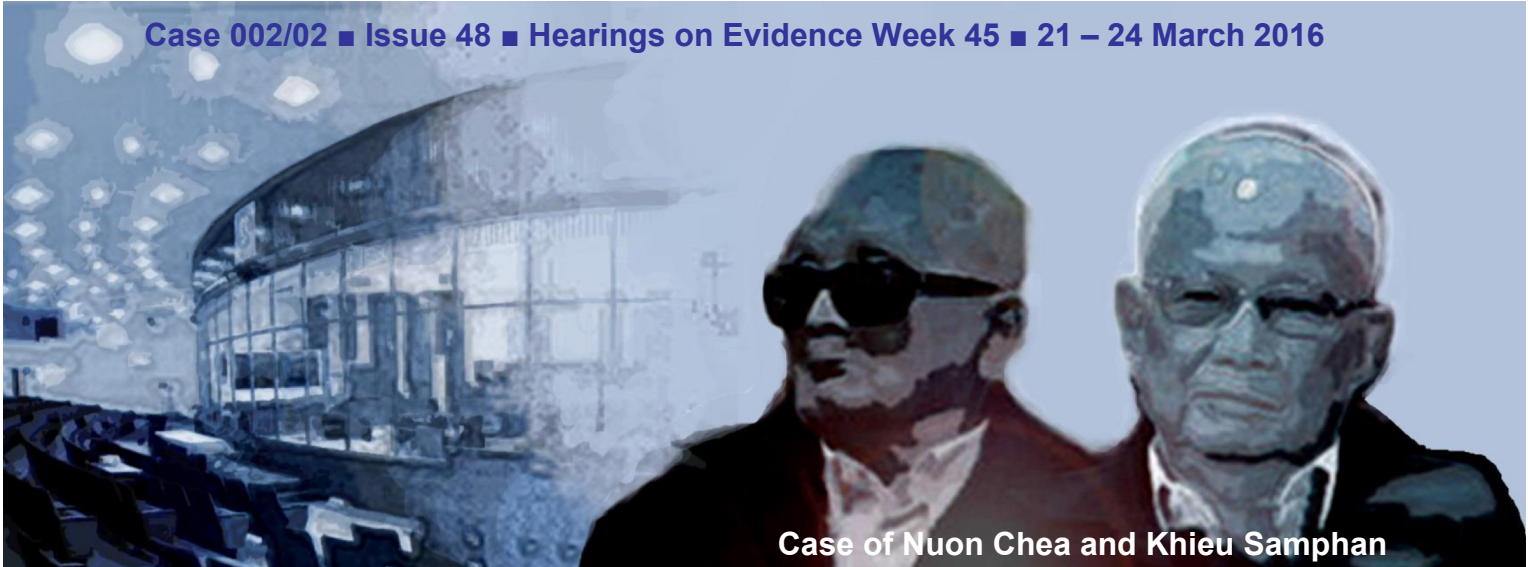


KRT TRIAL MONITOR

Case 002/02 ■ Issue 48 ■ Hearings on Evidence Week 45 ■ 21 – 24 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)

"I found that some Cham people were given positions ranging from village chief to cooperative chief... however that doesn't mean that the Khmer Rouge loved and promoted the Cham people.

The aim was to monitor the Cham to ensure no further rebellions, they needed Cham people in leadership positions for that."

- Expert Witness Ysa Osman

I. OVERVIEW

This week the Trial Chamber heard from a new fact Witness on the Au Kanseng Security Center and concluded the testimony of Expert Witness Ysa Osman on the treatment of the Cham. The fact Witness appeared anonymously under the pseudonym 2-TCW-900 in order to protect his identity as part of the ongoing investigations into Cases 003 and 004.¹ 2-TCW-900 appeared via video-link from Oddar Meanchey Province and testified over two days about his role as third-in-charge at the Au Kanseng Security Center in Ratanakiri Province, and executions alleged to have taken place there. On Wednesday Expert Witness Ysa Osman returned to the Chamber to respond to questions from each of the Defense teams in relation to the treatment of the Cham during the DK regime. The Prosecution and Civil Parties had questioned Mr. Osman earlier in February 2016.²

II. SUMMARY OF WITNESS TESTIMONY

The Trial Chamber heard testimony related to two different trial segments this week: one on security centers and internal purges and the other on the treatment of targeted groups. First, 2-TCW-900 testified to being in charge of recording confessions at Au Kanseng Security Center and told the Chamber about the types of prisoners living there and their living conditions. In the latter part of the week, Ysa Osman returned after a month's absence to be questioned by the Defense Teams about his expert knowledge of the treatment of the Cham during the DK regime.

