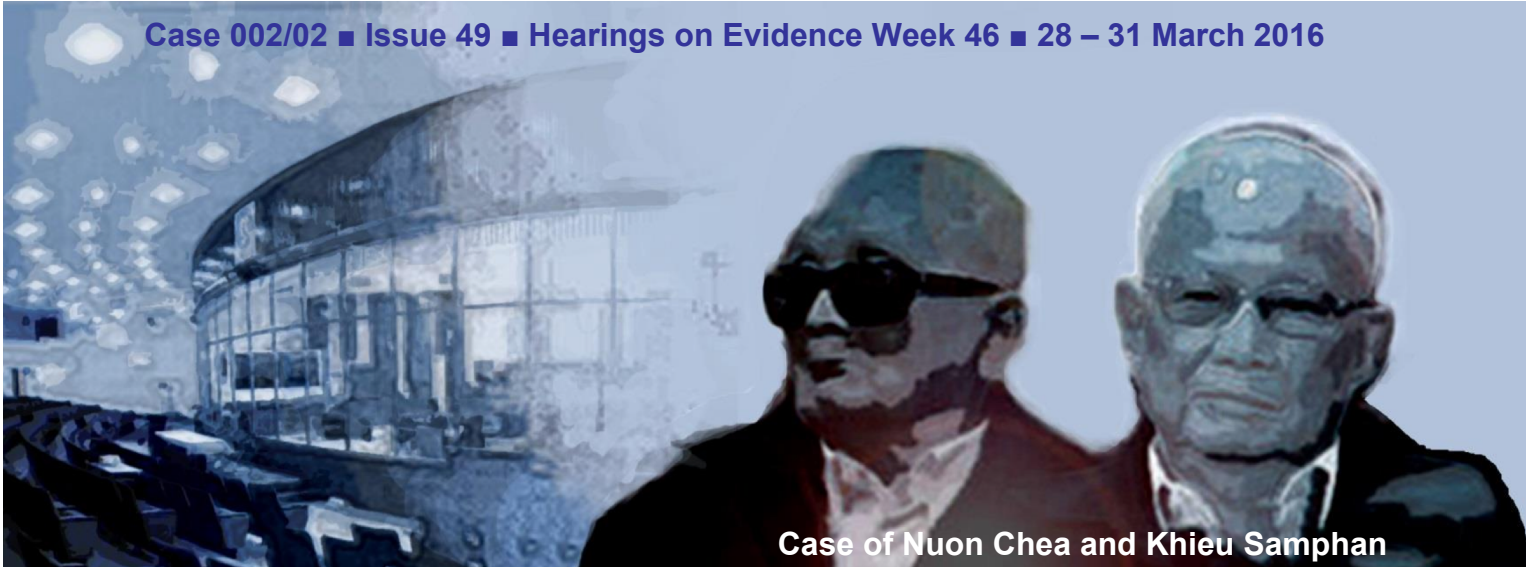


# KRT TRIAL MONITOR

Case 002/02 ■ Issue 49 ■ Hearings on Evidence Week 46 ■ 28 – 31 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)

*“To my observation, Pol Pot did not believe in those confessions.  
Those who confessed overstated the facts.  
Confessions were unsubstantiated and unreliable.”*

- Witness Sao Sarun

## I. OVERVIEW

This week the Trial Chamber successfully heard two witnesses and one Civil Party in the Case 002/02 segment on security centers and internal purges. All three people were called to testify on the Phnom Kraol Security Center, but also provided evidence on a range of other issues. First Witness Bun Loeng Chauy testified about his role as a combatant during the Democratic Kampuchea (DK) regime and discussed the fate of his relatives who were sent to the Phnom Kraol Security Center. Next, Witness Sao Sarun, the former Secretary of Sector 105 in Monduliri Province, testified via video-link from Trapeang Prasat District, Oddar Meanchey Province. Sao Sarun has previously testified in Case 002/01 in relation to Au Kanseng Security Center.<sup>1</sup> Finally Civil Party Sun Vuth testified about his detention at Phnom Kraol Security Center and the loss of his parents, siblings and other relatives during the DK regime.

## II. SUMMARY OF WITNESS AND CIVIL PARTY TESTIMONY

The Trial Chamber heard testimony from two individuals in court and one via video-link this week, all of whom testified about the Phnom Kraol Security Center which was located in Koh Nhek District, Monduliri Province. The first witness, Bun Loeng Chauy, was a former low-level combatant in Monduliri Province. The second witness to testify, Sao Sarun appeared via video-link and gave evidence about his knowledge of Phnom Kraol Security Center, which he confirmed was under the control of Sector 105 during DK. Finally, Civil Party Sun Vuth testified about his experience detained at Phnom Kraol and his personal suffering.

### A. Summary of Testimony by Bun Loeng Chauy

The first witness to testify this week was 63 year-old Bun Loeng Chauy, from Koh Manheuk Village, Peam Chimeat Commune, Koh Nhek District, Monduliri Province.<sup>2</sup> The Witness testified over one and a half days about the Phnom Kraol Security Center as well as arrests of Sector 105 cadres that took place while he was working at Ro Yar worksite.

