined with the Ministry of Education, and was under control of Yun Yat. At the Ministry, she worked in the arts unit as a singer between 1977 to early 1978, and recorded songs for radio broadcast and gave live performances. The songs were written and aired to encourage people to work and strive hard. According to Sa Siek, only the Ministry was entrusted to record songs that were broadcast through national radio. Songs recorded prior to DK were not aired because these songs were "not compatible with the...situation at that time." She emphasized that because she was unqualified, she neither served as a newscaster nor was she asked to read the news or any other texts.

According to the Witness, the leaders never went to the Ministry to broadcast their speeches; instead, the speeches were recorded in cassette tapes and passed on to the radio team to be aired. She could neither recall who among the leaders gave pre-recorded speeches nor the content thereof because she said she did not pay attention to them. Moreover, she denied having heard any broadcast of the policy of one Khmer soldier taking down 30 Vietnamese. Sa Siek emphasized that radio broadcasts before the liberation were about people not having sufficient food and having to live without many things; after the liberation, the programs mainly encouraged people to dig up canals and water reservoirs in order to supply water to rice paddies.

In addition, the Witness indicated that she was transferred in 1977 to Office 27, which was responsible for printing books. She was reportedly responsible for making picture books during her assignment at Office 27.

### **4. Re-Education at Dey Krahorm**

In April 1978, Sa Siek and her and her nine-month old daughter were reportedly taken to Wat Botum, where they stayed for three nights. No education session was conducted at Wat Botum and she was only warned not to walk outside its premises. Shortly after, they were transported to Dey Krahorm, which, she learned from their driver, was where she had to undergo a "refreshing session." She remembered being saddened by this event and said:

Only after I re-corrected myself I could be returned to Phnom Penh. I was saddened by the news because I never done (*sic*) anything wrong. My husband disappeared and I could never meet him again. So, right now I did nothing wrong, and I had to be tempered.

It is unclear how long Sa Siek's re-education at Dey Krahorm took place, as President Nil Nonn prevented Civil Party lawyer Ms. Beini Ye from pursuing this issue on the grounds that it was irrelevant to this segment of the proceedings. (See III.D.)

## **5. Disappearances**

The Witness recalled that several personnel from the Ministry disappeared during the DK. Among them were Hou Nim; Chhoy alias “Sao Chan,” who replaced Hou Nim; Comrade Han alias “Nong Cheng Lee,” a music teacher from the Ministry of Propaganda; Sao alias “Tay Seung,” who was in charge of the arts sections; an assistant to the chief of arts section; and a writer. Sa Siek explained that she did not know if these people were arrested or merely transferred. She further stated that she heard about confessions of persons who were considered traitors, including that of Koy Thuon and a certain Hum Sam Ar, who committed suicide at the Ministry.

## **6. Marriage During the DK**

According to Sa Siek, she married her first husband in 1976. She knew him before they married, as he worked at the broadcasting section of the Ministry. Sa Siek explained the process of proposing marriage, thus:

At the time, if anyone fell in love with anyone else, they had to propose a marriage by words. For example, if my superior was a female person, then the other men who loved me would propose the marriage through my superior. And, if I agreed and consent with the proposal, then they would arrange the marriage for us.

She added that Angkar was like their father: “There was no any other people who organized the marriage festivity for us, but it was the Angkar.” Her first husband “disappeared” or “was removed” during the DK but Sa Siek said, “I have no information about him. I don't know whether he is alive or dead.” Sa Siek remarried in 1983.

## **7. Interactions with the Accused**

Karnavas asked Sa Siek to elaborate on her response to the OCIJ’s question of whether she had seen Pol Pot, Ieng Sary, and Nuon Chea on 17 April 1975, particularly when she indicated that, “[t]hey were not seen, but Ieng Sary was at the Ministry of Foreign Affairs at that time.” Sa Siek clarified that she did not see Ieng Sary at that time; she had only learned from other people that he was in charge of the MFA.

The Witness admitted that she had seen Khieu Samphan on different occasions but nothing in her testimony indicated that she had personal interactions with the Accused during the regime.<sup>10</sup> She did not give any testimony concerning Nuon Chea.

## **8. Witness Demeanor and Credibility**

As in the previous week, Sa Siek became emotional when she spoke of her family and her experiences in Dey Krahorm. She appeared to have a weak memory, and maintained that she could not remember details because she was very young at that time and did not pay close attention to the events that were taking place. Moreover, the Ieng Sary Defense was able to identify inconsistencies between her testimony and OCIJ statement, such as on whether or not she saw Ieng Sary on 17 April 1975. (See II.B.7)



## **C. Kim Vun's Testimony**

Mr. Kim Vun alias "Chhaom," began his testimony on Tuesday this week.<sup>11</sup> He joined the revolution as a young child and worked in different sections of the regime's propaganda machinery. As such, he was able to provide information on the publication of materials before and during DK, as well as his interactions with some of the leaders of the regime, particularly Khieu Samphan.