A. Summary of Testimony by Witness 2-TCW-900

2-TCW-900 testified over two days this week about his role assisting interrogations at Au Kanseng Security Center.³ He was able to provide testimony about the types of prisoners

detained at the Center, as well as their living conditions and the hierarchy of those in charge.

1. Witness Background and Role at Au Kanseng

Witness 2-TCW-900 testified that he joined the revolution in 1971 and until 1975 was a soldier in Regiment 39 under the command of Ta Chheng and Ta San, who he described as “cadres from Hanoi.” The Witness said that Regiment 39 was under the control of the Center and was headquartered near Santuk Mountain in Kampong Thom Province. He later joined Regiment 82, which was under the command of Division 14. He said that after 17 April 1975 Division 14, under the control of Ta San, became known as Division 801 and retained control of Regiments 82 and 81. After the KR took control of Phnom Penh the Witness was posted with Division 14 to conduct operations protecting Phnom Penh between the railway and Pochentong airport. He worked as a radio officer, providing logistical support for meetings of senior cadre, although he said he did not attend these meetings because he was not of a high rank. In October or November 1975 he was then deployed to Banlung in Ratanakiri Province as part of the newly renamed Division 801. The division was stationed on the Cambodian border with Vietnam and Laos. The Witness said he was the radio operator, responsible for sending and receiving messages and letters, encrypting messages, and at one time delivering a sealed envelope to ‘Bong Khieu’ (the alias of Son Sen) in the Central Office.⁴ The Witness said he was stationed at this Headquarters in Banlung until he was married on 27 March 1977, at which time he was assigned to the reeducation center at Au Kanseng near region 102.

2. Witness’s Role at Au Kanseng Security Center

The Witness first told the Trial Chamber that while at Au Kanseng Security Center he was assigned to be an interrogator. Subsequently he clarified that he did not interrogate prisoners himself, but rather was present at all interrogations, took notes and recorded “confessions.” He testified that he was not responsible for the security of the prisoners, nor was he in charge of the guards. 2-TCW-900 described his role as a ‘member’ of the security center, a position held under Se, who was chairman, and Tin, who was deputy chairman.⁵ He said that he had no access to prior confessions or interrogation notes from Phnom Penh, and that only a man named ‘No’ from Phnom Penh had such access and conducted the interrogations. The Witness testified that torture was not used during interrogations, however recalled that No sometimes instructed guards to add salt to prisoners’ food and deny them water in order to encourage them to respond to questions quickly.

3. Hierarchy and Cadres of Division 801 and Au Kanseng

The Witness described having limited knowledge about high-ranking cadres in Division 801, but was able to provide more detailed information about the structure of Au Kanseng Security Center. He testified that Sou Saroeun was in charge of Division 14, which became Division 801 in around October or November 1975, but he did not know who Sou Saroeun’s immediate supervisor was. He did recall that Sou Saroeun reported via radio to Son Sen’s office. He explained that Ta Se was the Chairman of Au Kanseng Security Center with overall authority over the Center, Tin was the Deputy Chairman in charge of the nine security guards stationed there, and the witness himself was in charge of recording interrogations.⁶ The man known as No, conducted the interrogations and instructed guards on the treatment of prisoners. The Witness also described how Lai, a prisoner who spoke Vietnamese, was used as a translator during the interrogation of Vietnamese-speaking prisoners.

4. Types of Prisoners at Au Kanseng

He recalled that there were approximately 200 prisoners in total at Au Kanseng during the period in which he worked there. The Witness listed three primary groups of prisoners at Au Kanseng Security Center. Those were: firstly, arrested soldiers from Division 801, Regiments

81, 82 and 83, and Battalion 803, secondly workers from unions and cooperatives,⁷ and thirdly ethnic Jarai people. The Witness explained that the soldiers who were detained were mostly low-level combatants, and were accused of stealing or “being lazy.” The Witness said that many of the soldiers who were arrested had been implicated in “confessions” in Phnom Penh. The workers were usually from rubber plantations, and were accused of working for the previous regime.⁸

5. Living Conditions and Healthcare at Au Kanseng

The Witness discussed the buildings used to house prisoners at Au Kanseng, saying that the walls could not keep out the heat or wind, and that mosquitoes were a big problem, adding that both prisoners and guards regularly suffered from malaria. He explained that prisoners who were suffering from malaria would receive the same medical treatment as guards, which mostly consisted of homemade medicines, although there was some malaria medication available. While he said the prisoners could not go to the bathroom freely, and were given bamboo tubes to urinate into at night. He said prisoners working outside the center could bathe in a nearby stream when they finished work. In terms of rations, 2-TCW-900 said that prisoners were given about the same amount of food as guards, and that he never heard complaints from guards that the amount was insufficient. However, he did say that drinking water was provided in bamboo tubes, but because it was not boiled, many of the prisoners suffered from diarrhea and dysentery, which led to the death of some prisoners. The Witness said that prisoners were generally not shackled or tied, except in “special cases.”

