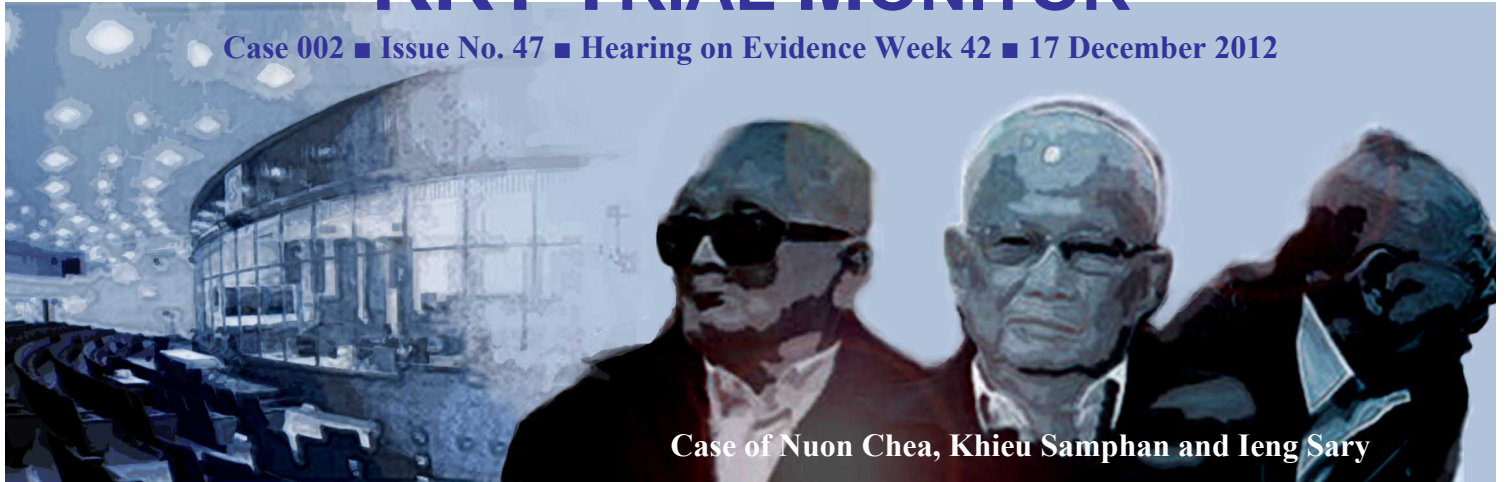


KRT TRIAL MONITOR

Case 002 ■ Issue No. 47 ■ Hearing on Evidence Week 42 ■ 17 December 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 came across this slogan that you already
stated during the course of my work...
It means we had to mind our own business.¹*

- Witness Suon Kanil on the slogan
“No know, no see, no hear, no talk.”

I. OVERVIEW

This week, the Chamber held sessions only on Monday morning. Parties continued the examination of Morse code operator Suon Kanil on his work and observations relating to evacuations during the DK period, without engaging in lengthy discussions on legal and procedural issues. The Chamber adjourned after Suon Kanil concluded his testimony, because the reserve witness was hospitalized after getting involved in a vehicular accident. Although the President informed the Parties and the public that the Court would issue a notice when it found an available witness or Civil Party to testify, no such announcement was made and no hearing was held after Monday.

II. SUMMARY OF SUON KANIL'S TESTIMONY

On Monday, the Prosecution continued from last week to put questions to Suon Kanil, TCW 695,² a Morse code operator for the Central Zone Telegram Office during the DK period. The Civil Party Lawyers and the Defense Teams followed with their respective examinations. The Witness gave some information relating to communications during the DK, as well as conditions of workers, including evacuees, at a dam worksite.

A. Communications during the DK

In his work, Witness Suon Kanil received instructions from the Zone Secretary, who was in-charge of zone activities in general. He was trained on telegrams, specifically on Morse code operations, at the “Central Office” for three months. He clarified that he was never assigned to decode telegrams. When Kong Sam Onn, national counsel for Khieu Samphan, asked whether he received code in “number form,” and not in “letter form,” he answered, “In typing Morse, actually, it's all in numbers - no letters, characters at all.”³

The Witness explained that the zone telegram unit addressed telegrams for the “Center” to “Committee 870” (which he also referred to as Office 870, M870 or just 870), and never to individual persons who are to be issued copies. The Witness said, “‘870 Committee’ here refers to a group of individuals. That’s why people did not need to waste their time addressing each and every one there. They had to only address one committee as a whole.”⁴ Upon receiving the telegrams, according to the Witness, someone in Committee 870 decided on the individuals who would receive copies of the letters and thus relayed them. He explained that, during the DK, many people had to be apprised of events, such as what took place in criticism meetings:

But during the regime, there were a lot of meetings, the self-criticism sessions where people had to understand what happened to others. So, they do not want to risk addressing one person at one time because only one person would know anything about the letter if you addressed that person alone.⁵

He also stated that the addressee was normally the one who carried out the task in the letters, while the persons “copied” were to be informed. However, he also mentioned that, as regards messages addressed to Pol Pot, persons were served copies for them to be informed and for them to execute the task as well.