### **1. Work at the Central Printing House (1971-1975)**

Kim Vun confirmed that he started working at the FUNK's printing house in February 1971, when he was only 10 years old.<sup>12</sup> During that regime, "a lot of young people as young as [he] was were asked to join the work," he explained. Although reluctant, he was persuaded to join when he was assured that he could work at the central office and be allowed to go back to visit his village. However, when he joined, he was instructed not to leave his workplace to ensure secrecy in their work and to keep themselves safe from air raids and other forms of attack. While Kim Vun did not have printing skills, he performed office tasks and wrote documents in Khmer.

He indicated that materials produced by the printing house were distributed throughout the liberated zones through messengers. These included news about the battlefields, statements by the leadership and telegrams that were relevant to the affairs of the Front. He also disclosed that information on the arrest of soldiers who were "smashed, injured, killed and deserted and been made prisoners of war" were broadcasted on the radio and printed in magazines. News on "some 1,550 heads of the enemy's military personnel and officers" who were smashed and the thousands of people who were liberated were also publicized, added Kim Vun. The Witness testified that senior leaders never came to the printing house to have their statements published; messengers delivered the statements to the printing house. These statements were copied and read out during the radio broadcasts.

He recalled statements attributed to Khieu Samphan, who mainly wrote about "promoting the offensive attack to win the victory at battlefields," and appealed for people in the liberated zones to "support one another both at the battlefronts and the rear." Moreover, Kim Vun confirmed seeing Khieu Samphan when the latter visited the printing house:

I only knew Brother Hem, who visited that place once in a while. And then later on, I learned that Brother Hem was actually Mr. Khieu Samphan... At that time, Brother Hem went to the printing house. Sometimes, he simply came to say hello and at other times, he came and brought along with him some food staff to provide to people working at the printing house in order to encourage them, motivate them to continue to struggle.

Since the FUNK's radio station was initially based in China, the printing house sent news articles via telegram to be broadcasted. The contents of the telegrams were pre-recorded by a newscaster and then broadcasted. "[I]n 1973, 1974, and 1975, they established a radio station in B-20. It was close to the printing house," disclosed Kim Vun. Kim Vun testified that the central printing house changed locations three times over the course of a few years. Initially, it was in the jungle along Chinit River in Santuk District and was located a few kilometers from Pol Pot's home. Later, it was moved to Office 24 and, thereafter, to B-20 in Stueng Trang District.

## 2. The Ministry of Propaganda and Education (1975-1979)

According to Kim Vun, the Ministry of Propaganda and Education was in charge of Offices K-25 to K-31. K-25 was the Minister's office, and was where the pages of *Revolutionary Flag* and *Revolutionary Youth* were printed. The covers of the magazines, on the other hand, were printed in K-6. Documents in foreign languages were printed in K-27. Yun Yat became the Minister of Propaganda and Education after the disappearance of Hou Nim in 1977 or 1978 and held this position until January 1979. Kim Vun testified that while Nuon Chea did not have a leadership role in the Ministry, he was nevertheless directly involved in administering its day-to-day operations in Yun Yat's absence. Additionally, the Witness said he knew that the Accused was involved in the agricultural education program.

Kim Vun and other persons employed at B-20 were reportedly transferred to Phnom Penh after "liberation." The Witness said he arrived at the capital on 18 April and worked at the former *National Salvation* newspaper house adjacent to the Olympic stadium. He indicated that, initially, he was assigned to K-25, where he was tasked to assist in the production of magazines and newspapers by writing headlines by hand. Subsequently, Yun Yat transferred him to a different section and appointed him as a photographer and writer for the *Revolutionary* newspaper. The content of headlines were decided during writers' meetings convened by Yun Yat. The main topics covered by the newspaper were the reconstruction of the country and national defense, with the view of encouraging the masses to build irrigation structures and engage in agriculture through their articles. Copies of the newspapers were distributed to all the bases throughout the country but he was unsure if they reached civilians, Kim Vun noted. He added that the newspaper was "a method to convey orders that were published in the *Revolutionary Flag* to the masses."

The Witness explained that he needed the permission of the relevant ministers before he could collect news and take photographs in various sectors and zones. He disclosed that since his superior only assigned him to go to places where people were physically fit and had enough food, he did not witness any starvation or hardship when he went into the provinces. In Phnom Penh, for instance, he noticed that there was no food shortage. Sector 25, however, was crowded – there were many "new people" who were evacuated from Phnom Penh – and the population there suffered starvation.