6. Ethnic Jarai People at Au Kanseng

The Witness said that one night during 1977 or 1978, two trucks transporting approximately 100 ethnic Jarai people were brought into the Center. He recalled that the majority was male but there were perhaps five or six women in the group. He explained that after the Jarai arrived at the Center the buildings were over-crowded. He said that after their arrival, he and Ta Se had a meeting with Ta Saroeun, at which Ta Se reported that the Security Center did not have enough guards to ensure the security of the prisoners, and that the accommodation was insufficient for the number of prisoners. The Witness said Saroeun told them to “resolve it,” which he understood as an order to kill the Jarai group. 2-TCW-900 said he did not observe any killings first-hand, but had presumed they occurred because he saw pits and craters that had been filled in with dirt. He testified to visiting a B-52 crater near a jackfruit plantation, and smelling what he believed to be dead bodies in the pit.⁹ From this he assumed that the Jarai people had been killed.¹⁰

7. Witness Demeanor and Credibility

Generally, the Witness seemed to have no difficulty following proceedings and was able to answer most questions put to him. His testimony appeared to be largely consistent with his prior statements. When the Witness could not answer a question, he usually explained that this was because of his low rank, or that he could not recall because of the length of time that had passed.

B. Summary of Testimony by Expert Witness Ysa Osman

This week Expert Witness Mr. Ysa Osman returned to conclude the testimony he began in February 2016 on the treatment of the ethnic Cham.¹¹ Last month, the Prosecution and the Civil Parties put questions to the Expert Witness regarding academic research he had conducted about the history of Cham people, Cham identity and the treatment of Cham people during the DK. This week the Defense Teams, sought to challenge that evidence, focusing largely on the reliability of his research methodology.

1. Academic Background and Qualifications of the Expert Witness

Taking aim at the academic background and training of the Expert Witness, Defense for Nuon Chea drew the Court's attention to the fact that the Expert Witness held a Bachelor of English Literature and did not hold any specific qualifications in demographics or history. Mr. Osman was frank about his qualifications, and explained that he had learned from mentors and taken short courses as part of his research and learned his research methodology "on the job". He added that any criticism the lawyer had about his practices should go to the director of DC-Cam, as the Witness was following DC-Cam procedure.

2. Third Book Written by the Expert Witness

Defense Counsel for Victor Koppe questioned the Witness about a third book he wrote, called *Navigating the Rift*, and asked why the Witness had failed to mention that he had written this book in addition to *Oukoubah* and *The Cham Rebellion*. Ysa Osman responded that he had only been asked previously about which books he had written about the DK period specifically, and that *Navigating the Rift* was about mixed marriages of Cham and Khmer people after the DK regime ended. Counsel Koppe tried to argue that there were three paragraphs in *Navigating the Rift* that covered DK and that therefore the Witness should have disclosed the existence of this book, but ultimately the contents of these paragraphs were not used to question the Expert in any way.

3. Questions over Research Methodology

In relation to the research conducted by the Expert, Counsel Koppe asked what steps the Expert had taken to verify the information provided to him in interviews or to ensure the sample size was representative, to which the Expert responded that it would have been "impossible to interview hundreds of thousands of people." He added that his research was limited to Krouch Chhmar and Kang Meas Districts, although he believed the research to be representative of those areas. Defense Counsel Koppe also questioned the Expert in detail about his estimates of the population of Cham people living in Cambodia before and after DK. The line of questioning was peppered with objections from the Prosecution and Civil Party lawyers who disagreed with the way Mr. Koppe was characterizing the different arguments from Michael Vickery and Ben Kiernan about the population. In response Ysa Osman stood by his demographic estimate, stating: "I presented all the figures by other researchers as well as by others so that they can make their own decision."

Another point raised about the Expert's research methodology was that he had not been able to locate any contemporaneous DK documents that outlined a policy toward the Cham, however he nonetheless concluded that such a policy had existed. The Witness explained that people he had interviewed, particularly Sos Kamry and Saleh Ahmad,¹² had said they had seen such documents during DK and so it seemed likely that the documents had been destroyed or hidden since the fall of the regime.¹³ Defense Counsel for Khieu Samphan questioned the Witness about why he chose not to conduct any research into the 1962 French census, believed to be the last census to be conducted in Cambodia prior to the DK period. Ysa Osman responded that people he interviewed told him that the census was unreliable and he did not see a need to revisit the document. He asked Counsel to explain to him why she believed the census was reliable when many people he had interviewed told him it was not.