Indeed, who implemented the letters? It is the Central Committee who implemented this. For example, if the letter was addressed to Om Pol, Uncle Pol, and as the President, he would need to inform other people. That’s why he has to make sure that the letter was also - or telegram was copied to other people. So, all together, these people were implementers.⁶

He, however, clarified that he was not “entitled” to contact Office 870, stressing that he “had nothing to do with 870. The zone committee would have the direct contacts with them.”⁷ He added that, at the time, they had to mind their own business. Consequently, he said, “The management or operation of 870 was beyond my knowledge.”⁸

The Witness explained that, during the DK, telegrams and letters were classified into “open” letters and “strictly confidential” letters. Suon Kanil was not privy to the contents of the confidential letters. “At the time, as far as the telegram was concerned, I was in charge of Morse operating, but for this particular telegram and the content of this telegram, I did not know,”⁹ he explained. However, he learned that letters had to be picked up or delivered through their messengers, who shared information with him “that something went wrong.”¹⁰ He also became “aware” of certain telegrams when he was tasked to carry them himself. On other occasions, his telegram office informed him of contents of telegrams relating to important meetings that were to be convened.

B. Evacuation to the Central Zone

Prosecutor Keith Raynor asked about the evacuation of the Cham Muslims from the East Zone to the Central Zone, saying that the Witness was then at the zone office at Kampong Cham with a Muslim population in that province. Suon Kanil answered that he was not aware of such movement. He clarified that he worked in Siem Reap following the fall of Phnom Penh; he was then transferred to work in Kampong Cham, and then to the Central Zone. He said, “the arrangement at Kampong Cham province had already been done well before I was transferred to Kampong Cham, so I only knew certain information.”¹¹

Suon Kanil added that he only knew of two Cham communities: one in Antong Sar that a friend had told him about, and another in Baray district, Kampong Chhouk village, in the

Central Zone. The Witness said that neither was evacuated and they remained in these locations until the present day. When Raynor asked him about Zone Secretary Ke Pauk's telegram, which referred to the Cham as one of the enemies, Suon Kanil denied awareness of such categorization, saying:

Throughout my time with the Telegram Unit, I did not know anything about the situation of the Muslim Cham, and the Decoding Section of the Telegram Unit work separately, and I was newly appointed to the Central Zone at that time and I was purely in charge of the Morse operating. I think it was up to the decoder of this telegram who were aware of the content of this, and I was not aware of this particular telegram.¹²

However, he did recall a public demonstration by the Cham community at Chi Kraeng in Siem Reap, but he did not know what happened to the protesters, explaining that he did not decode the telegram relating to this event.

The Witness also informed Civil Party Lawyer Kim Mengkhy that he witnessed people passing through the Central Zone as they were being evacuated from the East Zone to Kampong Thma. He said: "Indeed, by late of 1970 - rather, by the last minute before the fall of the Khmer Rouge, we could see that a lot of people returned home. They were moved to that location for several years." This observation, however, was not further explored as Kim Mengkhy informed the Chamber that he had no further questions, and ceded the floor to CPLCL, Elisabeth Simonneau-Fort.

The Witness insisted that he did not pay attention to the condition of the evacuees, saying, "I do not know anything about the evacuation."¹³ He explained as follows when Simonneau-Fort pressed him on this issue: "I only saw the Old and the New People, but I did not understand much about how these people were managed or what kind of treatment they would receive."¹⁴

C. Conditions at the Dam Worksite

Suon Kanil revealed that he was once assigned at the "January 1 Dam," in Kampong Thma, Baray district, to receive and relay information on the building of the dam. He estimated that the construction of the dam began in 1976 and took more than one year to finish. Many people from various places were brought to the worksite and placed in different cooperatives.