In 1977, the Witness was transferred to the Ministry of Propaganda and Education's Kampuchea Krom radio station. He was reportedly appointed as its Chairman a year later. The radio station broadcasted the confessions of Vietnamese prisoners of war, and, as Kim Vun elaborated, received information from the following:

We received (information) from two sources, first, from the border. Secondly, we had to write in accordance with the information emanating from the confessions of the Vietnamese prisoners of war because the Vietnamese prisoners of war and the Khmer Krom, people shared the same territory.

## 3. The Magazines of the Revolution

The Witness attested to the fact that the *Revolutionary Flag* magazine, first published in the early 1970s, was an "internal party document" that contained information aimed at training cadres. Copies of the magazine were loaded into trucks and sent to different zones and sectors. They were never addressed to specific individuals, but they were distributed exclusively to cadres. The magazine cover had one flag before 1977; subsequently, it featured five flags.<sup>13</sup>

While he could not identify who wrote the articles for *Revolutionary Flag*, the witness indicated that the information in the magazine came from leaders. To support his assertion, he identified Pol Pot as the author of the annotations written around the articles that were sent for publication. Like the *Revolutionary* newspaper, the *Revolutionary Flag* focused on political ideology and carried messages about national defense and the reconstruction of the country. He indicated that one issue of the magazine featured Koy Thuon's confession, and this was how he learned of the leader's arrest. Kim Vun clarified, however, that since he was assigned to write for the newspaper, he "did not understand the policy" behind the *Revolutionary Flag* and could not comment further.

Similarly, according to the Witness, publication of the *Revolutionary Youth* started in the early 1970s. Readers of this magazine were reportedly members of the Youth League, which Kim Vun described as a "close aide of the party." He stated that Yun Yat wrote the articles for *Revolutionary Youth* during the regime.

## **5. Study Sessions, Enemies and Disappearances**

During his time in Office B-20, Kim Vun attended study sessions, which concentrated on the importance of maintaining solidarity, secrecy, and working hard to win the war. The Witness recalled Yun Yat leading sessions at Office B-20 and the Ministry of Propaganda and Education. He also noted that Pol Pot gave study sessions in 1976. Indeed, all throughout his affiliation with the party and regardless of his location, study sessions for political indoctrination were conducted. These sessions were meant to train cadres on the implementation of their duties and to ensure that each individual had a "unified position or standpoint on the plan set before the activity were carried out." During the war, they discussed "warfare" and were trained on "how to engage in war;" at peacetime, the sessions focused on reconstruction and national defense.

After the "liberation" of Phnom Penh in April 1975, the study sessions were reportedly held in Borei Keila.<sup>14</sup> Sessions for the upper echelon lasted a few months while those for lower-level cadres took only one to two weeks. The Witness further disclosed that he was constantly indoctrinated about internal and external enemies: the Vietnamese, the KGB and CIA were singled out. Kim Vun expressed that, at that time, it was difficult to tell who was a friend or foe:

[T]here were many factions in the country and we could not know who was who. We did not know who were our enemies and who were our friends. And if we make it by way of analogy, the water was already dirty, so everything was being mixed up.

According to Kim Vun, after the disappearance of his wife, Chim Chheanary, alias "Phoan" in 1977, he was required to attend study sessions for half a month to "re-fashion" himself and become "alert" to the presence of enemies. Subsequently, he was assigned to work at the Kampuchea Krom radio station (See II.C.2).

## **6. Witness Demeanor and Credibility**

Kim Vun's statements appeared to have been consistent during the course of his testimony. He readily answered questions and candidly informed the Parties whenever questions pertained to matters that were outside the scope his knowledge. The Witness persevered, despite becoming emotional while testifying about his wife's disappearance and the difficulties he experienced when he left his mother.



During his examination by Karnavas on Thursday, Kim Vun revealed that, since he was busy with work when OCIJ investigators visited him for a third interview, he requested that the investigators wait. However, he recalled, the investigators “could not wait, so they left.” In response, Karnavas referred the Witness to an order issued by then international Co-investigating Judge, Mr. Marcel Lemonde, which states that Kim Vun “became wholly uncooperative and refused to be interviewed further...” Kim Vun explained:

I think that if they adopted a proper conduct, I would be happy to work with them. But I found they were rather rude and if they found me uncooperative, I strongly deny that... I have no authority whatever to go against the Court; the Court was established by the law.