4. Treatment of the Cham and Crackdown on Cham Rebellions.

The Expert testified that in 1977, the Cham people began to be treated as an enemy. He explained that in the latter half of 1978, Central and Southwest Zone cadres were sent to the East Zone and put in administrative positions, after which the Cham population in the East Zone was told they would be sent to their birth villages to reconnect with their families. The Expert

said this had been a pretext to execute the Cham people. Counsel Koppe asked the Witness about what he knew of the FULRO and White Khmer rebel movements. When the Witness responded that he had not studied either topic in great detail, the Defense queried this, asking why he had avoided the topic considering that “a substantial number of Cham people talk about Cham involvement in the White Khmer.” The Expert responded that he had not considered this topic worth further research because to him it appeared to be a baseless allegation: “Some Cham were victims of being accused of [being] White Khmer, same as those accused of being CIA, KGB and Vietnamese. I did not need to do research on that. That was the pretext to kill the Cham.” The Witness testified that although some Cham people had been in positions of power during DK, such as Mat Ly, this did not mean that the population was not targeted. Defense Counsel Guisse pointed out that a previous Witness had differentiated between Cham people of “good” and “bad” backgrounds, saying only those with bad backgrounds were targeted, however the Expert clarified that in his opinion Cham people were only ever promoted so that they could be used by the regime to monitor other Cham people in the villages, and that no such distinction was made.

Ysa Osman was also questioned about the Cham rebellions that took place in Trea, Svay Khleang and Koh Phal villages in Krouch Chhmar District in late 1975—a topic discussed in his academic work. The Expert explained that troops from Sector 21 were sent to crush the rebellions. He added that he did not know the names of people responsible for crushing the three Cham rebellions, other than that the orders came from Sector 21. The Expert said that, based on his interviews in Krouch Chhmar District, after the Svay Khleang rebellion, those Cham who had fought the KR were sent to Krouch Chhmar Security Center. He said that the Center was too small to accommodate all of those sent there, and so some were housed in schools and pagodas nearby. The Witness said that his knowledge of this period is based on second hand interviews because he: ‘Tried to search for surviving witnesses from the suppression or those who did the suppressing but it was hard to find any.’

5. Expert Witness Demeanor and Credibility

The Witness responded to questions consistently this week, defending his research and conclusions made therein when questioned by the Defense Teams. When asked about possible alternative explanations to his research findings, the Witness did not waiver, at one point telling Counsel Koppe: “I think your question is your personal conclusion.” The Witness became somewhat defensive when his research was questioned, as was evident when he directed criticisms of his methodology to the director of DC-Cam. When asked repetitive questions by Counsel Guissé on Thursday, the Expert appeared agitated, saying: “Counsel has not has believed what I said. That is why I am forced to expand further beyond my expertise.” He remained steadfast when Counsel Koppe implied that he had concealed additional material published on the Cham, explaining that he had followed the Court’s instructions to disclose material he had written about the DK period specifically. Ultimately Mr. Ysa Osman stood by the quality of his research and said that any inconsistencies between in-court testimony provided by people he had previously interviewed was the result of the amount of time that had passed since the events in question, not due to any lack of diligence on his part.

III. LEGAL AND PROCEDURAL ISSUES

A number of legal and procedural issues were raised this week; including the use of torture-tainted evidence during questioning by Defense Counsel for Nuon Chea and requests by the Prosecution and Nuon Chea Defense team to admit three new witnesses and a Civil Party in relation to the Phnom Kraol Security Center.

A. Requests to admit new Witnesses and Civil Party in relation to Phnom Kraol Security Center

On Monday morning the Trial Chamber heard submissions on the OCP's request to hear one additional Civil Party, 2-TCCP-1016, and one witness, 2-TCW-1017, related to Phnom Kraol Security Center. International Deputy Co-Prosecutor Dale Lysak stated that the testimony of the newly proposed witness and Civil Party was highly relevant to the segment in Case 002/02. He also argued that it was important to substitute these two new individuals to replace three proposed witnesses who had passed away. National Civil Party Lead Co-Lawyer Pich Ang and the Nuon Chea Defense team supported the OCP's request.

