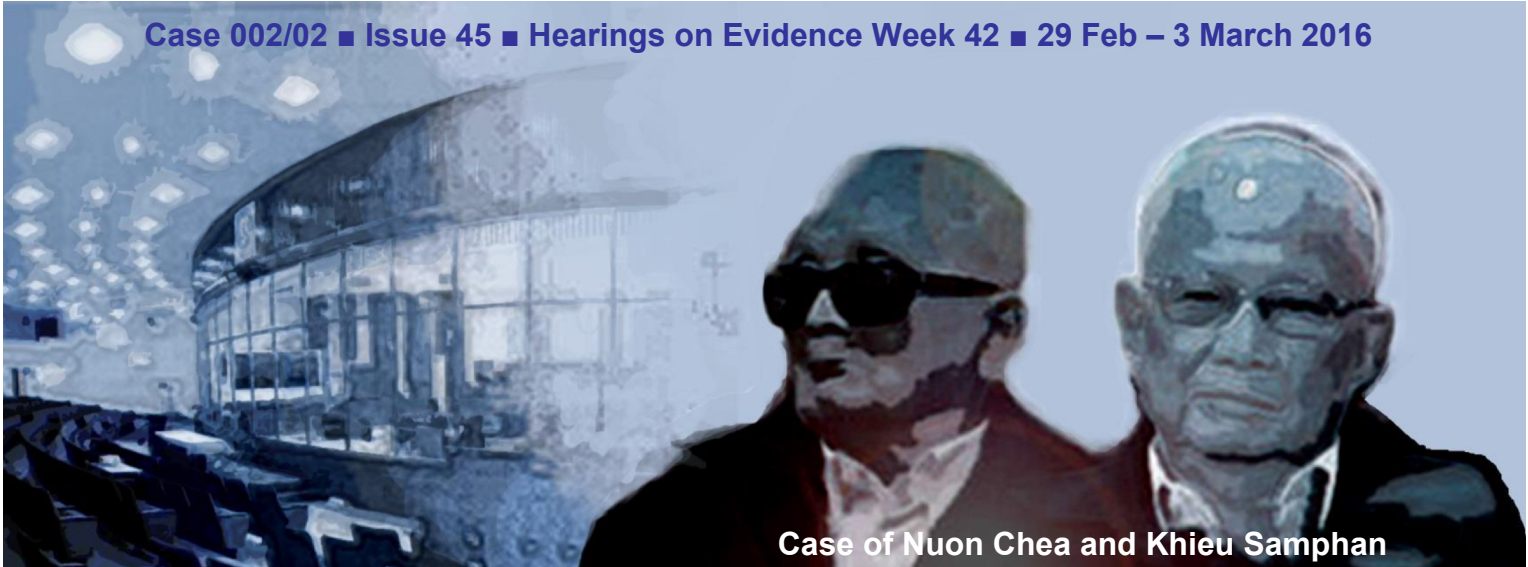


KRT TRIAL MONITOR

Case 002/02 ■ Issue 45 ■ Hearings on Evidence Week 42 ■ 29 Feb – 3 March 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)

*"We were separated immediately after we got out of the vehicle.
When I arrived in the area I realized I would die. I did not know the reasons I
was sent there and I thought that would be the end of my life."*

- Witness Moeung Chandy

I. OVERVIEW

This week the Trial Chamber held the third set of victim impact hearings in Case 002/02. Five Civil Parties answered questions on the harms they suffered and put their own questions to the Accused concerning why these groups were targeted during the Democratic Kampuchea (DK) period. After these statements, the Trial Chamber began a new segment in Case 002/02: security centers and internal purges. International Counsel for Nuon Chea, Victor Koppe, returned to the Chamber for the new segment after his absence for over two weeks. To open the new segment this week the Chamber heard from two witnesses who both spent time at Au Kanseng Security Center.¹ The witnesses, Phan Thol and Moeung Chandy, were married at the time of their imprisonment, however they have since divorced and claimed not to have spoken to each other in decades. Nonetheless, their testimonies on their arrest and transportation to Au Kanseng, the treatment they received at the center, and the executions they claim to have witnessed was largely consistent.

II. SUMMARY OF VICTIM IMPACT HEARINGS

This week, the Trial Chamber held the third set of victim impact hearings in Case 002/02 to allow a selected group of Civil Parties to testify on the impact of the harm suffered during the DK regime. During two and a half days of victim impact hearings this week, the Trial Chamber heard five Civil Parties' testimonies regarding the treatment of ethnic Cham, ethnic Vietnamese Cambodians and former Lon Nol officials. Prior to the first Civil Party's statement, the President asked the Lead Co-Lawyers for Civil Parties (LCLCP) if the Civil Parties would be making their own statement on the harms they suffered, or if they would be responding to questions from the Civil Party lawyers as has been the case for the last two sets of Victim Impact Hearings in Case 002/02.² Lead Co-Lawyer Pich Ang confirmed that the proceedings would follow the same format as the last two hearings, with additional time granted to the other Parties, including the Defense, to examine the Civil Parties on facts raised during their testimony.³ Each Civil Party testified on the impact of crimes, but were also questioned in relation to facts at issue in Case

002/02—particularly in relation to Civil Party Uch Sunlay who was questioned at length in relation to the administrative hierarchy of Kratie Province during DK. Each day, a Transcultural Psychosocial Organization (TPO) staff member was present alongside the Civil Parties, most of whom grew visibly distressed throughout their testimonies.

A. Testimony Related to the Treatment of Cham People

On 29 February, two ethnic Cham Civil Parties shared statements about their suffering under the DK regime. The first to testify was 55-year-old Mr. Meu Peou, who was born in Bakan District, Pursat Province.⁴ He lost many family members under the regime, experienced the suppression of Cham religious practices and cultural traditions, and was imprisoned at Trach Kraol detention center from late 1977 to 1979.⁵ The second Civil Party to appear was 70-year-old Mr. Man Sles, who was born in Svay Khleang, Krouch Chhmar District.⁶ In 1975, he had taken part in a rebellion in that commune after the KR suppression of Cham religion and culture there, and he was subsequently separated from his family through a forced transfer to a different district.⁷

1. Suppression of Cham Religious Practice and Cultural Traditions

Civil Party Meu Peou testified that, following their takeover of Pursat Province in 1975, the KR forced Cham people to abandon their religion, personal property, relatives, and native villages. He explained that the cooperative ordered Chams to cut their hair short, stop speaking their language, and cease living in homogenous groups. Women were ordered not to wear headscarves. Man Sles similarly testified that such restrictions were imposed in Krouch Chhmar District after the KR arrived in 1973. The local mosques were closed and used to store tobacco and cattle. He testified that the KR soon began to arrest religious leaders, *hakims*, *hajjis*, and religious teachers, including his own father.⁸ Meu Peou testified that Islamic scholars in his community were similarly targeted for arrest and execution. Both Civil Parties testified that the KR put pork into the cooking oil or the gruel served in cooperatives. Meu Peou testified that the announcement regarding religious practices “severely impacted the Cham people. For the Cham people, we lost our own identity, lost our religion.” Meu Peou testified that, today, he speaks better Khmer than Cham. Man Sles testified that he attempted to secretly pray or speak the Cham language with others even though both practices were banned.

2. Man Sles’ Father’s Death and the Cham Rebellion at Svay Khleang

Man Sles explained that his father had been the second assistant deputy to the Commune’s *hakim*. While working in the fields one day, 50 to 60 Cham men, women, and children, including the Civil Party and his father, were arrested. One week later, most were freed, but five people, including the Civil Party’s father and at least one other village chief, were taken to the Krouch Chhmar District hall, never to be seen again. According to the Civil Party, such arrests of Cham people occurred from 1973 to 1975 amid a wider suppression of Cham practices and increased killings of Cham leaders.

Man Sles testified that in late 1975, the Cham population of Svay Khleang rebelled, attacking KR forces with machetes and knives. He justified the rebellion, explaining, “We came to understand that we no longer could survive and we had to resist for the survival of our religion.” Although they suffered some casualties, the better-armed KR suppressed the rebellion after one day and one night, detaining all Cham men in a tobacco warehouse and separating the women and children at a pagoda. At the warehouse, the KR registered names and took biographies to find the rebellion’s ringleaders. The Civil Party survived, but all Cham people were evacuated and transferred from Svay Khleang following the rebellion’s suppression.