#### **D. Em Oeun’s Testimony**

This week, the Chamber heard Em Oeun, alias “Yep Lon,”<sup>15</sup> the third Civil Party to testify in Case 002. Civil Party lawyers examined Em Oeun on his experiences as a medical practitioner immediately before and during the DK, as well as some policies that were implemented by the regime.

##### **1. Witness’ Background**

According to Em Oeun, he came from a poor family and never went to school to attend any formal education. His father held a senior position in the Issarak Movement. When he was around 10 years old, Em Oeun went to Phnom Penh to work as a servant. He stayed with his granduncle, a doctor, from whom he learned some medical skills. Em Oeun said that his granduncle allowed him to return home to his parents before the KR was about to take control of the country.

##### **2. Em Oeun’s Role before 1975**

The KR reportedly recruited Em Oeun when they learned that he belonged to a family that had skills in medicine. When he was 20, he was allowed to train in Vietnam “under the direct order from Mr. Sao Phim, the secretary of the East Zone.” Thereafter, Em Oeun’s father, Sao Phim, and a certain Comrade Khom (phonetic) asked Em Oeun to serve as a medical doctor<sup>16</sup> at Sector 20<sup>17</sup> under the supervision of Comrade Khom. The Civil Party stated that he was tasked to give medical trainings on causes and treatment of diseases, among others. He described his work as follows:

[A]t my workplace, I never used any individual who had no skill to perform medical duties. And, as a doctor or medic, they had to be well-trained before they could perform their task. And I had never have any problem with patients dying under my or our supervision because, at that time, if any patient could have die under our treatment... the Party could perceive that we were the enemies of the Party...

##### **3. Medical Practices and Arrests of Medical Staff**

Em Oeun testified that he received medical training sessions in Phnom Penh at the 7<sup>th</sup> of April Hospital for around nine months; after which, he returned to Sector 20 sometime in 1977 or 1978. He recalled that Chinese and Korean experts trained them on various medical practices, including operation techniques. There was a sufficient supply of medicine in the hospital where he worked, the Civil Party recalled, so he never experienced shortages. He attributed this to the medicine left over from the previous regimes, which were gathered from various locations and stored in the hospitals. As regards actual medical operations, the Civil

Party recounted “experiment[s]” at Sector 20 on persons who were slated for execution. He revealed:

They did not bring the corpse to be operated on. They brought the real human beings for this operation and I was standing next to the operating table and people would be laid on a table; and trainees would be asked to look at how the fingers would be cut and removed. So, they cut parts of the body then they only leave one of the hands attached to the dripper and the operation was on... And the whole body would be chopped or operated and cut into pieces and then put in a bag to be discarded.

The Civil Party clarified that a drug was administered to render persons unconscious during these operations. A majority of persons who underwent this form of “operation” were accused of being spies: “those who would be executed according to the slogan of ‘keeping you is no gain; losing you is no loss.’”

#### **4. Political Training Sessions**

The Civil Party stated that, when he attended a medical training course in Phnom Penh for around nine months, he also attended political sessions at Borei Keila that were held once or twice a month and lasted for 7 to 10 days. Some sessions were attended by as many as 2,000 persons. He recalled seeing Pol Pot (who, as leader of the Party, was the first to give a speech), Yun Yat, Nuon Chea, Khieu Samphan and Hou Nim. He was uncertain whether or not he saw Ieng Sary.

At Borei Keila, they “learned how to change the mindset of the people... to fall in line with the great leap forward policy.” The “great leap forward” referred to the transformation of the country into a communist country without passing through a socialist phase. Em Oeun stated:

Everyone was expected to have this great leap forward; if we couldn't have this great leap then we would be considered as enemies. This was the language used by Pol Pot. And when Nuon Chea came to the stage he picked up a few words from Pol Pot before he began his own speech. Mr. Khieu Samphan also did the same, so to me these people had to repeat one another before adding further points.

#### **5. Evacuation and Arrest of Persons**

The Civil Party recalled seeing evacuees from Phnom Penh in Sector 20. Following the “liberation” in 1975, people who came from Phnom Penh were called the “17 April People” or the “New People.” Em Oeun recounted that some of the “old people” vacated their residences and moved in with their relatives “to allow it for the new people to settle in.”

Em Oeun stated that some medical staff and other attendees of study sessions were arrested. People accused of being enemies of the Parties were loaded into trucks, “they were tortured when they were being loaded onto the trucks... Women were even badly treated than the male prisoners or kept -- people who were arrested.” He particularly recalled that a certain Leng Se (phonetic), who was in charge of political training sessions, was naked when she was taken away.