International Co-Lawyer for Khieu Samphan, Anta Guissé argued that the request would cause 'tardiness' and 'disruption' to the schedule. She also held that the proposal put her team into a difficult position to prepare for cross-examination and pointed to instances where witnesses called at short notice had in fact been called by mistake.¹⁴ Ms. Guissé argued that the Prosecution's request did not satisfy the criteria for an Internal Rule 87(4) request; that the information be unavailable prior to the start of the trial and be instrumental in ascertaining the truth in Case 002/02 and accused the Defense of unnecessarily delaying proceedings. Mr. Lysak responded to this by pointing out instances when the Khieu Samphan Defense team had delayed proceedings.

On Wednesday the Trial Chamber heard submissions on the Nuon Chea Defense team's request to admit an additional witness, also in relation to the Phnom Kraol security. Counsel Koppe explained that while they proposed to call the witness only in relation to Phnom Kraol, the individual would also have information pertaining to Aug Kanseng and Vietnamese incursions into Northeast Zone from 1976. There were no objections from other Parties and the Trial Chamber will make a decision in relation to the Prosecution and Defense' requests in due course.

B. Expert Witness's Reluctance to Respond to Questions about Sector 21 Cadres

On Thursday Counsel Koppe asked the Expert Witness a number of questions about the Cham rebellions in Koh Phal and Svay Khleang that took place in September and October 1975. The Expert testified that District forces first quelled the rebellions and then forces from Sector 21 arrived to reinforce the district level troops. However when Mr. Koppe moved to question the Witness about wider Sector 21 and East Zone structures, particularly whether current high-ranking CPP politicians Ouk Bunchhoeun, Heng Samrin or current Prime Minister Hun Sen had been involved in suppressing the rebellions, the Expert said he would prefer not to answer. Mr. Koppe stated: "I don't believe he is allowed to say 'I don't want to answer this question' as long as it doesn't impede on Cases 003 and 004, which I believe it doesn't." Mr. Koppe then asked the Witness whether he would prefer to move the subject to a closed session. After the Bench deliberated for a few minutes the President advised the Witness that he had to respond to the question, although clarified that: "The Chamber cannot force you to give responses beyond the realm of your expertise and knowledge," and also advised the Expert Witness that he did not need to put himself "in the hot seat." The Expert then responded that he did not know who had been involved from Sector 21 and that if the Defense wanted to know, they should ask those CPP senators themselves, to which Mr. Koppe responded that it was "his favorite hobby" to try to do so. Defense Counsel moved on from the topic, adding "If I were you I probably wouldn't answer either:" a comment that drew an objection from the Prosecution.

C. Role of Duty Counsel During Examination of Witness

Anonymous Witness 2-TCW-900 testified with the assistance of Duty Counsel Mr. Mam Rithea on Monday and Tuesday this week. Pursuant to Internal Rule 28, the Trial Chamber has issued directions in relation to witnesses who may be at risk of self-incrimination, including the

appointment of duty counsel during their examination.¹⁵ As this Witness's testimony was given via video-link, it was not possible to see the Duty Counsel, although he was sitting next to the Witness. On Tuesday, President Nil Nonn had to remind Mam Rithea about his role as Duty Counsel. First, when the Witness was asked a question about what happened to a group of Jarai allegedly brought to Au Kanseng Security Center, Mam Rithea interjected before 2-TCW-900 had a chance to respond, saying: "This question is to incriminate my client so my client cannot respond." The President reprimanded Mam Rithea, reminding him that he had to first consult with his client and then take his instruction, not speak for him. A few minutes later when Counsel Koppe was still asking the Witness about the Jarai, Parties could hear Mam Rithea speaking to the Witness off-camera while a question was being asked. President Nil Nonn again reminded Mam Rithea about his role, telling him that consultations with his client should be done in private, with the microphone switched off, and should only concern the possible self-incrimination of the Witness. Nil Nonn said: "You have been working as a duty counsel so long, you should understand your role."

D. Use of Potentially Torture-Tainted Evidence

During the testimony of both Witness 2-TCW-900 and Expert Witness Ysa Osman, the issue of torture-tainted evidence arose during questioning by Victor Koppe. On Tuesday, Counsel Koppe attempted to use statements made by one of the Witness's supervisors at Au Kanseng, Chhaom Se, and his wife Sopheap to question the Witness, however Deputy Prosecutor Vincent de Wilde objected on the basis that the statement was based on information gained through reading an S-21 confession. He argued that since the two individuals giving the statement had based their knowledge on confessions, the Defense was therefore prohibited from using the statement at all in accordance with the Trial Chambers' recent ruling on the use of evidence obtained through torture.¹⁶ The Trial Chamber considered the issue during the lunch break on Tuesday, and on returning they ruled that the document could be used. Judge Lavergne explained the Bench's decision, saying that although their decision did prohibit the use of information obtained under torture, on this occasion the Chamber could not determine with certainty that Chhaom Se and Sopheap had based their statements upon such information. He said it was impossible to establish from the way the statement was written which parts were based on information from S-21 and which parts came from other sources, and allowed Counsel Koppe to use of the document.