## **1. Witness Background and Role During DK**

Witness Bun Loeng Chauy testified to joining the resistance in May 1968, describing himself as an “ordinary combatant” and clarifying that he had never been a member of the Communist Party of Kampuchea (CPK). He testified that Mondulkiri came under the control of the KR in June 1970, and that in 1975 he became a member of the youth league and was appointed as the Chief of a group of five or six people.<sup>3</sup> He said that after the fall of Phnom Penh he became Deputy Chief of the District Office, and was appointed to be the bodyguard of his uncle Ka Sy, the District Secretary of Keo Sema in Mondulkiri Province.<sup>4</sup> The Witness recalled that there were five people in the Keo Sema District Committee, specifically identifying Ka Sy, his Deputy Chenda, First Member Kong and Second Member Kham. His own role as Deputy Chief comprised overseeing workers to build a dam and occasionally supervising workers in the rice fields. Bun Loeng Chauy maintained that he was a low level combatant and had no authority to carry out arrests. In addition to his role as Deputy Chief of the District Office, the Witness said he had also served as a bodyguard for District Secretary Ka Sy until his superior was arrested on 22 February 1977. He said that after Ka Sy was arrested he was sent to “a security center in Koh Nhek.”<sup>5</sup>

## **2. Witness’s Arrest and Transportation to Ro Yar Worksite**

The Witness said that, although he was not present at the time to witness it, he later heard from a relative that his uncle, Ka Sy, was arrested on orders from the Sector Secretary because he failed to report a member of his district to the upper echelon for committing “an immoral offense.” Bun Loeng Chauy said that Ka Sy was first demoted, disciplined and monitored, then finally arrested. The Witness said that two days later, he was also arrested and joined his uncle at K-16, which was under the control of the Deputy Chief of Sector 105. Bun Loeng Chauy told the Court that he was arrested because of his association with Ka Sy, however said he did not know of any infraction committed by his uncle. The Witness said that after he was arrested he remained at K-16 for two or three months, after which he was sent to Ro Yar worksite (also known as K-37) in Koh Nhek District. He said that Ka Sy did not accompany the Witness to Ro Yar worksite, and that after he left K-16 he never saw his uncle again, and presumed that he had been killed.

The Witness described Ro Yar worksite as being situated under Phnom Kraol Mountain and about eight kilometers from K-17, which was the Office of Sector 105.<sup>6</sup> K-16 and K-17 offices were approximately two kilometers apart, both in the Au Chambar area. Bun Loeng Chauy said that at Ro Yar he was assigned to work in agricultural production, and named Chan Thorn as head of commerce and Kham Phy as in charge of the worksite. The Witness said that he was not considered “under arrest” while at Ro Yar, saying he was neither tied up nor chained. He said he remained at the worksite from June until December 1978, at which time he was hospitalized due to a leg injury that prevented him from walking. He said he remained in hospital until the Vietnamese invaded on 7 January 1979.

## **3. Arrests of Workers at K-16 and Ro Yar Worksite**

The Witness testified that a group of 18 men fled from Office K-16 in mid to late 1977, possibly in August.<sup>7</sup> This was information the Witness heard from others, because at the time he had already been moved from K-16 to work at Ro Yar. He said the group was somehow connected to Ka Sy and had fled soon after he was arrested, presumably in fear for their lives. After these men fled, their wives and children were arrested. The Witness said he did not know why the women and children were arrested, but concluded that it was due to the actions of their husbands and fathers.<sup>8</sup> Bun Loeng Chauy said that he did not know what happened to these women and children, however when shown an S-21 prisoner list he was able to identify a few of the women who were part of this group. The Defense challenged the Witness’s conclusion,

suggesting that the women were in fact combatants who had been arrested in their own right. The Witness responded that he did not know the reason since he was not there at the time of arrest, but added: "Usually in the Khmer Rouge period when a father was arrested and killed the children were arrested too."<sup>9</sup>

Bun Loeng Chauly also testified about two instances he recalled where arrests took place while he was working at Ro Yar worksite. He explained that troops from the Sector arrested a small number of people shortly after the deaths of Kham Phoun and Ta Ham (alias Laing). He said he had been told that the people arrested all had a connection to Ta Choun. Of the small number arrested, he could recall the names of Chien, Moeun, Suong, Phim, Yorn and Phan. The Witness also testified that later, while he was still working at Ro Yar worksite, a much greater number of people who were connected to Ka Sy were arrested and taken away in trucks. He said that a guard told him that about 80 people accused of having a connection to Ka Sy had been arrested. Despite being Ka Sy's nephew, Bun Loeng Chauly was not taken away and stated that he was not directly relate to anyone who had been taken away.