3. Experiences of Separation, Transfer, and Labor in Cooperatives

Man Sles, along with his wife and three-month-old infant, was sent across the Mekong to Soupheas Commune, Stueng Trang District, while his mother and three siblings were sent to Roka Khnor Commune, Krouch Chhmar District. On arrival in Soupheas Commune, his family was broken up as the authorities assigned him to a fishing unit, his wife to fieldwork, and his infant to the care of an elderly group. The Civil Party said he could visit his wife and child only twice a year and only at nighttime. Meu Peou also testified that his family was told to leave their native village. He said that his family previously had many cattle but was put in a group “below the ‘17 April people’ group...considered feudalists and capitalists.” They were sent to live in Tram Seh cooperative, where there were no other Cham people. Soon after, he was separated from his parents and forced to labor alone in a distant work unit. His unit was tasked with building canals and dams, and he testified that he was repeatedly beaten, given insufficient food rations, and threatened with death while he worked far from his family. He repeatedly emphasized his lack of education, which he tied to DK policies.⁹

4. Arrests and Deaths of Family Members

Meu Peou testified that, in total, 17 members of his extended family died under the DK regime. He linked his father’s death from starvation with his refusal to abandon his religion’s dietary laws. Meu Peou’s father refused to eat pork and only drank water, eventually growing emaciated and dying alone. When told of his father’s death, the Civil Party was rebuffed in his requests to help bury him or hold a ceremony for him. Meu Peou also testified that his uncle was arrested, tortured, and eventually “chopped into pieces alive [before] his body was salted.” The Civil Party also lost many nieces and nephews under the regime, but his four siblings managed to survive.

Civil Party Man Sles discussed how, on one occasion, he went to visit his mother and three younger siblings in Roka Khnor Commune, Krouch Chhmar District. He met his mother briefly near their house, but his siblings had already been sent away to a worksite. When he was next able to visit, he could not find his family. Other villagers told him that his mother and siblings had been sent away and killed. The Civil Party explained, “This was a compounded effect on top of the loss of my father. When I returned to my fishing area, I wept quietly, and my colleagues asked what happened to me. I lied to them that I had an abdominal pain.”

When Man Sles returned to Svay Khleang with his wife and child after the fall of the DK regime, he estimated that only about 50% of the native villagers ever returned. He estimated that about 800 to 1,000 Cham families had lived there prior to 17 April 1975, but he reminded the Court he had no access to statistics. The Civil Party testified that many of the community’s religious elders were missing, and that it took until 1989 for younger generations to train themselves as new *tuons* and teachers of Cham language.

5. Meu Peou’s Imprisonment and Observations of Killings at Sleng Hill

Civil Party Meu Peou told the Chamber that he was accused of stealing rice from *Angkar* in late 1977 and imprisoned at Trach Kraol detention center in early 1978. He said he was shackled at night and released to work in the daytime although remained chained to another person. He was given one ladle of watery porridge and not allowed to complain about the insufficient food rations. Meu Peou testified that, while he was detained at the prison, he witnessed the killing of a woman accused of “moral offenses.” Prisoners were asked to watch as the naked and possibly pregnant woman was cut open and disemboweled. Her liver was taken and cooked for meals. He testified, “Every time there was a killing, all of us were called to witness the incident.” While imprisoned, the Civil Party hid his original Cham name and his background, fearing a more difficult situation. He estimated there were approximately 40 prisoners held at the facility. He testified that he remained at the prison until 1979, when the DK regime fell.

Meu Peou also testified that Cham people who came to Tram Seh cooperative from other locations such as Phnom Penh were killed. He acknowledged that he did not witness the killings, but that he came across four or five unburied corpses wearing traditional Cham attire. He identified this location as a paddy field near the forest on Sleng hill, in Thma Commune, Bakan District.

6. Defense Counsel Examination of Civil Party Meu Peou

Nuon Chea's Defense Counsel, Liv Sovanna, asked Meu Peou whether he was separated and placed in a children's unit of Khmer children because of an intention to separate Cham children from one another or more simply because of a small Cham population in that area. The lawyer also attempted to show that Meu Peou's lack of education was not solely a result of KR policies, with the Civil Party himself confirming he had stopped studying in 1970 due to the country's civil war. Defense Counsel also focused on Meu Peou's testimony of witnessing corpses of Cham people at Sleng Hill. This examination revealed some inconsistencies both in the relevant written record and in his testimony in Court.¹⁰ Defense Counsel Kong Sam Onn argued that Trach Kraol Security Center was not part of the Closing Order in Case 002/02 and asked how the Civil Party felt knowing the center was not within the scope of Case 002/02. The President did not allow Defense Counsel's question, stating that it was "a complicated legal matter" and that the Civil Party was present simply to provide a statement of harm and suffering. The Defense Counsel's questions and demonstrate that some confusion over whether the Civil Parties are providing testimony on the facts at issue—which must be limited to facts within the scope of the trial, or testimony on the impact of the crimes, which is not necessarily constrained by the scope of the trial.

7. Defense Counsel Examination of Civil Party Man Sles

Son Arun, Nuon Chea's co-lawyer, questioned Man Sles for more details on who had engaged in the Svay Khleang rebellion. Counsel attempted to push back on the Civil Party's prior understanding of the Lon Nol era, stating, "I believe it was a misunderstanding by the Cham people that schools were closed down. In fact, they were being repaired. Schools were to be in existence [in DK]." The President told the Civil Party not to respond to this and reprimanded Counsel, saying, "It is far beyond what you should ask... you are now explaining to the Civil Party that the Civil Party is misunderstanding the concept, so please focus on facts."

8. Civil Parties' Final Statements on Harm and Questions to the Accused

Following the examination by the Defense Teams, the President asked the Civil Party if he would like to make a final statement and put any questions to the Accused. Meu Peou responded, "Mental suffering is like a shadow following me every day." At the conclusion of his appearance, he also asked the Co-Accused two questions: "Why did the Accused mistreat the Cham people so terribly? And, why did they force the closure of religious practices?"¹¹ Man Sles testified, "I felt that I would die one day, since I endured hardship. I was not allowed to have enough food, and I was prohibited from practicing my religion." He also put three questions to the Accused through the President: "1. Why did the KR hate the Cham people? 2. Why did the KR want to exterminate the Cham people? 3. In relation to the religion of Allah, why did the KR consider that 'Allah religion' was reactionary or feudalist?" The Co-Accused exercised their right to silence and did not answer the questions.

B. Testimony Related to the Treatment of Ethnic Vietnamese People

From 29 February to 2 March, three Civil Parties appeared before the Trial Chamber to provide their statements of harm and suffering in relation to the targeting of ethnic Vietnamese Cambodians under the DK regime. Civil Party Sieng Chanthay, a half-Vietnamese woman born in Svay Rieng in 1953, testified about the targeting of the ethnic Vietnamese families in her

village, her father's suicide in 1977, and the deaths of her two elder brothers.¹² 58-year-old Civil Party Khaung Moy, originally from Prey Nob District, Kampot Province,¹³ was the next to testify, and she spoke about her family's treatment as ethnically Sino-Vietnamese Cambodians, and the death of her parents and seven siblings.¹⁴ The final Civil Party to appear on this topic was Uch Sunlay, born in Kratie Province in 1948, who discussed the fate of his half-Vietnamese wife, his children, and his in-laws under the DK regime.¹⁵ All three Civil Parties provided detailed narratives on the loss of their family members and also testified about their experiences in relation to KR policy regulating marriage.