A similar issue arose during Mr Koppe's questioning of Expert Ysa Osman. Counsel Koppe used a "confession" from Krouch Chhmar Security Center to question the Witness. He argued that the Trial Chamber's Decision listed security centers where torture was believed to have been used and Krouch Chhmar was not on that list, rendering it possible to use the document. After deliberation between the Trial Chamber judges, Judge Fenz explained that the Chamber considers that the practice of torture was generalized and applied to all Security Centers, including Krouch Chhmar. For this reason, it was presumed that the confession was obtained under torture, and the document was not allowed.

E. Scheduling of Upcoming Witnesses

On Friday the Defense for Nuon Chea requested what they referred to as "a mini trial-management section" to discuss scheduling of upcoming witnesses in the segment on security centers and internal purges. The Defense Team had two main requests: 1) that all testimony on S-21 Security Center be scheduled after the Phnom Kraol and Au Kanseng Security Centers and 2) that this testimony be postponed until after the upcoming Khmer New Year break. The Defense cited human resources limitations and the need for adequate time to prepare their defense. They also specifically requested that S-21 witness 2-TCW-916 be called last, as he is "the most important witness" and more time would be needed to prepare for his appearance. The Khieu Samphan Defense team concurred with the Nuon Chea Defense, adding that they were also "struggling to prepare" for the hearings. The Prosecution opposed any delay, adding

that: “As long as you are not calling someone, there is always a risk that something happens.” The LCLCPs agreed with the OCP and the Trial Chamber will issue a decision in due course.

IV. TRIAL MANAGEMENT

The Trial Chamber successfully held four days of hearings this week, completing the testimony of one fact Witness and one Expert Witness. Witness 2-TCW-900 testified via video-link under a pseudonym due the ongoing investigations into Cases 003 and 004.

A. Attendance

Nuon Chea waived his right to be present in the courtroom and observed proceedings from the holding cell all week while Khieu Samphan was present in the courtroom during all sessions. Witness 2-TCW-900 was assisted by duty counsel Mr. Mam Rithea and WESU staff member Mr. Nhaem Samnang in Oddar Meanchey province. Ms. Julie Bardeche, a legal officer for the Office of the Co-Investigating Judges was also appointed by the Trial Chamber to accompany Expert Witness Ysa Osman due to the interest of the OCIJ to maintain the confidentiality of the investigation into Case 004.

Judge Attendance: All judges were present in the courtroom throughout the week.

Civil Parties Attendance: Approximately ten Civil Parties observed proceedings from inside the courtroom every day this week.

Parties: Mr. Kong Sam Onn, national Defense Counsel for Khieu Samphan was absent on Thursday due to a personal commitment. Also Ms. Touch Vorleak, national standby Counsel for Khieu Samphan, was late on Monday morning due to problems with traffic.

Attendance by the public:

DATE	MORNING	AFTERNOON
Monday 21/03/2016	<ul style="list-style-type: none"> Approximately 150 students from Kampong Speu High School, Chbar Mon City, Kampong Speu Province One foreign observer 	<ul style="list-style-type: none"> Approximately 150 students from Kampong Speu High School, Chbar Mon City, Kampong Speu Province
Tuesday 22/03/2016	<ul style="list-style-type: none"> Approximately 200 students from Sokha Phaly High School, Chbar Mon City, Kampong Speu Province Six foreign observers 	<ul style="list-style-type: none"> Approximately 200 students from Sokha Phaly High School, Chbar Mon City, Kampong Speu Province Six foreign observers
Wednesday 23/03/2016	<ul style="list-style-type: none"> Approximately 200 villagers from Tuek Chhu District, Kampot Province Seven foreign observers 	<ul style="list-style-type: none"> 188 villagers from Tuek Chhu District, Kampot Province Six foreign observers
Thursday 24/03/2016	<ul style="list-style-type: none"> Approximately 300 students, two teachers, three monks from Svay Rieng High School, Svay Rieng District, Svay Rieng Province Two foreign observers 	<i>No observers</i>

B. Time Management

This week the Trial Chamber effectively managed its schedule to conclude the testimonies of one Witness and one Expert Witness over the course of four days. At one stage, Counsel Koppe requested that an ‘in-camera’ session be held to allow him to use statements made by an anonymous witnesses, however after a lengthy discussion the Defense team decided against using the statements, meaning that no closed sessions were needed.¹⁷ All Parties were granted an additional 25 minutes to question Expert Ysa Osman due to interruptions during questioning.