The Witness said "new" and "base" people at the worksite were not treated differently from each other: "There was no discrimination against the people being made to build the dam."¹⁵ Regarding the condition of the workers, he said they followed a precise working schedule and were given food rations. There was a monitoring system in place and they convened around every three days to divide tasks and set goals. People were asked to "carry dirt" and had to meet a quota of two square meters. However, an investigation was conducted and they found that many of the workers could not meet the requirement. He said that "only very few people could work that hard."¹⁶

D. Meetings During the DK

Suon Kanil talked about two kinds of meetings during the DK. One was the monthly meeting attended exclusively by the members of the zone committee, in which the Witness never participated. He was not aware of the subjects addressed in such meetings. There were also "open" sessions, attended by the lower-level members of the district, sector, and commune committees, which were held once or twice a year at the theater near the riverfront in Kampong Cham Province. These open sessions, some of which the Witness attended,

were chaired by Zone Secretary, Ke Pauk. No official of a rank higher than Ke Pauk attended the meetings. Some of the topics discussed included self-criticism and agriculture. Suon Kanil said that people were advised to modernize their farming method by building dikes and irrigation systems. Additionally, they discussed the four-fold slogan: No know, no see, no hear, no talk. He explained, "During such meetings, we also discussed about this fourfold slogan. It means we had to mind our own business."¹⁷ When asked about the punishment of those who committed wrongdoings, the Witness stated that they were criticized during the meetings. The Witness also revealed that Ke Pauk reported wrongdoers to the upper authority.

E. Arrests and Security Centers

Suon Kanil testified that the arrest of people began in early 1976 and escalated in 1977. He said:

I was very young at that time, at my responsibility was small, as well. So the arrangement of the arrest of enemies or so I was not aware of. I did not understand that much at the time. To my knowledge, in the early 1976, the arrest was not done in a large scale. But in 1977 and 1978, mass arrests were carried out.¹⁸

The Witness said that the decision to arrest people was made by the Central Committee. He testified that the Central Committee enumerated names of individuals for the zone to apprehend. These names were communicated in strictly confidential letters, which messengers picked up from Phnom Penh. According to Suon Kanil, the Central Committee decided on the arrests of senior-level people, while decisions on the arrests of lower-level people came from the zone. He explained that he learned that orders to arrest senior-level people came from Phnom Penh through telegram communications. He, however, reiterated that, due to his limited responsibilities, he did not understand much about the arrests.

Suon Kanil also recalled that the Central Zone security center was situated half a kilometer from the provincial hall of Kampong Cham. He mentioned that the telegram section and security section had different functions. Nonetheless, he had "close friends" in the security office, and even though they did not exchange confidential aspects of the work, they talked about their work in "very general terms." He also stated that each sector in the Central Zone (Sectors 41, 42, and 43), had its own security office, but he could give no further details, saying, "I know for sure that there was security office, but I did not see it by my own eyes because I did not go and inspect the sector myself."¹⁹

F. Demeanor and Credibility

Although he willingly answered questions relating to the how his work was conducted, Suon Kanil appeared reluctant to respond to some questions, such as those relating to the operation of Office 870 and how arrests were conducted. He repeatedly stated that he was very young at the time and was merely a Morse code operator, which allowed him to gain knowledge only on limited matters.

III. LEGAL AND PROCEDURAL ISSUES

The Parties did not engage in much legal debate during the half-day session. As has become usual in the trial, objections on the ground that questions invited speculation or fell outside the scope of trial were raised. However, these were quickly resolved without causing noticeable delay to the proceedings.

A. Objections to Questions on the Ground that they Invite Speculation or Fall Outside the Scope of Trial

This week there were a few brief discussions on the form of the questions used by Counsel. For instance, when Raynor asked the Witness if he knew what was happening to other Muslim communities apart from Antong Sar, Kong Sam Onn objected on the ground that the question was “highly suggestive,” and that it called for speculation from the Witness. The Prosecutor explained that he was merely asking if the Witness had information about what happened to the Muslim community outside Antong Sar. The President overruled the objection.

On another occasion, when Simonneau-Fort posted questions relating to the condition of the workers at the dam worksite, Kong Sam Onn objected that the building of the dam is not within the scope of the trial. The CPLCL explained that she wanted to establish whether or not the workers had been evacuated and, if so, what their condition was in the aftermath of the transfer. Upon prompting from the President, the Witness guessed that the dam was built in 1 January 1976. Seemingly satisfied, the President overruled the objection.

IV. TRIAL MANAGEMENT

The Chamber continued to make efforts to run efficient proceedings, commencing punctually on Monday, and ruling on objections promptly. Suon Kanil was able to conclude his testimony by the end of the morning sessions. However, unfortunately, proceedings still had to be adjourned this week, causing the Court to lose many days of progress, due to the fact that the subsequent witness could not appear before the Court.