1. Loss of Family and Relatives

Sieng Chanthay provided a lengthy explanation to contextualize the eventual suicide of her ethnically Vietnamese father in 1977. After 17 April 1975, the Civil Party was evacuated with her family to her parents' hometown in Svay Rieng Commune, Svay Rieng Province,¹⁶ where they were disdained as "new people" who were "feudalist and capitalist" and "Vietnamese half-blooded." During the journey from Phnom Penh, her elder brother, a former second lieutenant under the Lon Nol regime, was taken to join a study session.¹⁷ Although he was released after five or six months, the same brother was killed in 1976 or 1977 after he was arrested for misusing a plow and accidentally wounding a cow's leg. He was accused of damaging *Angkar's* property and was whipped before being walked behind a bicycle to the Svay Chrum District office. The Civil Party explained that she saw him while she was working in a rice field, and that he was covered in blood but she recognized him from his voice. In 1977, her ethnically Vietnamese father was separated from the rest of her family to work and sleep alone. Her remaining older brother disappeared soon thereafter. This brother—also a former lieutenant and policeman—had asked to work in the dry fields rather than the wet rice fields due to a "numbing disease," and the Civil Party recalled overhearing the authorities discuss her brother's illness, saying that "the wheel of history" would break him. She said she and her family were terrified, and, one day during the harvest season that year, he did not appear for work in the fields with her. When she went home to ask her parents, they wept as they told her that militiamen had arrested him along with three others.¹⁸ A few days later, the two other ethnically Vietnamese families were taken away. In one family, the father had been a lieutenant colonel in the Lon Nol era, and both daughters were raped before being killed. Sieng Chanthay explained that this episode terrified her father so much that he felt it necessary to commit suicide to prevent the mistreatment of his family. Because he looked Vietnamese but his daughters looked more Khmer, he felt that his absence would protect his remaining children and grandchildren. The Civil Party described her own suicidal thoughts as she explained how her mother and siblings implored their father not to kill himself. One week after the Civil Party's own daughter died from malnutrition, her father hanged himself under a tree.

Civil Party Khaung Moy was born to an ethnically Vietnamese mother and ethnically Chinese father, both of whom spoke Khmer with accents.¹⁹ In 1975, her family was forced to move from Koh Ses to Srey Cham cooperative. In 1976, she was separated from her parents and siblings to work in a mobile unit elsewhere in Prey Nob District. One day in late 1978, she received permission to visit her family, but she arrived to an empty house. An elderly man came along and told her that her parents and eight of her siblings had been taken away and killed after they were accused of being Chinese and Vietnamese. Her elder brother, his wife, and their six children, as well as a cousin with his family of five or six members, were also killed that day. She learned that they were taken to the nearby Koh Kyang Security Center, where they were killed.²⁰ Others told her that her family had been told to ready themselves to return to Vietnam, but she understood they were killed. Soon thereafter, she sought permission to visit and inform her younger brother, but another youth told her that he had also been sent to the "*Kong Serei*," or the "free mobile unit," which she explained was a euphemism for being killed.²¹ Other workers told the Civil Party to "be careful and stop weeping" to avoid being executed herself. They told her that she was "very fortunate" to have survived the regime given her Sino-Vietnamese ethnicity. She testified, "After they learned my mother was ethnically Vietnamese, I

received insufficient food to eat... I was mistreated because of the fact that I was half-blooded Vietnamese.”

Uch Sunlay, an ethnically Khmer former teacher who was married to a half-Vietnamese woman, discussed the murder of his wife, three children, in-laws, and other relatives in September 1978. The Civil Party also testified about the loss of his father, who had been a clergyman at the pagoda and was killed for continuing to pray and practice Buddhism in secret under the regime. In total, he lost 14 family members during the DK regime; except for his father, all of them were considered “half-blooded Vietnamese” even though they all held varying degrees of Vietnamese heritage. His wife could not speak Vietnamese and had gone through secondary school in Cambodia. Nonetheless, he was sent one day to cut bamboo trees while his wife and children were taken to an island in the Mekong, killed, and pushed into a pit on the riverbank.²² When the Civil Party returned with the other Khmer husbands, the cooperative chief, Moeun, declared to them, “You sacrificed a lot for the labor and the working class, but all of your wives were collected and taken away. I want all of you comrades to get rid of this wounded flesh.” A man named Tol told him that he had been tasked with driving the group of ethnic Vietnamese people to the killing site and then had watched the killings from across the river. Tol told the Civil Party that his children were swung against a tree and died instantly. Uch Sunlay explained that his family members were targeted both for their ethnic heritage and their roles in the previous regime. When asked why his children were also targeted, he explained, “They were known as Vietnamese descendants and said that the policy of the KR was that, when cutting the grass, they had to uproot the grass.” He testified that the perpetrators were Dam and Chhoeun, working under Ouk Thang Him, who received orders “from the upper echelon.”²³

2. General Treatment of Ethnic Vietnamese Populations in DK Era

In addition to the losses of her parents and siblings, Civil Party Sieng Chanthay described the daily prejudice she faced as an ethnic Vietnamese woman in DK. She lived constantly awaiting her own arrest and execution and avoided looking her unit chief in the face. She explained that her coworkers avoided speaking to her because of her background and any accusations of associating with a “half-blooded Vietnamese,” even though she could not even speak the language. She explained that, although only her father could speak Vietnamese, and he could also speak Khmer clearly, everyone in her village knew that her family was ethnically Vietnamese. She testified that the KR “did not do anything to search out; they knew in advance which families were Vietnamese.” Sieng Chanthay also noted a shift in the treatment of Vietnamese Cambodians following the 1977 offensive of Vietnamese troops on DK’s borders, as families like hers were accused of having “Khmer bodies with Vietnamese minds.” Civil Party Khaung Moy confirmed that she heard the KR state that Vietnamese who did not leave Cambodia would be smashed. Uch Sunlay similarly testified that they were said to have “Khmer bodies and Vietnamese minds,” and he asserted, “*Angkar* assigned workers to investigate who was Vietnamese.”

3. Civil Parties’ Statements Related to the Regulation of Marriage

Sieng Chanthay explained that, in 1978, following her father and brothers’ deaths, her older sister, Thida, was forced to get married. An older man proposed marriage to her, but, although she did not love him, she was afraid of punishment and decided to get married. The Civil Party was able to join the wedding ceremony, which she described as “so quiet” and which took place with a total of four couples at a local pagoda. Cadres were present, and the couples were asked to stand and voice their commitment. The Civil Party recalled her own fear that she would also be forced to marry like her sister.

Khaung Moy testified that the chief of her mobile unit asked her to get married, but she refused because she was “not mature yet and didn’t want to get married.” She knew that she risked being taken away and killed for denying the marriage, but she was instead sent to carry earth at

Ta Ney until the country's liberation in 1979. Uch Sunlay testified that, in October 1978, his ethnically Vietnamese mother-in-law was put on a truck with others to return to Vietnam, but instead was taken to a mountain in Snuol District, Kratie Province, where they were killed.²⁴ The Civil Party's ethnically Khmer father-in-law, a former clerk since the Sihanouk era, survived. The next month, in November, the cooperative chief asked his father-in-law to remarry in a ceremony of 11 couples. The Civil Party explained, "He was quite old at the time and was forced to remarry. I was told that the Revolution could not stop mid-way. Revolution had to go on." However, Uch Sunlay's father-in-law and new wife were monitored and killed before the end of the regime. The Civil Party testified they were killed due to his father-in-law's position in the previous regimes and his past connection to his late wife.

4. Defense Counsel Examination of Civil Party Sieng Chanthay

Defense Counsel Liv Sovanna asked Sieng Chanthay for a number of clarifications regarding the arrests of her brothers as well as the ultimate death of her father. He attempted to argue that her brothers were punished due to mistakes working in the cooperatives rather than any targeting of them as former Lon Nol regime officials, but the Civil Party insisted their prior occupations were the cause for their arrests given the targeting of Lon Nol officials throughout the area at the same time. Counsel Liv Sovanna also asked questions about the Civil Parties' statements on forced marriage. Sieng Chanthay confirmed that her sister is still married to her husband, but that he often drinks wine and causes her emotional suffering. When asked specifically why she says her sister was "forced" to marry, the Civil Party told Counsel, "Because she did not love the man."

5. Defense Counsel Examination of Civil Party Khaung Moy

Counsel Liv Sovanna similarly attempted to separate the death of Civil Party Khaung Moy's brother in the "free unit" from his ethnic Vietnamese heritage, to which Khaung Moy responded, "It was up to them [the KR] to decide and put us in whatever unit they wanted." In relation to testimony on the regulation of marriage, Counsel especially focused on the fact that the Civil Party was allowed to continue working even after refusing instructions to marry.