C. Courtroom Etiquette

This week there was some tension in the courtroom during the questioning of the Expert Witness. Although objections and interruptions were frequent, in general all Parties conducted themselves professionally and there were no significant breaches of courtroom etiquette.

D. Translation and Technical Issues

Some minor delays and technical difficulties were observed due to the testimony of Witness 2-TCW-900 provided via video link, however, these were resolved quickly and did not affect the efficiency of proceedings. Trial monitors also noted several false interpretations including confusion between “sector 41” to “sector 21” during Counsel Nuon Chea’s examination of the Expert Witness and several other instances where the terms were incorrectly interpreted from English to Khmer.¹⁸

E. Time Table

DATE	START	MORNING BREAK	LUNCH	AFTERNOON BREAK	RECESS	TOTAL HOURS
Monday 21/03/2016	9:02	10:11-10:31	11:31-13:30	14:41-14:58	16:05	4 hours 27 minutes
Tuesday 22/03/2016	9:01	10:14-10:31	11:35-13:31	14:43-15:05	15:58	4 hours 22 minutes
Wednesday 23/03/2016	9:01	10:15-10:36	11:36-13:31	14:44-15:05	16:07	4 hours 29 minutes
Thursday 24/03/2016	9:02	10:09-10:30	11:35-13:31	14:42-15:01	15:40	4 hours 1 minute
Average number of hours in session				4 hours and 19 minutes		
Total number of hours this week				17 hours and 19 minutes		
Total number of hours, day, weeks at trial				610 hours and 51 minutes		
166 TRIAL DAYS OVER 48 WEEKS						

*This report was authored by Sinvutha Heng, Melanie Hyde, Nicholas Maycock, Caitlin McCaffrie, Visot Nom, Lina Tay, and Penelope Van Tuyl as part of the KRT Trial Monitoring and Community Outreach Program. KRT Trial Monitor is a collaborative project between the East-West Center, in Honolulu, and the WSD HANDA Center for Human Rights and International Justice at Stanford University (previously known as the UC Berkeley War Crimes Studies Center). Since 2003, the two Centers have been collaborating on projects relating to the establishment of justice initiatives and capacity-building programs in the human rights sector in Southeast Asia.



Unless specified otherwise,

- ☐ the documents cited in this report pertain to the *Case of Nuon Chea and Khieu Samphan* before the ECCC;
- ☐ the quotes are based on the personal notes of the trial monitors during the proceedings;
- ☐ the figures in the *Public Attendance* section of the report are only approximations made By AIJI staff; and
- ☐ photos are courtesy of the ECCC.

Glossary of Terms

Case001	<i>The Case of Kaing Guek Eavalias "Duch" (CaseNo.001/18-07-2007-ECCC)</i>
Case002	<i>The Case of Nuon Chea, Ieng Sary, Ieng Thirith, and Khieu Samphan</i>
	(CaseNo.002/19-09-2007-ECCC)
CPC	Code of Criminal Procedure of the Kingdom of Cambodia (2007)
CPK	Communist Party of Kampuchea
CPLCL	Civil Party Lead Co-Lawyer
DK	Democratic Kampuchea
DSS	Defense Support Section
ECCC	Extraordinary Chambers in the Courts of Cambodia (also referred to as the Khmer Rouge Tribunal or "KRT")
ECCC Law	Law on the Establishment of the ECCC, as amended (2004)
ERN	Evidence Reference Number (the page number of each piece of documentary evidence in the Case File)
FUNK	National United Front of Kampuchea
GRUNK	Royal Government of National Union of Kampuchea
ICC	International Criminal Court
IR	Internal Rules of the ECCC Rev.8 (2011)
KR	Khmer Rouge
OCIJ	Office of the Co-Investigating Judges
OCP	Office of the Co-Prosecutors of the ECCC
VSS	Victims Support Section

¹ The confidentiality of witnesses in ongoing investigations is ensured in Internal Rule 56(1): see Extraordinary Chambers in the Courts of Cambodia. “Internal Rules (rev.9)” (16 January 2015). More detailed reasons for the current practice of maintaining Case 003 and 004 witness confidentiality during Case 002/02 can be found in: Trial Chamber “Decision on International Co-Prosecutor’s Request to Admit Documents Relevant to Tram Kok Cooperatives and Kraing Ta Chan Security Center and Order on Use of Written Records of Interview from Case Files 003 and 004” (24 December 2014) E319/7.