A. Attendance

Ieng Sary observed Monday’s proceedings from the holding cell due to health concerns. Nuon Chea also requested to participate remotely from the holding cell, because he was suffering from high blood pressure earlier on Monday morning and felt weak. Khieu Samphan was the only Accused present in the courtroom.

Judges Attendance. At the start of the proceedings on Monday, President Nil Nonn informed the Parties that Judge Jean-Marc Lavergne was absent due to medical concerns. Hence, Judge Claudia Fenz sat on his behalf.²⁰ After the morning break, the President told the Parties that Judge You Ottara had “grave health concerns” and, thus, was replaced by Judge Thou Mony.

Civil Party Attendance. Approximately 20-30 Civil Parties attended Monday’s proceedings.

Parties Attendance. All Parties were properly represented during the week.

Attendance by the Public:

DATE	MORNING	AFTERNOON
Monday 17/12/12	<ul style="list-style-type: none">▪ 200 students from Sok An High School▪ 100 villagers from Treang district, Takeo Province▪ 3 foreigners	(No court proceedings.)

B. Time Management

Proceedings were held only on Monday morning, because the reserve witness, TCW-620, was not able to come to provide his testimony due to a traffic accident. At the end of the proceedings on Monday, the President informed everyone that the Court was exerting efforts to locate witnesses and Civil Parties who could testify within the week. He advised the Parties to be prepared for a resumption of hearings. However, the Court gave no notice that hearings were to resume during the week and no sessions were held after Monday.

C. Translation and Technical Issues

Only minor technical issues occurred. Mr. Arthur Vercken, international counsel for Khieu Sampan, informed the Chamber that the translation from English to French at the beginning of Monday's proceedings was not being transmitted in full, and he requested Prosecutor Raynor to slow down so that accurate translation can be made. Another issue occurred during Kong Sam Onn's examination of Suon Kanil, where the Witness said in Khmer that he received training on Morse operation for three months and a half. However, the English rendition mentioned only three months.

D. Time Table

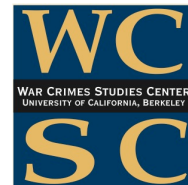
DATE	START	MORNING BREAK	LUNCH	AFTERNOON BREAK	RECESS	TOTAL HOURS IN SESSION
Monday 17/12/12	9:06	10:32-10:55	11:56	-	-	2 hours and 27 minutes
Average number of hours in session				2 hours 27 minutes		
Total number of hours this week				2 hours 27 minutes		
Total number of hours, days, weeks at trial				614 hours 46 minutes		
139 TRIAL DAYS OVER 43 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.

This issue of **KRT TRIAL MONITOR** was authored by Faith Suzzette Delos Reyes, Hava Mirell, Noyel Ry, Kimsan Soy, and Penelope Van Tuyl, as part of AIJI's KRT Trial Monitoring and Community Outreach Program. KRT TRIAL MONITOR reports on Case 002 are available at <www.krtmonitor.org>, and at the websites of the East-West Center and the War Crimes Studies Center.

¹ Trial Chamber. Transcript of Trial Proceedings (17 December 2012). E1/155.1 [hereinafter **17 DECEMBER TRANSCRIPT**]. Lines 16-21. 6.

² The Witness was examined in the following order: international Prosecutor Keith Raynor; Civil Party Lawyers Kim Mengkhy and Elisabeth Simonneau-Fort; counsel for Nuon Chea, Mr. Son Arun; counsel for Ieng Sary, Mr. Ang Udom; counsel for Khieu Samphan, Mr. Kong Sam Onn.

³ 17 DECEMBER TRANSCRIPT. Lines 16-17. 52.

⁴ Ibid, lines 21-24. 44.

⁵ Ibid, lines 12-16. 41.

⁶ Ibid, lines 1-6. 43.

⁷ Ibid, lines 18-20. 49.

⁸ Ibid, line 2. 50

⁹ Ibid, lines 11-13. 10.

¹⁰ He did not give details of what he meant by “something went wrong.”

¹¹ Ibid, lines 18-20. 12.

¹² Ibid, lines 5-12. 17.

¹³ Ibid, line 8. 22.

¹⁴ Ibid, lines 23-25. 25.

¹⁵ Ibid, lines 12-13. 27.

¹⁶ Ibid, lines 3-4. 30.

¹⁷ Ibid, lines 19-21. 6.

¹⁸ Ibid, lines 17-22. 18.

¹⁹ Ibid, lines 1-3. 9.

²⁰ IR 79 (4) states: “In case of absence of a sitting Judge, the President of the Chamber may, after consultation with the remaining judges, decide to adjourn the proceedings or designate a Reserve Judge to sit in place of the absent Judge for the remainder of the proceedings in question.”