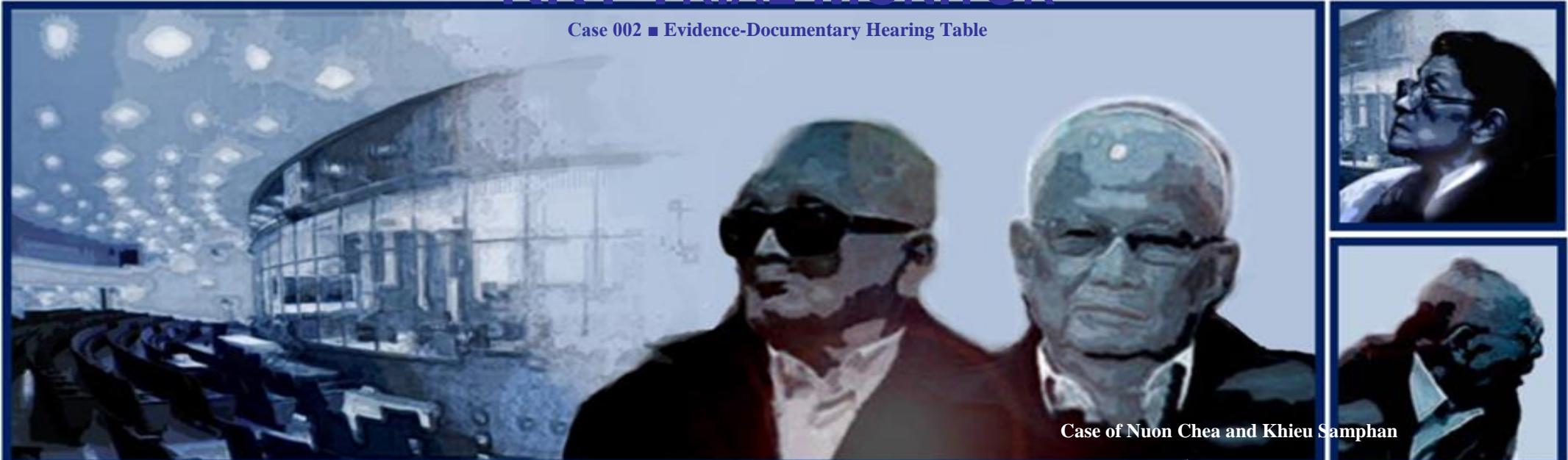


# KRT TRIAL MONITOR

Case 002 ■ Evidence-Documentary Hearing Table



Case of Nuon Chea and Kieu Samphan

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

KRT Monitoring Report	Party Presenting	Topics Covered by Documents	Type of Documents Presented	Objections Raised	Rebuttals
Issue 13	OCP	Historical Background Segment of Case 002/01: evidence specific to each of the Accused; continuity of CPK policy and leadership before/after 17 April;	12 party propaganda and evidence including Revolutionary Flag magazines from 1970s	NC defense remarked they needed more time to study the docs, since NC is old and has not fully understood them. Since DC-CAM, the OCIJ, and some interviewers may be biased he demanded to see the original documents from these sources. Added according to Cambodian law, he is allowed to put new docs before the Chamber until the end of the hearing; KS went through 95 docs individually	OCP and CP spoke to the reliability of these docs with more video clips

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<a href="#">Issue 13</a>	OCP	Administrative and communications structure of the CPK references in the footnotes of the closing order		All defense teams objected to these documents that were presumed relevant and reliable and were admitted before the Chamber. - concerns about authenticity and reliability of these docs, and claimed that these docs, which were compiled the OCIJ, were limited to inculpatory evidence. NC objected to 6 docs concerning statements by Meas Mut, Ouk Bunchoeun, Sim Kha, Chea Sim, and Heng Samrin since none have been on the prospective Witness list. Ieng Sary's team objected to the neutrality of Duch, Steven Peder, and Foreign Broadcast Information Service; doubted the accuracy of DK period meeting minutes and telegrams	
<a href="#">Issue 13</a>	OCP	Khieu Samphan's role long standing membership and leadership role within CPK	20 documents on Khieu Samphan; media articles; broadcast surveillance documents; reporting on speeches, warnings and appeals KS made as GRUNK's; speeches on KR forces; KS' books, interviews, and speeches, media articles; 1982 NY Times interview with KS; video clips from 1970s KS welcoming foreign officials; clips where Khieu Samphan was saying PP was a patriot		