² For a summary of YSA Osman’s earlier testimony, see CASE 002/02 KRT TRIAL MONITOR, Issue 43, Hearings on Evidence week 40 (9-10 February 2016) pp. 1-5.

³ Witness 2-TCW-900 appeared via video-link from Oddar Meanchey Province and was questioned under a pseudonym in the following order: President NIL Nonn; senior assistant prosecutor Vincent DE WILDE D’ESTMAEL; Civil Party lawyer CHET Vanly; international co-counsel for Nuon Chea, Victor KOPPE; international co-counsel for Khieu Samphan, Anta GUISSSE; national co-counsel for Khieu Samphan, KONG Sam Onn.

⁴ The Witness acknowledged an error in his book where he assumed that a telegram addressed to “Brother Khiev” was addressed to Khieu Samphan, whereas in fact this was the revolutionary alias of Son Sen. This issue was already addressed when the Witness first came to testify and the Witness said this one error should not lead Parties to doubt the accuracy of other parts of his book

⁵ In DK terminology in each division there was a Secretary, Deputy Secretary and member. Sometimes there was also a deputy member.

⁶ Of the nine guards, 2-TCW-900 could recall the names of six: Lay, Chuob, Nob, Ta Auy, Chan and Set.

⁷ During DK the term “union” was the name given to villages containing solely workers.

⁸ Previously Witness PHAN Thol (2-TCW-867) testified before the Chamber that he was arrested in his “union” while he worked on a rubber plantation in Ratanakiri and taken to Au Kanseng. For a summary of his testimony, as well as the testimony of his ex-wife, see CASE 002/02 KRT TRIAL MONITOR, Issue 45, Hearings on Evidence week 42 (29 February – 3 March 2016) pp. 6-10.

⁹ Witness PHAN Thol also testified to smelling decomposing bodies in a dirt-covered B-52 crater near a jackfruit plantation at Au Kanseng: see CASE 002/02 KRT TRIAL MONITOR, Issue 45.

¹⁰ The Witness also said “guards carried phones to shock the [Jarai] prisoners. They used the kind of phones to electrocute the prisoners.” This statement remained unclear and the use of phones to electrocute Jarai prisoners was not elaborated on any further.

¹¹ This week Expert Witness Mr. YSA Osman (2-TCE-95) was questioned in the following order: international defense co-counsel for Nuon Chea, Victor KOPPE; international defense co-counsel for Khieu Samphan, Anta GUISSSE; international co-prosecutor Nicholas KOUMJIAN; international defense co-counsel for Nuon Chea, Victor KOPPE; international defense co-counsel for Khieu Samphan, Anta GUISSSE.

¹² Saleh Asmat is the birth name of VAN Mat who testified in Case 002/02 about the treatment of the Cham. For a summary of his testimony see CASE 002/02 KRT TRIAL MONITOR, Issue 46, Hearings on Evidence Week 43 (7-11 March 2016), pp. 3-5.

¹³ Counsel Koppe also questioned Ysa Osman about his interviews with former Second Secretary of the CPK, Mat Ly, who was a Cham man who defected from the CPK in May 1978. Mr. Koppe asked why the Witness believed there were documents that existed outlining a policy to target the Cham if Mat Ly, who had been a high ranking cadre, never mentioned such documents during interviews. Ysa Osman suggested such documents may have been concealed from Mat Ly at the time because he was Cham himself.

¹⁴ The Example given was of Witness EN Yoeun (2-TCW- who testified in February 2016 however during her testimony in court it became clear that she was not the same individual whose statement had been recorded by DC-Cam. For a summary of her testimony see CASE 002/02 KRT TRIAL MONITOR, Issue 42, Hearings on Evidence Week 39 (1-3 February 2016), pp. 5.

¹⁵ See Trial Chamber, “Directions pursuant to Internal Rule 28 (right against self-incrimination)” (10 May 2012) E193. For a summary of the role of a duty counsel see CASE 002/01 KRT TRIAL MONITOR, Issue 20, Hearings on Evidence Week 15 (23-26 April 2012), pp. 10

¹⁶ Trial Chamber, “Decision on Evidence Obtained Through Torture” (5 February 2016) E350/8.

¹⁷ Counsel Koppe requested the closed sessions as the Expert was entering the room to begin his testimony. Judge Lavergne seemed exasperated by the request, saying, in English “Why are you asking this now?” Ultimately the Defense chose to focus on different areas of questioning that did not rely on the confidential statements and so a closed session was not necessary.

¹⁸ The following false translations from English to Khmer were noted: “1976-1977” to “1976 upward”, “People’s Republic of Kampuchea” to “Khmer Republic regime”, “tardy” to “complicated”, “regiment” to “division.”