## **6. Status of Persons and Religious Figures**

The Civil Party testified that, in liberated zones prior to 1975, the general population was grouped into cooperatives to do “mutual assistance farming, and, later on, the real cooperatives were established.” Witness stated that, starting from the coup d'état by Lon Nol, there were separate groups, including “youth group, the popular mass group, and general group of people.” He also said there were “progressive people,” “full-right people,” and “people who did not enjoy the full right.” He himself was a member of the Nationalist Youth League. “So the living condition was decent. People could talk to one another without any problem... So people enjoyed freedom as usual. That was the first phase,” Em Oeun described.

Em Oeun said that, by 1975, “strange things happened” and people were categorized into three groups: “full-right people,” “candidate people,” and people perceived as the CPK's enemies. Living conditions were reportedly determined by one's status. He elaborated as follows:

I said people were classified into three categories: the progressive people, the full-right people, and the not yet full-right people. People who lived in their homes and the progressive people were called the popular mass. And then we had the category of pillar persons. Pillar persons referred to the people who lived in the base. And then we have the people; the peasants, in particular, who were in the associations who treated as the full-right people. Other people would be treated as those who have less right who had to -- subject to being asked to do things they wanted them to.

Em Oeun added that he was “loved” by the sector secretary, who tried to conceal his identity by changing his autobiography because the secretary knew his father was affiliated to the former regime. He did not, however, explain further.

The Witness also revealed that he was ordered to “smash the pagoda, the Buddha,” and he had no choice but to comply. “Destroying Buddhism,” according to him, took many forms, one of which was prohibiting people from entering the monkhood; another was forbidding the construction of pagodas. Em Oeun, appeared to be referring to the period before 1975, as he followed by saying, “particularly in 1973 and 1974, I kept wondering to myself if I resist against the order, I would be accused of protesting against the Party then I would be considered a traitor.” It is unclear if “destroying Buddhism” continued after 1974.

## **7. Forced Marriage**

Em Oeun stated that an undisclosed person instructed him to get married to someone he “did not love at all.” When he protested, they “punished” him by transferring him from the hospital to the “worksite.”<sup>18</sup> Later, he was asked again if he would consent to marrying his “arranged wife” and he finally conceded:

[E]ventually I decided that I had to get married otherwise my life would be in serious risk. So I had to force myself to accept this arranged marriage; I had to accept it... My wife did not love me either, so whenever we stayed together at night we cry to each other.

According to Em Oeun, he and his wife believed that they were under “constant watch” and would be killed if they did not consummate their marriage. Thus, they had two children, a daughter and a son. Em Oeun and his wife stayed together for some time after the DK, but eventually separated: “one day we couldn't stand anymore, so we decided to part our ways and got divorced, and I now got married with a new wife.”

## **8. Witness Demeanor and Credibility**

Em Oeun readily answered the questions posted by the Civil Party lawyers. Occasionally, he had to be reminded to confine his answers to the scope of the questions and refrain from discussing tangential issues. He was clearly still affected by his memories from the regime, particularly on his forced marriage, saying:

I will answer to all the questions asked so long as I can answer those questions...I recall my past I sometime cannot hold my tears... This was the suffering I had to endure at that time, and to date I cannot forget it, and I could not even find out who ordered this heinous crimes. I do not want to take any revenge, but I want to know who initiated this idea...

## **III. LEGAL AND PROCEDURAL ISSUES**

This week, the Trial Chamber faced a new procedural dilemma, when it had to decide how much new information ought to be provided to witnesses about the fate of their loved ones during the regime when the Chamber and the Parties are in possession of relevant documents. When deciding upon the best course of action vis-à-vis such information, the Chamber took into consideration concerns about the witness' personal well being, his or her right to privacy, and the relevance of the revelations to the legal proceedings at hand.

### **A. Respecting the Right of Witnesses to Privacy**

During Kim Vun's examination by the OCP, the Witness indicated that in 1977, his wife, a deputy head of the propaganda office, never returned from a study session and was accused of being a CIA agent. He further disclosed that, because he was neither informed nor shown any document that apprised him of his wife's whereabouts, he still does not know what happened to her after her disappearance. In response, international Prosecutor Mr. Keith Raynor asked Kim Vun, “if such documents existed would you like to be able to read them with your own eyes so that you could put your mind at rest?” Upon inquiry by the President, Raynor stated that the document in question was the revised S-21 Prisoners List. International counsel for Nuon Chea, Mr. Jasper Pauw, objected, saying that proceedings have “left the realm of legal objection.” He maintained:

I don't think it is humane to expose the witness to such a document in the courtroom. If indeed the prosecution is concerned about the well-being of this witness, let this document be shown to him in the privacy of his own surroundings. That is our non-legal but humane submission.