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Issue 13	OCP	Facts on Ieng Sary related to pre-75 CPK policy, ideology, formation and structure, and IS in CPK	interviews with IS from 70s US communist Daniel Burstein; audio recording of Ieng Sary's interview with Stephen Heder; interview of Ieng Sary in 1998;		
Issue 13	Civil Party	Khieu Samphan's association with revolutionary movement, attempt to show KS instrumental in instigating the armed insurrection against the LN soldiers, KS wanted CPK to implement the economic policies he proposed in his doctoral thesis	Khieu Samphan's OCIJ statement, documentary filmmakers, passages contained in letters and books the Accused himself wrote		
Issue 13	Civil Party	Civil Parties' narrative on PHP evacuation, malnourishment, forced labor, torture, and fear of being murdered	12 Application forms		

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<a href="#">Issue 13</a>	Nuon Chea's Defense Team	Opts not to present any documents		OCP had objected to 4 out of 6 docs Nuon Chea's team was going to present because they were late, and objected to all 6 because they were not available in French or Khmer	The Trial Chamber allowed NC to present 2 out of the 6 documents but the Defense opted not to because it would not create a coherent narrative.
<a href="#">Issue 38, 39, and 40</a>	OCP	Military Structure during the DK and Population Movement Segment of the Trial; The roles of the regime's Standing and Central Committees, The Structure of the Democratic Kampuchea Government, Communication Structure	Khmer Rouge propaganda magazines, reports and letters from different sector offices and ministries, and telegrams	Nuon Chea denied that he was involved in organizing the security centers.	

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Issue 40	OCP	Structure, communication, and operation of DK government, ground-level implementation of CPK policies. This included communication structure from Cooperatives to District, Sector to Zone as well as from the Zones to the Center and within the Zone.	28 Ministry of Commerce reports addressed to Khieu Samphan; references to shipment of military equipment and import of rice; identification, detention, and elimination of enemies from within the Ministry; radio and telegrams; minutes of Standing Committee meetings; Revolutionary Flag to demonstrate the upper echelon's ability to make propaganda to educate the popular masses	Khieu Samphan's Defense raised an objection stating for the first time OCP has been talking about the Center of the Party when this term does not figure into any of the docs	
Issue 40	OCP	Diseases, Pol Pot alleged were carried by evacuated PHP	Documents from Ministry of Social Affairs, minute meetings		
Issue 40	Civil Party	Proximity of Nuon Chea and Khieu Samphan to Pol Pot, the policy of Cooperatives, CPK Organizational Structure in accordance to CPK Structure	Clips from <i>Enemies of the People and Survive: In the Heart of The Khmer Rouge Madness</i> , interviews with Khieu Samphan and Nuon Chea, Civil Party applications, and the CPK Statute	Ieng Sary's Defense raised objections on Civil Party applications that were related to Ieng Sary as Ieng Sary was not present in the Chamber. Objections were also raised by Khieu Samphan's Defense Team on the comments by the presenting CPLCLs to explain the documents, which were viewed as argumentative. The Defense Team also objected to the presentation of Khieu Samphan's doctoral Thesis on Cooperatives.	The CPLCs withdrew Civil Party statements related to Ieng Sary from their presented list. The presentation of Khieu Samphan's doctoral thesis, according to CPLCL Pich Ang, was to show link to the link between it and the Central Committee's policy on Cooperatives. After objection to the same effect by the National Defense Lawyer of Khieu Samphan, the Trial Chamber reminded Pich Ang that he needed to focus on the relevant communication issues in accordance to the segment.