6. Questions from the Bench to Civil Party Uch Sunlay

In what appeared to be questions on facts at issue in Case 002/02 rather than testimony on harm suffered, Judge Jean-Marc Lavergne asked a series of questions to Civil Party Uch Sunlay regarding the administrative structure of present-day Kratie Province during the DK era. The Civil Party explained that Kratie was named Sector 505 in the DK era, and that it was an autonomous sector reporting directly to the Center and not to any Zone. He testified that the Zone administration underwent multiple purges: "505 was replaced by Northeast Zone members, and later again was replaced by the East Zone, then from the Southwest Zone." The Civil Party testified that he knew Bun Nan, the Sector 505 chief who was later executed by the East Zone Committee, when he was a fellow teacher at the secondary school. He explained that many of the original cadres of Sector 505 were former teachers and professors who fled into the forest from Kratie town in the Sihanouk era. Uch Sunlay testified that, by the time his family members were killed in September 1978, Comrade Boeun of the Southwest Zone was in charge.

7. Civil Parties' Final Statements on Harm and Questions to the Accused

Civil Party Sieng Chanthay, who grew more emotional throughout her appearance, described the trauma she still carries today. She explained, "While I was describing this story to you, I feel it is fresh before me now... This feeling is haunting me." She asked the Co-Accused three questions: "Why did the DK regime kill people?" Why did they discriminate against other ethnicities including the Cham, the Vietnamese, and the Chinese? Why didn't they take their

Victory Day – the 17th of April, 1975 – to develop the country in a ‘leap-forward’ fashion, as they usually said it in their slogans?” Civil Party Khaung Moy explained her pain, and told of how she uses her experience as a lesson for her children: “I told my children that they were all lucky because they had us as parents and that I was not that fortunate...I tell this story to my children and grandchildren so that they know what happened to me during the regime.” Uch Sunlay described the “hopeless” feeling of not being able to reunite with his family after the fall of DK like other families: “Sometimes I felt like I wanted to kill myself in order that I might see them in the next life.” The week’s victim impact hearings closed with two questions from Uch Sunlay’s to the Accused: “Why did the KR have a policy to gather up small babies and children as well to be killed? Why did DK take those who practice Buddhism, including my father, who was *achar*, to be killed, and why were they accused of being those who betrayed Angkar?” The Co-Accused exercised their right to silence and did not answer the questions.

III. SUMMARY OF WITNESS TESTIMONY

The first two witnesses to appear in the new segment on security centers and internal purges were a formerly married couple who had been detained together at the Au Kanseng Security Center in 1977 and 1978. Mr. Phan Thol and Ms. Moeung Chandy each testified about their arrest and transportation to Au Kanseng in Labansiek Commune, Banlung District, Ratanakiri Province and their subsequent detention there, including executions they had witnessed. Their testimony largely corroborated the other’s, despite claiming not to have been in contact for decades and never discussing the events that took place at the Security Center.

A. Summary of Witness Phan Thol

Phan Thol, from Svay Rieng Commune, Svay Rieng District, Svay Rieng Province, testified this week about his experience being detained at the Au Kanseng Security Center, also known by its official name as the Au Kanseng Reeducation School.²⁵ The Witness testified that he worked at rubber plantations in Ratanakiri Province from 1962 onwards and was arrested on 16 June 1977. He remained at Au Kanseng until December 1978 when Vietnamese troops attacked the center. He had married his first wife Moeung Chandy in 1972 when he was temporarily working at rice fields in Trapeang Chres. He said he and his first wife divorced and have had no contact since 1986 and he is now remarried, with five children.

1. Arrest and Transportation to Au Kanseng Security Center

The Witness told the Chamber that he and his wife were arrested at 7:00AM on 16 June 1977.²⁶ He said that, while he was preparing to go to work at the rubber plantation, his union chief told him to prepare his belongings because *Angkar* had ordered for him to go to study at a reeducation school.²⁷ He and his wife Moeung Chandy were told to get on a “Chinese guard’s truck,” along with approximately 10 others. His wife was one month pregnant at the time. Phan Thol said he only realized that they had been arrested when they arrived at Au Kanseng, but could not think of any reason for their arrest at the time. During his interrogation he was told that the reason for his arrest was he used techniques in the rubber plantation that “belonged to the feudal class.” He testified that, on arrival at the Au Kanseng Security Center the men were taken to one building and the women to another. The building in which he was detained had a roof of leaves and bamboo walls, and the men were shackled and locked in rows. Although he could not estimate how many people in total were kept in that building, Phan Thol recalled there were two rows of prisoners sleeping foot to foot. The Witness testified that the Security Center was supervised by Division 801 from Ven Sai District, and that Roeun was the Commander of Division 801 at the time, although the Witness never saw his face.²⁸

2. Conditions and Interrogations at Au Kanseng Security Center

Phan Thol testified that Se was the supervisor at Au Kanseng, Chan was his deputy and Thim

was below him. He said that, while at Au Kanseng, male detainees were shackled any time they were not working, however women were detained unbound. The Witness recalled three long buildings that housed detainees. Phan Thol said there was no bathroom in the detention buildings and if prisoners had to relieve themselves they would use a bamboo tube, which they would empty whenever they were next let out of the building. He said that there were only two rules at Au Kanseng: do not flee and do not steal. One person who stole a durian seed was taken away and killed. He also testified that no one who came to the reeducation school was ever freed, and that people would occasionally disappear from the Center at nighttime, never to be seen again.²⁹

The Witness had limited knowledge about healthcare at Au Kanseng. He recalled that a fellow detainee named Meun had contracted diarrhea and later died, and another detainee died while still chained in the room during a bout of dysentery. Phan Thol was not aware whether either of these men had received medical care. The Witness said detainees at Au Kanseng worked hard and were tasked with pulling out grass by hand, planting potatoes or other vegetables using their own feces as fertilizer. Sometimes they would have to carry wood. He said there was no specific work quota and that they would work according to the sun, with a break for lunch. The food ration was two bowls per day of rice mixed with corn and sweet potato, but according to the Witness the quantity was insufficient for the work they were doing. He told the Chamber that he lost weight while detained: "I never weighed myself, but the trousers that I wore were so loose."

The Witness testified that he was interrogated two or three days after his arrival at Au Kanseng, but only for half an hour. He said that he was not tortured, however he believed that other detainees had been beaten and electrocuted, and said he had heard one prisoner was tortured with a pair of pliers until he became unconscious. He said that the room in which he was shackled at night was approximately 50 meters from the interrogation room, and on occasion he could hear screaming coming from that direction. During his interrogation he was asked about what he had done that led to his arrest, and it was there that he learned he had been accused of using "capitalist techniques" when treating the rubber trees on the plantation.

3. Arrest of Jarai People

A significant part of Phan Thol's testimony focused on the arrival of a group of ethnic Jarai people at Au Kanseng. The Defense in particular spent a good deal of time trying to ascertain the exact month this group arrived and subsequently left the facility, however ultimately the timeline remained inconclusive. Phan Thol said that he could witness the arrival of a large group of Jarai prisoners through the bamboo slats of his building, however he remained locked inside at the time and could not interact with the group. He estimated the group included approximately 100 people; men, women and children. He said they were not wearing traditional dress at the time but rather dirty "old clothes with patches." Although they were not dressed traditionally, the Witness said he knew they were Jarai because he overheard the security guards discussing this.