The Khieu Samphan and Ieng Sary Defense Teams, as well as the Civil Party lawyers, expressed their agreement with Pauw. The Chamber sustained the objection and ruled against showing the Witness the S-21 Prisoners List in this manner:

It is appropriate pursuant to the humanity and the privacy of the person concerned, this should have been done through the WESU. So the Chamber, therefore, does not wish the document to be presented to the witness.

## **B. Use of Documents as Basis to Question Witnesses**

Last week, the recurring question of how Parties should go about presenting documents in examining witnesses arose again but the Chamber, deferring resolution of this procedural issue, announced that it would consider the matter during the trial management meeting scheduled on 17 August. The issue resurfaced this week when Pauw objected to Raynor's references to certain *Revolutionary Flag* magazines during Kim Vun's examination, on the ground that Witness' familiarity had to be first established. It appears that this issue was indeed addressed during the trial management meeting, as the Chamber overruled Pauw's objection and Judge Jean-Marc Lavergne gave the following reminder:

[W]hen we are dealing with a document that has been tendered into evidence and that has been shown to the parties, it is a document whose contents can be used to lay a foundation to questions that a party wishes to ask. Such a document can be given to the witness, but it would be withdrawn from the witness if the President is of the view that the document is likely to influence the answers of the witness. But insofar as a document is known to the witness or may be related to the document, I don't think there is need to withdraw the document from the witness or that it be removed from the screen.

## **C. Propriety of Questioning the Conduct of OCIJ Interviews in the Presence of Witness**

During the testimony of witness Sa Siek, Pauw manifested the Nuon Chea Defense's intention to request the transcription of parts of her interviews with the OCIJ for the purpose of demonstrating that some information was "actually fed to the witness, who can now, three years later testify to these issues even though she did not know about these matters at the time." International Prosecutor Mr. Tarik argued that making such an "announcement" in the presence of witnesses is "inappropriate" and "can tend to suggest to the witness certain assertions with respect to her prior interviews." In response, the President directed Parties who wished to make any statement or file any application concerning the testimony of any witness to do so in writing, in accordance with IR 92.

## **D. Questions that are Irrelevant or Outside the Scope of Case 002/01**

This week, President Nil Nonn gave repeated instructions for Parties to keep their questions within the scope of this segment of the first trial. On Monday, the President advised international Civil Party Lawyer, Ms. Beini Ye, to remain within the confines of Case 002/01 by focusing on the facts relevant to the first and the second phases of the population movement when she persisted in asking Sa Siek about her transfer to Dey Krahorm for re-education.

Notably, Dey Krahorm was covered in witness Ong Thong Hoeung's testimony on 8 August<sup>19</sup> and it is possible that the Chamber allowed the Parties latitude in the examination of this Witness because he is based in Belgium. In any case, however, it would be helpful if the Chamber would provide guidance on the allowable parameters of witness examination to enable the Parties to proceed accordingly.

## **E. Nominating a Representative for Each Party to Conduct Examination**

On Thursday, as Civil Party Em Oeun began testifying, the President reminded Parties that, during the trial management meeting held on 17 August, the Chamber "encouraged counsels or parties to nominate one person representing the group to put questions to the witness or civil party in order we could expedite our proceedings." He indicated that, thus far, only



counsels for Ieng Sary applied this practice. In response, international Civil Party lawyer Ms. Christine Martineau manifested that national CPLCL Mr. Pich Ang and national Civil Party lawyer Mr. Kim Mengkhy will conduct the examination of the witness, as “[i]t is important that a lawyer who speaks Khmer examine the witness. That way, the questions will not be interpreted into Khmer.”

#### IV. TRIAL MANAGEMENT

The Chamber (with the assistance of WESU) continued its commendable practice of ensuring the availability of a reserve witness as a means of responding to the expediciencies of the proceedings. On Monday, Sa Siek was ready to testify when witness Suong Sikoeun requested to postpone his testimony on account of his frail health. The Chamber was able to immediately call witness Kim Vun to the stand after Sa Siek concluded her testimony on Tuesday. Moreover, the President continued to exert efforts to facilitate proceedings by intervening when questions posed by counsel were repetitive or irrelevant. He also encouraged Parties to choose their respective representatives in the examination of witnesses.

##### A. Attendance

As was the case in the last few weeks, accused Ieng Sary continued to participate in the proceedings from the holding cell. Nuon Chea also experienced health-related difficulties and waived his right to be present in the courtroom during all the hearings in the afternoon. Only Khieu Samphan attended proceedings in the courtroom for full days throughout the week.

**Civil Party Attendance.** Throughout the week, approximately 20 to 30 Civil Parties were present in the courtroom and the main gallery.