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Issue 40	Nuon Chea's Defense	Heng Samrin's involvement in liberation of Phnom Pemh and in receiving the plan for implementation of new internal and external policies; mid and lower level autonomy of policy implementation in CPK.	Originally Nuon Chea's Defense were to present documents from Stephen Heder and Philip Short's work, but as the Trial Chamber instructed them not to do that until Heder and Short testify, the document presented by the Defense Team was only Heng Samrin's interview	Raynor objected when Ianzu, Nuon Chea's counsel, tried to explain his intention in presenting Heder and Short's work, claiming that the counsel was trying to admit the content of documents the Chamber already stated to be pended until the authors testify before the Chamber	Ianzu commented on the unfairness of the rejection of some of their proposed witnesses, whom were rejected without any grounds to the decision, as well as the decision of the Chamber not to allow him to present the documents on the day he was about to present them when the Chamber was already notified with the document list a week prior.
Issue 50	OCP	Population Movement, Tuol Po Chrey execution site, (remaining documents according to OCP still needed adversarial arguments, may they be proposed by the OCP, Defense Teams, or Civil Parties)	Annex 1 a list of 48 docs from all parties that OCP identified still requiring adversarial argument	OCP objected to 4 docs by KS and 4 docs by KS of testimonies collected after investigative phase, this "unilateral procedure" has not yet been approved	Khieu Samphan's Defense rebutted that 4 docs were testimonies of potential Witnesses who had exculpatory evidence; Ieng Sary objected to OCIJ's rogatory reports and asked filmographic material to include all raw footage and requested all journalists/experts come before the chamber to verify the authenticity of their work, objected to use of torture-tainted confessions. Both OCP and CPLCL responded to Ieng Sary's Defense, citing that the counsel's objections have been ruled upon by the TC previously. With regards to Khieu Samphan's proposed documents, OCP asked Chamber to clarify whether the Defense had the leave to contact prospective witnesses to submit letters of support for the Accused.

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	OCP	Annex 2(A-C) on forced population movement phases 1 and 2, Tuol Po Chrey	The list was not read before the Chamber, as all parties already had the list before them.	Nuon Chea's Defense Team declined to make comments as they had consulted with their client. Karnavas for Ieng Sary gave oral observation again questioning the authenticity of documents; also reminded the Chamber of DC-Cam's inability to attest the chain of custody of documents. The question of documents' authenticity, especially when the authors are not available to attest to them, was also raised by Khieu Samphan's Defense.	OCP rebutted on the question of admissibility, that photograph's authenticity did not need to be attested to by the photograph, especially when the photographs were contemporaneous documents of the DK era, and the authenticity of photocopied documents had been attested to by other the Director of DC CAM or their format that are in line with other documents found from that era.
<b>Issue 50</b>	Ieng Sary's defense objections to 54 documents on Military Structure, Population Movement, and Tuol Po Chrey	Military Structure, Population Movement 1 and 2, and Tuol Po Chrey	List was not read, only that the 54 documents were already tendered in the previous stages of the proceedings. Ieng Sary's Defense mentioned the 54 included telegrams, letters, documents from US, UNICEF, WHO, media articles, CPL publications and a documentary entitled "What Happened to Cambodia" by Ronnie Yimsut	Objections to 54 Docs by Ieng Sary Defense, largely objecting to documents that contained hearsay, as well as any document that preceded the temporal jurisdiction of the Tribunal as well as objection to documents authored by Stephen Heder.	
	OCP	military structures military deployment; reporting system within Revolutionary Army of Kampuchea (RAK) ; role of CPK within military structure; General Staff and Central Military Division of the RAK; chain of command	Revolutionary Flag; internal discussions; military documents; division reports; telegram	Nuon Chea's Defense Team objected to authenticity of Revolutionary Flag issue authenticity; requested TC to summon all authors of all books, media reports, articles on DK; OCP building similar narrative to closing arguments during doc hearing; Khieu Samphan's Defense said admission of docs was very broad;	OCP assured the Chamber that the document presentation was not intended to be a closing argument;