Phan Thol said that approximately four or five days after the arrival of the Jarai,³⁰ he again watched through the bamboo walls as the group was taken from the security center on two trucks, attesting that he was never told what happened to them. He said that two days after they left Au Kanseng he was assigned to guard a jackfruit plantation about one kilometer from the house in which he was detained. Approximately one week after he last saw the Jarai at the security center he came across a large pit in the jackfruit plantation that had been covered over with dirt. He testified that there was blood, shoes and clothes strewn around, and said he could smell decomposed bodies.³¹ From this he concluded that the Jarai people had been executed here.³²

4. Removal of Gallbladder

One particularly gruesome incident recounted by the Witness was the removal of a woman's gallbladder by a security guard named Ta Ngoc. He said that Ngoc came to the kitchen at about 9:00AM one morning with what he said was a human gallbladder and proceeded to tell everyone that he had "hacked" a woman's back open and removed the organ to hang it in the kitchen hall. The Witness said the bladder was stained with blood when it was hung up. He said he did not know why this particular woman was disemboweled; however he did hear that she had an affair with a man. Later it became evident that the Witness found out about the incident when women who worked in the kitchen told him the story after the event.

5. Witnessing Executions

Phan Thol initially testified that, while guarding the jackfruit plantation, he witnessed the execution of two people, however he later amended this response to say that he had witnessed only one execution and that the executioners had also carried a second dead body. He said he did not know the victims or the reason they were executed, but from their clothing and the presence of Au Kanseng security guards he surmised that the two men had been Division prisoners. He said that these people were killed with the back of hoes by security guards and then thrown into trenches made by Lon Nol soldiers during the former regime.

There was another incident of extrajudicial killing that the Witness described taking place at Au Kanseng. He said that Tin, a security guard, shot a person dead with an AK-47 rifle. He said that at he escaped at about 2:00AM and was of an ethnic minority, possibly Jarai. The Witness said he saw the prisoner shot first-hand; adding that he did not know why they had been killed however he did know that the individual in question had escaped the center and was show as he tried to return. He said that after the shooting, Tin called Phan Thol to help him bury the body.

6. Escape from Au Kanseng

The Witness testified that the Vietnamese forces arrived in Au Kanseng in December 1978. He said he could not recall how many prisoners remained at the security center at that time, as he was preoccupied with trying to stay alive. He said the Chief of the Education Center ordered him, along with approximately 20 others to flee through one exit and the group set out towards the border of Stung Treng Province. He said that some people were "purged" on the way, and that anyone who was ill or unable to walk was left behind. When they reached the Se Kong River, Vietnamese troops cut them off and the security forces fled, leaving the Witness and the other escaped detainees free.

7. Witness Demeanor and Credibility

Phan Thol testified in a clear, direct and concise manner over the two days of his testimony. Although he often pointed out when the Defense for asking repetitive questions, he nonetheless responded to the questions politely and succinctly. He was able to give detailed responses to the majority of questions, and was upfront when he was unclear about details.³³

B. Summary of Witness Moeung Chandy

Witness Ms. Moeung Chandy was once married to the previous witness, however they have been separated for several decades.³⁴ Nevertheless they were arrested together in 1977 and had largely similar experiences at Au Kanseng Security Center; their testimony mainly corroborated each other's. Moeung Chandy is originally from Da Srak Village, Chambak Commune, Bati District, Takeo Province and currently lives in Kandal Province.

1. Witness's Background

Moeung Chandy testified that she and Phan Thol were married during the KR regime and the ceremony was held along with two or three other couples.³⁵ She said the couple was married while they worked at the rubber plantation, and called her ex-husband interchangeably Phan Thol and Mey Thol. She gave the same testimony as he had, that they were both detained at Au Kanseng Security Center until Vietnamese troops arrived in 1978 and they were able to flee together.

2. Arrest and Transportation to Au Kanseng Security Center

The Witness claimed that in mid-June 1977 she was told that she and her husband were needed to attend a meeting, and so boarded a truck with no knowledge of their destination. She said the village chief came to tell her about the meeting, but she was too scared to look him in the face. She also said that there were men with guns escorting the people on the truck, which was parked 60 meters from her house. She said three couples including herself and Phan Thol were arrested at the time and that the truck took them to the area behind Boeung Kanseng, behind Ratanakiri Hospital to the Au Kanseng Security Center. She gave the time of arrest at approximately 2:00PM, saying they arrived at Au Kanseng one or two hours later, which contrasts with Phan Thol's testimony that they were arrested in the morning.

Moeung Chandy's testimony corroborated that of her ex-husband when describing their arrival at the security center. She said that men and women were separated and kept in different buildings. She also said that women were treated better than the men and were not chained or shackled. She said only four or five other women shared her building, which was about 15 meters long and had thin walls made from bamboo, much like the walls of the building Phan Thol was kept in. She said that initially she was kept in a locked room, but that after a while she was moved to a room that did not lock within the same building.

3. Conditions at Au Kanseng Security Center and Birth of Daughter

The Witness described living conditions at Au Kanseng Security Center as rudimentary. Detainees were not provided with bedding and she used her clothes to make a pillow and slept without a mosquito net. As there was no bathroom she and the other women had to bathe in the creek near the kitchen; to her knowledge male prisoners were not allowed to bathe. She said food rations were insufficient and that she received one small bowl of rice with potatoes per day.

The Witness also testified to giving birth to her daughter while at Au Kanseng. She had been about two months pregnant when arrested, and received no medical care during her pregnancy. While giving birth sometime in January 1978 she was assisted only by a male medic who cut the umbilical cord, and then other female inmates helped her after the birth. After the delivery she was given no medicine or special food ration, and soon after she was made to go heavy labor again, carrying planks of wood to build buildings. During the day her baby was cared for by older detainees and the Witness was only allowed to see her child at nighttime. She testified that at the time her body could not produce breast milk to feed her baby and so she fed her with sugarcane juice. She said her baby was very skinny, often feverish and was lucky to survive the DK regime.³⁶

4. Interrogations at Au Kanseng Security Center

Similarly to Phan Thol, Moeung Chandy testified that she was only interrogated once while at Au Kanseng. Unlike her husband though, she was not questioned about his "capitalist" farming practices, but rather on whether she had ever communicated with Vietnamese people; an allegation she said she consistently denied. She said that while under interrogation she was

never threatened nor tortured, however she said she did see a whip and an electricity cable in the room. The Witness claimed that other people had been tortured during their interrogations. She based this on what fellow female detainees had told her, admitting that she had not witnessed this first hand. She said these women had seen their husbands leaving the interrogation room looking injured and surmised that they had been “whipped or electrocuted” during their interrogation.

5. Treatment of Jarai People

The Witness stated that while she was detained she saw a group of between 20 and 30 Jarai people, including 10 to 20 women arrive, tied together in single-file by a string. She said that some of the women had children or young infants and that two to four weeks later the entire group disappeared, ostensibly to return to their village.³⁷ Moeung Chandy testified that the Jarai women in her building remained tied up for between four to ten days, although the children were free. She recalled that the Jarai people wore their “ethnic clothing” and were easily identifiable as Jarai because she recognized their language after having lived in Ratanakiri for some time.³⁸

Similar to her ex-husband, Moeung Chandy was also questioned in depth about the fate of this group of Jarai. She said that while she was working and picking vegetables she saw an empty pit, and then two or three days after the Jarai left Au Kanseng, the pit was fully covered. She testified that she saw no actual “smashing” of the Jarai, however said she saw and smelled decomposed bodies in the pit where the soil had cracked open, and also saw colorful clothing strewn around that she believed was from the group of Jarai. In order to clarify the time frame in which the Jarai were present at Au Kanseng, the Defense questioned the Witness about these events in relation to the birth of her child, however this appeared to confuse the Witness. Initially she recalled seeing the Jarai arrive at Au Kanseng while she was still pregnant, however when prompted by Mr. Koppe with her earlier statement she said it was possible that her baby was two or three months old at the time.

6. Cruelty of Guards at Au Kanseng

Moeung Chandy was questioned about some guards at Au Kanseng. She described Ta Auy as “cruel and vicious” and recalled him being violent with detainees when they committed infractions; saying he would hit them with rifle butts or hit or kick them. The Witness recalled one specific incident where she saw Ta Auy kill an unknown woman while the Witness was nearby picking vegetables with three other women.³⁹ Moeung Chandy described how the woman begged for her life but Ta Auy killed her with the back of a hoe and then threw her into a pit.⁴⁰ She said the woman’s legs were shackled at the time. The Witness also recalled hearing a story about a guard who was “so cruel and brutal” who “used the bamboo stick out of the wall and then cut open the body to remove the gallbladder” of a woman who he left to die, however she said she only heard about this from staff in the kitchen. She also added that Ta Auy had claimed to eat human gallbladders himself. When the Witness was asked whether she knew Ta Ngoc, she said she remembered his name but had never seen his face.