**Attendance this week.** The hearings continued to be well-attended this week through the endeavors of the ECCC’s Public Affairs Section.

DATE	MORNING	AFTERNOON
Monday 20/08/12	300 Kampong Chhnang Province, including members of the Cham minority of Rolea Pa-eur District	<ul style="list-style-type: none"> <li>200 from Samroung District, Takeo Province, and from Borset District, Kampong Speu Province</li> <li>a number of Khmer and foreign observers</li> </ul>
Tuesday 21/08/12	300 from Siem Reap and Kampong Cham Provinces	100 from Batheay District, Kampong Cham Province
Wednesday 22/08/12	<ul style="list-style-type: none"> <li>300 from Kvav Village and Kvav Commune, Takeo Province</li> <li>foreign observers invited by STAR Cambodia</li> </ul>	250 from Khan Donkor and Ang Snoul Districts, Kandal Province
Thursday 23/08/12	<ul style="list-style-type: none"> <li>350 from Prey Veng Province</li> <li>20 students from the legal clinic of the Royal University of Law and Economics</li> </ul>	<ul style="list-style-type: none"> <li>250 from Batheay District, Kampong Cham Province</li> <li>20 students from the legal clinic of the Royal University of Law and Economics</li> </ul>

## C. Time Table

DATE	START	MORNING BREAK	LUNCH	AFTERNOON BREAK	RECESS	TOTAL HOURS IN SESSION
Monday 20/08/12	9:01	10:37-10:57	12:06-13:31	14:41- 15:01	16:08	5 hours and 2 minutes
Tuesday 21/08/12	9:00	10:37-10:58	12:04-13:32	14:43-15:02	16:12	5 hours and 4 minutes
Wednesday 22/08/12	9:00	10:33-10:50	12:05-13:34	14:42-15:02	16:03	4 hours and 57 minutes
Thursday 23/08/12	9:03	10:24-10:42	12:03-13:31	14:41-15:01	16:11	5 hours and 2 minutes
Average number of hours in session				5 hours	2 minutes	
Total number of hours this week				20 hours	5 minutes	
Total number of hours, days, weeks at trial				440 hours	29 minutes	
100 TRIAL DAYS OVER 29 WEEKS						

### Unless specified otherwise,

- the documents cited in this report pertain to *The Case of Nuon Chea, Ieng Sary, Ieng Thirith 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; and
- photos are courtesy of the ECCC.

### Glossary of Terms

Case 001	<i>The Case of Kaing Guek Eav alias “Duch”</i> (Case No. 001/18-07-2007-ECCC)
Case 002	<i>The Case of Nuon Chea, Ieng Sary, Ieng Thirith and Khieu Samphan</i> (Case No. 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
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
ICCPR	International Covenant on Civil and Political Rights
ICTR	International Criminal Tribunal for Rwanda
ICTY	International Criminal Tribunal for the former Yugoslavia
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
RAK	Revolutionary Army of Kampuchea
VSS	Victims Support Section
WESU	Witness and Expert Support Unit



\* AIJI is a collaborative project between the East-West Center, in Honolulu, and the War Crimes Studies Center, University of California, Berkeley. 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 South-East Asia. The Program is funded by the Open Society Foundation, the Foreign Commonwealth Office of the British Embassy in Phnom Penh, and the Embassy of Switzerland in Bangkok.

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<sup>1</sup> Suong Sikouen stated that the *Black Book* was originally written in Khmer then translated into English and French; thus, he expressed curiosity when Karnavas recounted Witness Ong Thong Hoeung's testimony on 9 August, alleging that Hor Namhong and Pich Bunthan spent almost a day trying to translate the book into Khmer in Boeng Trabek.

<sup>2</sup> Saloth Ban testified before the Trial Chamber from 23 April to 3 May 2012. See CASE 002 KRT TRIAL MONITOR. Issue No. 20, Hearing on Evidence Week 15 (23-26 April); and CASE 002 KRT TRIAL MONITOR. Issue No. 21, Hearing on Evidence Week 16 (30 April, 2-3 May 2012).

<sup>3</sup> CASE 002 KRT TRIAL MONITOR, Issue No. 31, Hearing on Evidence Week 26 (6-9 August 2012). 4.

<sup>4</sup> Suong Sikoeun confirmed that, when Ieng Sary instructed him to write his biography, Ieng Sary did not tell him that Ros Sarin implicated him. The Witness only read Ros Sarin's confession in 2010 when he visited Tuol Sleng Museum.