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<a href="#">Issue 50</a>	OCP	Fall of PHP and Force Movement Phase 1; distribution of food aid by the Americans; continuous advancement of KP forces on the city;	American archival reports on the Cambodian situation; FBIS report; broadcasts; Jean-Jacques Cazaux; MOFA (French Embassy); Voice of FUNK;	Nuon Chea's Defense deferred comments until later; Ieng Sary's Defense opposed use of government docs; "hearsay of hearsay"; film included unsworn testimony; Anta Guisse for Khieu Samphan noted OCP narrative added connections between documents that were not very clear;	OCP thanked Guisse for her compliments acknowledging they weren't Spielberg but they would nevertheless inform the Chamber. OCP told Defense they can summon witnesses, and they responded they did not have the burden of proof.
<a href="#">Issue 50</a>	OCP	Tuol Po Chrey Execution Site	newspaper articles; Amnesty International press releases; film 'One Day at Po Chrey'	(same as above)	(same as above)
	OCP	Forced Movement Phase 2; strife over food shortage; population stats changes;	CPK Standing Committee docs; record of committee in NW zone;		
<a href="#">Issue 50</a>	CPLCL	military structure; population movement and Tuol Po Chrey;	Civil Party Statements	Ieng Sary's Counsel questioned the probative value of Civil Party Statements as they were not made under oath, also suggesting Civil Party Lawyers to propose the relevant clients to be summoned so their testimony can be cross-examined	CPLCL reminded the Chamber that the issue that Civil Parties' written and oral statements are not made under oath has been decided upon previously. The Chamber held that it was aware of the Civil Parties' status and will take into account the fact their statements are not made under oath and the Defense did not have to bring out the matter "ad-nauseum"

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Issue 65 and 67	OCP	Joint Criminal Enterprise Segment; CPK Ideology, GRUNK and FUNK Delegation Tor, Decisions to Evacuate Population, Cooperatives and Collectivization, Origins of CPK Party Lines and General Enemy Policy Targetting of Lon Nol Officials, Revolutionary Family and Forced Marriage, Targeting of Minority Groups	CPK Statue, Books authored by Khieu Samphan, Speeches by the Accused, GRUNK and FUNK publication, OCIJ interview reports, books authored by experts such as Stephen Heder and Philip Short, CPK Documents, CPK Propaganda Materials such as Revolutionary Flag and Revolutionary Youth, S-21 prisoner list	<p>Khieu Samphan's counsel objected that documents on cooperatives and labor camps and treatment of targeted groups outside Lon Nol's soldiers are outside the scope of Case 002/01. Additionally Khieu Samphan's Defense also criticized the fact that the Defense were not allowed to argue on the admissibility and authenticity of the documents the OCP and Civil Party presented and could only comment on what probative value should be granted to them.</p> <p>On CPK Policy on Enemies Nuon Chea's Defense held that CPK propaganda materials' language should be seen as what it's meant to be, namely rhetoric instead of literal. The word "Smash" did not always meant kill. This was also the same with the term "purge". Nuon Chea's Defense also stated that if radio announcement on the killing of only 7 super-traitors were considered by the Court, then the Chamber should see it as the proof that there was no policy to kill other Lon Nol's officials. It was also inadmissible in the Court KR leaders' awareness of how realistic the agricultural goals were, according to Nuon Chea's Defense Team</p>	OCP claimed that documents pertaining to other forms of persecution reflected a broader policy of general persecution and repression. The Chamber sided with Khieu Samphan's Defense Position
Issue 65 and 67	Civil Party	The targetting of ethnic and religious minorities	Civil Party Statements/Applications	(same as above)	
Issue 65 and 67	OCP	Roles of the Accused Nuon Chea	DK documents/announcements, FBIS documents, Foreign minister reports, statements made by Ieng Sary, internal CPK documents, video	Nuon Chea's Defense held that any criminal acts were not committed systematically accross the country but perpetrated by local cadre acting in defiance of Nuon Chea's Role. The documentary evidence seemed to have failed in showing criminal intent behind DK policies. The Accused's	

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			excerpts from interviews between Nuon Chea and Teth Sambath	Defense Tea, also held that Nuon Chea had never acted as Prime Minister in DK period, no role in military and security affairs, and the 15 telegrams OCP presented only showed Nuon Chea was informed about military campaigns but did not show that he was involved in the planning and strategizing. The Defense also questioned the authenticity of S-21 confessions bearing Nuon Chea's signature as well as the veracity of Duch's testimony on Nuon Chea's role in the Security Center.	