7. Witness Demeanor and Credibility

For the most part Moeung Chandy’s testimony matched that of her ex-husband Phan Thol even though they claim to have been out of touch since their divorce in 1986. In the few instances where her testimony diverged from that she had previously given to the OCIJ, she admitted that she felt “a bit excited and overwhelmed” by being at court and that her in-court statement might not be as reliable as that given previously. One odd discrepancy in the beginning of Moeung Chandy’s testimony was she said they she and Phan Thol had one child together who had passed away, however later described a child of theirs who is still alive, which is supported by the earlier testimony of Phan Thol.

IV. LEGAL AND PROCEDURAL ISSUES

A. Procedure of Victim Impact Hearings

This week, the Trial Chamber held the third set of victim impact hearings in Case 002/02.⁴¹ The purpose of the victim impact hearings is give the Civil Parties an opportunity to express their suffering and to bring evidence of the impact of the crimes, relevant to an assessment of the gravity of the crimes alleged and the appropriateness of reparations claims in addressing the harm suffered.⁴² In addition to these separately scheduled hearings, Civil Parties who provide testimony on the facts are also permitted to make statements of suffering after they have concluded their testimony. The Trial Chamber has acknowledged that Civil Parties testifying about suffering are not required to “differentiate between harm suffered in consequence of facts within the scope of the case and overall harm suffered during the DK period, to the extent that this does not infringe the Accused’s right to a fair trial.”⁴³ However, if new facts or allegations are raised during the hearings, the Trial Chamber has acknowledged that this should be subjected to adversarial debate. This has occurred on one occasion in Case 002/02, in relation to Civil Party Thann Thimm whereby the Trial Chamber decided to postpone his testimony and arrange his return at a later date to provide testimony on the facts.⁴⁴

Prior to the first set of victim impact hearings in Case 002/02, the Parties engaged in a lengthy debate over the procedure to be adopted for the victim impact hearings, particularly in relation to the amount of time allocated for Defense examination of the Civil Parties and the use of this evidence in the final judgment.⁴⁵ In accordance with submissions from the Lead Co-Lawyers on the format to be adopted for the Case 002/02 hearings, more time has been incorporated into the schedule to allow for questioning by the other Parties in the interests of the Chamber’s “ascertainment of the truth, the fair trial rights of the Accused and the balance of rights of all parties.”⁴⁶ A further procedural shift has been observed in the way the Civil Parties have testified on harm during the victim impact hearings. Rather than giving an interrupted narrative account of suffering which generally characterized the victim impact hearings in Case 002/01, these hearings have followed a question and answer style format, eliciting evidence on the harm suffered, and also facts within and outside the scope of Case 002/02.⁴⁷ At the conclusion of the questioning, the President has invited the Civil Parties to make an “additional statement of suffering” if they desire, during which some Civil Parties have then given more narrative accounts of harm suffered.⁴⁸ The Trial Chamber’s use of the evidence provided by Civil Parties during victim impact hearings has been a matter of contention between the Parties and is currently under consideration by the Supreme Court Chamber as part of the appeal against Case 002/01.⁴⁹

IV. TRIAL MANAGEMENT

From 29 February until 3 March the Trial Chamber conducted evidentiary hearings concerning statements of harm and suffering of Civil Parties who had suffered during DK specifically concerning the treatment on three target groups, Vietnamese, Cham, former Lon Nol soldiers. Staff from Transcultural Psychosocial Organization (**TPO**) staff provided support to the Civil Parties during their statements, which were often emotional. The Trial Chamber also began a new segment in Case 002/02 this week on security centers and internal purges, specifically Au Kanseng Security Center in Ratanakiri Province.

A. Attendance

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

Judge Attendance: All judges were present at proceedings throughout the week.

Civil Parties Attendance: During the hearings this week approximately ten Civil Parties observed proceedings from inside the courtroom.

Parties: International Defense Counsel for Noun Chea, Mr. Victor Koppe, was absent for the first two days of hearings this week, after also being absent over the last two weeks of court without providing any reason. Court had to briefly adjourn on Monday when it was noticed that national Defense Counsel for Nuon Chea was also absent from the courtroom, leaving the Accused unrepresented. He did return to the Trial Chamber on Wednesday for the beginning of the new trial segment however. Ms. Anta Guisse, Khieu Samphan's international Defense Counsel, was absent for the whole week by personal reasons. All Parties were sufficiently represented in court despite these two absentees.

Attendance by the public:

DATE	MORNING	AFTERNOON
Monday 29/02/2016	<ul style="list-style-type: none">▪ Approximately 150 students from Chea Sim Samaki High School.▪ Two foreign observers.	<ul style="list-style-type: none">▪ Three Villagers from Pursat Province.▪ 140 students from Psar Dem Tkov High School.
Tuesday 01/03/2016	<ul style="list-style-type: none">▪ Approximately 200 students from Toul Tom Pong High School, Phnom Penh▪ Two foreign observers	<ul style="list-style-type: none">▪ Approximately 220 students from Boeung Trabek High School, Phnom Penh▪ One foreign observer
Wednesday 02/03/2016	<ul style="list-style-type: none">▪ Approximately 70 students from Champuvoin High School, Phnom Penh▪ One foreign observer	<ul style="list-style-type: none">▪ Approximately 200 students from Toul Svay Prey High School, Phnom Penh.▪ 12 foreign observers
Thursday 03/03/2016	<ul style="list-style-type: none">▪ One foreign observer	<ul style="list-style-type: none">▪ One foreign observer

A. Time Management

The Trial Chamber managed its schedule effectively during the victim impact hearings of Civil Parties who had suffered during the DK regime. There was a brief interruption on Monday afternoon when the President noticed that national Co-Counsel for Nuon Chea, Son Arun, was absent from the courtroom, leaving Nuon Chea unrepresented, as Victor Koppe was also not present. The Chamber then held the adjournment early in order to locate the defense lawyer, who returned to the courtroom after the break without any explanation from the Bench.

B. Courtroom Etiquette

There were only minor incidences of tension in the courtroom this week, which were effectively handled by President Nil Nonn. On 3 March, Witness Phan Thol told Defense Counsel Koppe that a number of his questions were repetitive, leading Mr. Koppe to remark "Let me be the judge of whether a question is repetitive." After this the President stepped in and politely explained the question to the Witness, which ultimately elicited new information from him. The President also intervened on 29 February and reprimanded Defense Counsel Son Arun for

attempting to correct a Civil Party (see II.B.6).

C. Translation and Technical Issues

There were only minor technical issues during proceedings this week. On 1 March, the English audio channel was faulty and required 5 to 10 minutes to resolve. There was a minor translation issue during questioning by national Defense Counsel for Nuon Chea, Liv Sovanna. The interpreter used the verbs “to see” and “to know” interchangeably, which led to confusion for Witness Moeung Chandy when she was asked about whether she had known a particular detainee who had been killed. After the President stepped in to clarify, the issue was resolved.

D. Time Table

DATE	START	MORNING BREAK	LUNCH	AFTERNOON BREAK	RECESS	TOTAL HOURS
Monday 29/02/2016	9:01	10:13-10:30	11:33-13:30	14:38-14:56	16:01	4 hours 28 minutes
Tuesday 01/03/2016	9:03	10:12-10:31	11:31-13:30	14:23-14:45	16:00	4 hours 17 minutes
Wednesday 02/03/2016	9:01	10:13-10:30	11:30-13:30	14:34-14:54	16:00	4 hours 22 minutes
Thursday 03/03/2016	9:01	10:03-10:21	11:31-13:32	14:28-14:50	16:04	4 hours 22 minutes
Average number of hours in session				4 hours and 22 minutes		
Total number of hours this week				17 hours and 29 minutes		
Total number of hours, day, weeks at trial				563 hours and 52 minutes		
154 TRIAL DAYS OVER 45 WEEKS						

* This report was authored by Melanie Hyde, Somaly Kum, Daniel Mattes, Caitlin McCaffrie, 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

Case 001	<i>The Case of Kaing Guek Eav alias “Duch”</i> (CaseNo.001/18-07-2007-ECCC)
Case 002	<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
OCF	Office of the Co-Prosecutors of the ECCC
VSS	Victims Support Section
WESU	Witness and Expert Support Unit

¹ For allegations regarding Au Kanseng Security Center, its location and functioning, the executions and disappearances that occurred there, see Case 002 Closing Order, paras. 589-623.