<sup>5</sup> Rochoem Ton alias "Cheam" and "Phy Phoun" was a former high-ranking Ministry of Foreign Affairs cadre who testified before the Chamber from 25 July to 2 August. See CASE 002 KRT TRIAL MONITOR, Issue No. 29, Hearing on Evidence Week 24 (23-26 July); and CASE 002 KRT TRIAL MONITOR, Issue No. 30, Hearing on Evidence Week 25 (30-31 July, 1-2 August 2012).

<sup>6</sup> Sa Siek was questioned by international Prosecutor Mr. Tarik Abdulhak, followed by Civil Party lawyer Ms. Beini Ye and national CPLCL Mr. Pich Ang. Subsequently, she was examined by Judge Jean-Marc Lavergne, Nuon Chea's counsels, Mr. Jasper Pauw and Mr. Son Arun; Ieng Sary's Counsel, Mr. Michael Kanavas; and Khieu Samphan's counsels, Mr. Kong Sam Onn and Ms. Anta Guissé.

<sup>7</sup> Tiv Ol, together with Hou Nim, was a head of the Art Unit. See CASE 002 KRT TRIAL MONITOR, Issue No. 32, Hearing on Evidence Week 27 (13-16 August 2012). 7-9. Tiv Ol was among the prisoners of S-21. OCIJ. "Closing Order" (15 September 2010). D427 [hereinafter **CLOSING ORDER**]. Note 1857, D288/6.68.1, Annex 1: Revised S-21 Prisoner List.

<sup>8</sup> "Chit Ros" is spelled phonetically. It is also referred to as Ath Ros Mountain.

<sup>9</sup> Sa Siek was asked regarding the following speeches: (i) Khieu Samphan's statement on the current situation (no title given), dated 1 April 1975, with English ERN 00166897 to 98; (ii) *Khieu Samphan is Congratulating the FPLNK*, which was read by a broadcaster, dated 3 April 1975, with English ERN 00166923 to 25; (iii) *Khieu Samphan's Denial*, 8 April 1975, with English ERN 00166927; (iv) *Khieu Samphan is Calling the Phnom Penh Population to Rally the FUNK*, dated 14 April 1975, with English ERN 006948 to 49; (v) *Khieu Samphan's Congratulatory Message*, dated 22 April 1975, with English ERN 00166994 to 96; 6.) *Press Release from the Special National Congress of Cambodia That Convened from 25 to 27 April 1975*, which statement is attributed to Khieu Samphan, with English ERN 00167012 to 13.

<sup>10</sup> Sa Siek reportedly met Khieu Samphan's wife in Office 808 but they did not have any personal interactions. The Witness moreover stated that, although she did not know Khieu Samphan's wife personally, in 2010, the latter visited her house and asked her whether Khieu Samphan had ever been to the propaganda unit.

<sup>11</sup> Witness was examined by the following: national Prosecutor Mr. Veng Hout; international Prosecutor Mr. Keith Raynor; Civil Party lawyer Ms. Beini Ye; Judge Jean-Marc Lavergne; Khieu Samphan's counsels, Mr. Kong Sam Onn and Ms. Anta Guissé; Nuon Chea's counsels, Mr. Son Arun and Mr. Jasper Pauw; and Ieng Sary's counsel, Mr. Michael Karnavas.

<sup>12</sup> Veng Hout observed that Kim Vun's OCIJ statement stated differently and said, "In your statement through the investigators you indicated that you was 12 at that time." Veng Hout did not pursue this matter and proceeded with his next question.

<sup>13</sup> "According to Nuon Chea, the publication was later renamed and printed in typeset after the "liberation" in

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1975, when the KR leadership gained access to printing presses. Nuon Chea testified that Revolutionary Flag had a cover depicting an image of one flag. The later incarnation of the publication, published and disseminated as Red Flag, featured an image of five flags on the cover.” See CASE 002 KRT TRIAL MONITOR, Issue No. 8, Hearing on Evidence Week 3 (10-12 January 2012).

<sup>14</sup> Based on the Closing Order, Borei Keila (also referred to as K-6) was a meeting place where mass political trainings on policies of the CPK were given to Party cadres and workers in Phnom Penh. CLOSING ORDER. Para. 59 and 886.

<sup>15</sup> Em Oeun’s alias is spelled phonetically. He was examined by national Civil Party lawyer Mr. Kim Mengkhy and national CPLCL Mr. Pich Ang.

<sup>16</sup> Witness also described his main duty as that of a “medic.”

<sup>17</sup> Witness explained that sector 20 was a “Khmer Rouge liberated zone” in the East Zone.

<sup>18</sup> He was later transferred back to the hospital, as the number of patients there necessitated his return.

<sup>19</sup> CASE 002 KRT TRIAL MONITOR, Issue No. 31, Hearing on Evidence Week 26 (6-9 August 2012). 9.