² Civil Party Lead Co-Lawyers’ proposed schedule for the first set of hearings on Civil Party suffering (E315/1/1), has not yet been published on the Court’s website. It is referred to in “Email between Trial Chamber senior legal officer and lead Co-lawyer regarding revised schedule for Hearing on harm suffered by civil parties” (31 March 2015), E315/1/2. This email notes the Chamber’s acceptance of the CPLCLs’ proposed time allocations even as it defers Nuon Chea Defense’s request for additional time, considering it “premature” whether they will need further allocations for each testifying Civil Party. For the CPLCL proposals for the second set of hearings, see “Lead Co-Lawyers’ List of Civil Parties to Testify During the Hearings on Suffering Relevant to the Second Segment (with Confidential Annex)” (7 August 2015), E315/1/3.

³ For the CPLCL proposals for the third set of hearings held this week, see “Lead Co-Lawyers’ Submission of the List of Civil Parties to Testify During the Hearings on Harm Suffered (Third Segment) and Request Pursuant to Rule 87(4) (with Confidential Annexes)” (10 February 2016), E315/1/4. Paragraphs 7 to 9 of the most recent CPLCL submission includes a series of relevant assertions to clarify their rationale in organizing the impact hearings in this novel way: “Inevitably, the harm and the suffering undergone during this period will also relate to facts within the scope of Case 002/02 and necessarily described during such hearings...[The grant of one hour] will also allow the Civil Parties to consider granting the parties an opportunity to question the Civil Parties in the interest of justice if new facts or allegations against the Accused are raised.”

⁴ Mr. Meu Peou (2-TCCP-1013) was examined in the following order: President NIL Nonn; national Civil Party lawyer LOR Chunthy; national deputy prosecutor SREA Rattanak; national lawyer for Nuon Chea, LIV Sovanna; national co-lawyer for Khieu Samphan, KONG Sam Onn. Mr. Meu Peou also testified that his original given name was Mohammed but that he took on a Khmer name under the DK regime.

⁵ During questioning, Kong Sam Onn asked the witness if he was aware that there was no mention of Trach Kral Security Center in the Closing Order in Case 002/02 and how the Civil Party felt knowing the center was not within

the scope of Case 002/02. The President did not allow Defense Counsel's question, stating that it was "a complicated legal matter" and that the Civil Party was present simply to provide a statement of harm and suffering.

⁶ In 1975, Krouch Chhmar District was part of Kampong Cham Province, within the East Zone, according to DK's geographical terminology. Today, Krouch Chhmar is a district of Tbong Khmum Province.

⁷ Mr. MAN Sles (2-TCCP-263) was examined in the following order: President NIL Nonn; national Civil Party lawyer KIM Mengkhy; national Civil Party lead co-lawyer PICH Ang; international senior assistant prosecutor Travis FARR; national co-lawyer for Nuon Chea, SON Arun.

⁸ "*Hakim*" is the term for an elder Cham Muslim religious leader and "*hajji*" refers to someone who has made the pilgrimage to Mecca.

⁹ MEU Peou confirmed to Defense Counsel Liv Sovanna that Khmer children were also separated from their parents, but the Civil Party explained that they were able to remain in units with other Khmer youth whereas he was the only Cham child in his unit. Counsel also attempted to defer blame for the Civil Party's lack of education to the civil war immediately prior to the DK era, when the Civil Party confirmed he had first dropped out of school.

¹⁰ MEU Peou initially told the OCP that he only saw the corpses, but later he witnessed the militiamen executing people with sticks. The Civil Party also explained that he saw bags of Cham traditional clothing near the corpses, but that they were not actually wearing such clothing. He later told Defense Counsel that, "Usually, Cham people would go places with a bag of their traditional attire."

¹¹ As with all the questions put to the Co-Accused by the Civil Parties throughout the victim impact hearings this week, the President explained that all questions to the Accused had to be put through him. Immediately following the Civil Parties' posing of the questions, the President read out a scripted procedural response, that, "Pursuant to Rule 21.2(d), the Chamber shall inform the Accused of the right to remain silent in response to questions. On 8 January 2015, the two Accused confirmed their positions to remain silent, and this status will remain until we are informed otherwise. Also, the Chamber informs the Accused and their Counsel that they should inform the chamber in a timely and effective manner should the Accused resolve to waive their right to remain silent at any stage of the proceedings. As of today, we have no knowledge that the Co-Accused have changed their positions, and they therefore will not provide a response to your questions."

¹² Ms. SIENG Chanthay (2-TCCP-1015) was examined in the following order: President NIL Nonn; international Civil Party lead co-lawyer Marie GUIRAUD; national deputy prosecutor SENG Leang; national lawyer for Nuon Chea, LIV Sovanna.

¹³ Prey Nob District now forms part of Preah Sihanouk Province, also known as Kampong Saom Province.

¹⁴ Ms. KHAUNG Moy (2-TCCP-259) was examined in the following order: President NIL Nonn; national Civil Party lawyer LOR Chunthy; international assistant prosecutor Joseph Andrew BOYLE; national lawyer for Nuon Chea, LIV Sovanna.

¹⁵ Mr. UCH Sunlay (2-TCCP-1014) was examined in the following order: President NIL Nonn; national Civil Party lawyer VEN Pov; international assistant prosecutor Joseph Andrew BOYLE; international Judge Jean-Marc LAVERGNE; national co-lawyer for Khieu Samphan, KONG Sam Onn

¹⁶ SIENG Chanthay later testified that, during the DK regime, she lived in Russei Prey Village, Chamlong Commune, Russei Prey District, Svay Rieng Province, but KRT Trial Monitor was not able to find Russei Prey District on maps of the Province. It is possible that the District has been renamed since the DK era, or that it was exchanged with Vietnam in a formal border swap, as that part of Cambodia lies along the border with Vietnam.

¹⁷ However, Civil Party Sieng Chanthay later told the OCP that, upon her family's return to their native village in 1975, the KR collected everyone's biographies in which her brothers confirmed they had been soldiers during the Lon Nol regime. She told the Prosecutor that, one month later, her brother was asked to join an education session.

¹⁸ After repeating the stories of her brothers' disappearances to Defense Counsel for Nuon Chea, Liv Sovanna, Counsel asked Sieng Chanthay if the killing of her brothers had nothing to do with their former positions in the Lon Nol regime. She disagreed, asserting that her brothers' positions were known clearly, and that, "If someone made a mistake, then they [the KR] would combine that with their [the victim's] previous occupation." She further explained that the other people arrested with her eldest brother were all former soldiers as well. She also asserted that the local cadres had drawn up a list of former soldiers in her village.

¹⁹ Civil Party Khaung Moy later testified that her mother was born in Vietnam and moved to Cambodia, while her father was ethnically Chinese but born in Cambodia. She repeated that neither of her parents spoke Khmer well.

²⁰ The Civil Party testified that she knew there was a prison at Koh Kyang "where people were detained and shackled, and many died as a result." The Case 002 Closing Order includes discussion of Koh Kyang Security Center and the Co-Accused were charged with crimes alleged to have taken place there, however, those allegations were not included in the scope of Case 002/02. The Co-Investigating Judges wrote that the Security Center was located in Koh Kyang village, Prey Nob District, Sector 37, West Zone, and operated as the security center for both Sector 37 and the West Zone. See paragraphs 516 to 534 of the Closing Order. The international prosecutor attempted to read out multiple written records of interviews compiled by the OCIJ in relation to Koh Kyang, but he was eventually blocked from doing so after the Trial Chamber sustained an objection on the grounds that such evidence did not belong in the hearings on victim impact, which a prior Trial Chamber decision had ruled should focus on harm and suffering rather than establish[ing] specific facts. The President ruled, "[The Prosecutor's] question is not part of the scope of Case 002/02." See Trial Chamber, "Information on (1) Key Document Presentation Hearings in Case 002/02 and (2) Hearings on Harm Suffered by the Civil Parties in Case 002/02" (17 December 2014), E315/1, para. 8.

²¹ Civil Party KHAUNG Moy explained that the *Kong Serei*, or "free or liberal unit," was where anyone who opposed Angkar or the cadres was assigned. She testified that anyone sent to this unit was killed. She confirmed to

Defense Counsel that people of all ethnicities were sent to the unit. People there were assigned to grow potatoes and dig canals but received insufficient food.

²² UCH Sunlay explained that, because the land later eroded into the river, he has never been able to recover the bones of his family members.

²³ The Civil Party never explained how he knew the orders for the killings of his family and others came “from the upper echelon,” but it appeared to monitors he was basing this assertion on some knowledge gathered after 1979. Other Parties did not ask him to clarify this claim.

²⁴ Uch Sunlay testified that the truck’s driver, a man named Ang, told him this three or four months after the fall of the DK regime in January 1979. The driver identified his mother-in-law in the group and claimed that he was chased away after dropping off the people at the required location.

²⁵ Witness PHAN Thol (2-TCW-933) was questioned in the following order: senior assistant prosecutor Travis FARR; civil party co-lawyer TY Srinna; international counsel for Nuon Chea, Victor KOPPE; national counsel for Khieu Samphan, KONG Sam Onn; international counsel for Nuon Chea, Victor KOPPE.

²⁶ Mr. Phan Thol repeatedly testified that he was arrested on 16 June 1977, although he could not explain why he was so sure of this date.

²⁷ Later the Witness clarified that a “union” was the name used for villages containing solely workers at the time.

²⁸ This individual was later referred to as Sau Saroeun as well, who was also identified in paragraph 590 of the Case 002/02 Closing Order as the commander of Division 801.

²⁹ The Witness was not questioned on how he knew this to be the case or if he had seen the execution himself.

³⁰ Later the Witness identified this time period as being one week.

³¹ At first, Phan Thol said that he saw traditional blue and red Jarai clothing at the mass grave, however earlier in his testimony he said the Jarai were wearing dirty old clothing, not their traditional attire. This issue went unresolved.

³² There was a significant discrepancy with regard to the timing of the events in question, which the Defense Team for Nuon Chea spent a considerable amount of time going over. Originally the Witness stated that the Jarai people arrived while he was still chained up inside the detention facility shortly after his arrest. He also stated that it took some time before the guards trusted him enough to let him work outside the compound, and that the jackfruits were ripe when he began guarding them, which would be around February or March 1978. These two aspects call into question how it would be possible that he had seen the pit surrounded by bloody clothes and shoes only one week after the arrival of the Jarai, as he testified. It is possible that this confusion was the result of mistranslations or confusion over measurements of time however, as Monitors found the Defense Team’s questions difficult to follow at times and the Witness appeared confused at why he was answering repetitive questions

³³ One example of a detailed response was when he asked if people were shackled while detained. He answered that there were three kinds of shackles in use at the Security Center; one where cuffs were chained and locked, another where people were shackled to a metal bar and a third where they were shackled to a wooden bar.

³⁴ Witness MOEUNG Chandy (2-TCW-867) was questioned in the following order: deputy co-prosecutor SONG Chorvoin; senior assistant prosecutor Travis FARR; national civil party lead co-lawyer PICH Ang; international counsel for Nuon Chea, Victor KOPPE; Judge Claudia FENZ; national counsel for Nuon Chea, LIV Sovanna.

³⁵ Phan Thol earlier testified that the couple wed in 1972 and did not mention a group ceremony.

³⁶ Although she stated that she herself never received any medication, she did say her infant daughter was medicated when she had a fever and that it helped her recover.

³⁷ She testified that there were a total of three children: one toddler, one “young infant who could sit” and another “young toddler who could walk if the mother held its hand.”

³⁸ In contrast, Phan Thol testified that the Jarai wore regular clothing, but when he saw the pit filled in, the surrounding clothes were that of the traditional Jarai design, so it is possible that his first testimony was confused.

³⁹ The Witness believed that the three other women would corroborate her story, although two have passed away.

⁴⁰ She clarified that this was a different pit to that in which she claimed to have seen the dead bodies of the Jarai, and could be the pit identified by her ex-husband Phan Thol as being a former Lon Nol soldier trench.

⁴¹ For coverage of the first set of impact hearings towards the end of the first trial segment, on Tram Kak District cooperatives and Kraing Ta Chan Security Center, see Case 002/02 KRT Trial Monitor, Issue 15, Hearings on Evidence Week 12 (30 March - 3 April 2015), pp.1-7; For the second set of impact hearings at the end of the segment on DK worksites, see CASE 002/02 KRT TRIAL MONITOR, Issue 29, Hearings on Evidence Week 26 (1-3 September 2015), pp.1-4.

⁴² See Trial Chamber Memorandum, “Order for Video-Link Testimony of Civil Party TCCP-13” (22 May 2013) E236/5/3/2; Trial Chamber, Case 002/01 Judgement (7 August 2014) pp 584-9, 599, Internal Rule 23quinquies(1); and L. Olsen, “The Purpose of Hearing Victims’ Suffering,” *Extraordinary Chamber in the Courts of Cambodia’s Official Site*. (7 June 2013) accessible at <http://www.eccc.gov.kh/en/blog/2013/06/07/purpose-hearing-victims-suffering>.

⁴³ Trial Chamber, “Information on (1) Key Document Presentation Hearings in Case 002/02 and (2) Hearings on Harm Suffered by the Civil Parties in Case 002/02” (17 December 2014), E315/1, paras. 7-9.

⁴⁴ See CASE 002/02 KRT TRIAL MONITOR, Issue 15, Hearings on Evidence Week 12 (30 March – 3 April 2015), pp.1-7.

⁴⁵ See CASE 002/02 KRT TRIAL MONITOR, Issue 15.

⁴⁶ See “Lead Co-Lawyers’ Submission of the List of Civil Parties to Testify During the Hearings on Harm Suffered (Third Segment) and Request Pursuant to Rule 87(4) (with Confidential Annexes)” (10 February 2016), E315/1/4; “Lead Co-Lawyers’ Submission of the List of Civil Parties to Testify During the Hearings on Suffering Relevant to the Second Segment (with Confidential Annex)” (7 August 2015), E315/1/3.

⁴⁷ For testimony outside the scope of Case 002/02 and facts during the hearings, see testimony of Uch Sunlay (facts within the scope of Case 002/02), and Civil Party Meu Peou (facts outside the scope of Case 002/02). For analysis of the events that led to the Trial Chamber's decision to hold separate hearings on harm in Case 002/01, and summaries of Civil Party statements of harm made during Case 002/01, see CASE 002 KRT TRIAL MONITOR Issue 61, Hearing on Evidence Week 56 (27-31 May 2013), CASE 002 KRT TRIAL MONITOR Issue 41, Hearings on Evidence Week 36 (22-25 October 2012, p 13), and Civil Party Lead Co-Lawyers' Request for Specification of the Scope of the Civil Parties' In-Court Statements About Their Suffering (30 October 2012), E240, paras. 22-24.

⁴⁸ See CASE 002/02 KRT TRIAL MONITOR, Issue 15, Hearings on Evidence Week 12 (30 March - 3 April 2015), pp.1-7; For the second set of impact hearings at the end of the segment on DK worksites, see CASE 002/02 KRT TRIAL MONITOR, Issue 29, Hearings on Evidence Week 26 (1-3 September 2015), pp.1-4. For discussion about questioning practices for victims and risks of re-traumatisation, see J.D. Ciorciari and A. Heindel, (2015) "Victim Testimony in International and Hybrid Criminal Courts: Narrative Opportunities, Challenges, and Fair Trial Demands" 56 *Virginia Journal of International Law* p 45.

⁴⁹ See Nuon Chea, "Nuon Chea's Appeal Against the Judgment in Case 002/01" (29 December 2014), F16.