#### **4. Phnom Kraol Security Center**

There was initially some confusion over whether the security center the Witness was referring to was the same Phnom Kraol Security Center described in the Case 002/02 Closing Order.<sup>10</sup> The Witness was asked how many security offices he was aware of in Sector 105 during the DK period and he responded that he only knew of one located close to Office K-11, but could not remember its official name. He said that in addition to this security center there was also one "reeducation center in Sector 105, located in Norng Kaloek, used to detain people who had committed "moral offenses." Bun Loeng Chauly also mentioned a third site used to detain former Lon Nol soldiers, in Peam Chimeat Commune, which he described as "another worksite, not yet a security center." After this explanation, questioning proceeded on the basis that the security center the Witness recalled close to K-11 was the Phnom Kraol Security Center.

The Witness told the Court that "heavy prisoners" were sent to Phnom Kraol, and most sent there did not survive. He said that some of his neighbors and relatives were detained there, including his uncle Ka Sy. He said of all his relatives sent to Phnom Kraol, only his "in law named Vieng" survived. He suggested that the rest had been killed, although he had no first hand knowledge of their fates. When asked to describe the appearance of the Security Center, Bun Loeng Chauly said that the building was perhaps big enough for 100 prisoners and was made of bamboo, surrounded by a fence. He said the prison was near Ta Sot dam. He based this knowledge of what he had seen as he walked past the center, but clarified that he did not have authority to enter at the time and had never been inside. The Witness said that a man named Phay, the first commander of O'rang District, was in charge of Phnom Kraol, under the ultimate command of Ta Sophea, who was a relative of the Witness's mother.

The Witness said that prisoners had told him that vehicles occasionally came to take prisoners away from the security center. He said that small groups were taken to Kratie Province nearby, however larger groups were taken further away. International Assistant Prosecutor Dale Lysak asked the Witness whether he knew of Trapeang Pring, which is alleged to have been the execution site for Phnom Kraol.<sup>11</sup> The Witness said that he knew of Trapeang Pring; that it was located 3-4 kilometers from the Ro Yar worksite and that he had seen earth bulldozed there but did not enter the vicinity. He thus could not confirm whether Trapeang Pring was an execution site. Rather, he said that in 1977 he had witnessed tractors digging pits about 100 meters from the side of the road and that a Sector 105 soldier named Bun, who was in charge of monitoring the Ro Yar worksite, told him that the pits were used to bury bodies.

#### **5. Treatment of the Targeted Groups**

The Witness said that after 17 April 1975 there were three main categories of people targeted

for arrest or execution in his sector. First: “new people” who had moved to Mondulkiri from Phnom Penh and were “not trusted,” second: former soldiers and officials from the Lon Nol regime,<sup>12</sup> and third: those who did not support the revolution; who did not like communal eating or the removal of private ownership. He said that initially these were the groups which were arrested, however later another group of people became the chief targets of the CPK: namely *Khmer Sor* (white Khmer) and those associated with the CIA, KGB or Vietnamese. He explicitly said that those associated with Vietnam were “the most important target.”

In terms of ethnic Vietnamese people living in Mondulkiri, the Witness said he believed most were killed prior to 17 April 1975 because he did not know of any in his region during DK and added: “If they were there, they did not live through the regime.” While he did not personally know of anyone who was ethnically Vietnamese, the Witness did say that anyone who was accused of having a relationship to Vietnam would be arrested. He explicitly identified Svay, Ka Sy’s replacement as Keo Sema District Secretary, as being suspected of having relations with Vietnam. Defense Counsel Koppe asked the Witness many questions about Vietnamese militarism on the border with Mondulkiri. The Witness said that there were clashes along the border in late 1977, however he maintained that it was the KR forces who attacked first, and the Vietnamese only responded to these attacks.

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

Throughout his testimony the Witness was clear and polite in his responses. His testimony did not unearth any internal inconsistencies, and he did not try to speculate on information that he did not know first-hand.

### **B. Summary of Testimony by Sao Sarun**

Witness Mr. Sao Sarun was the second witness to testify this week, and began after the lunch break on Tuesday. He testified over one full day via video-link from Thnal Kaeng Village, Pa Av Commune, Trapeang Prasat District, Oddar Meanchey Province.<sup>13</sup> Sao Sarun initially told the Court he was 92 years old, however it was later established that he was born in 1932, making him 84 years old this year. As the Witness had already given evidence in Case 002/01, he was not questioned at length on issues he had previously covered in that trial.

#### **1. Witness’s Role in CPK**

Sao Sarun told the Trial Chamber that he joined the KR in 1968 to fight “American imperialists” under the command of Laing (the alias of Sector 105 Secretary Ta Ham). He told the Court that in 1971 he was appointed District Secretary of Pech Chenda District in Mondulkiri Province, and later replaced Ta Ham as Sector Secretary of Sector 105. He gave conflicting testimony about the length of time he held the role of Sector Secretary, telling the Chamber that he was only in the position for two months before the Vietnamese liberation of January 1979, yet also referring to being appointed after Ta Ham’s death, which other witnesses claim took place in late 1977.<sup>14</sup> He told the court that during his time in both roles, he had very little autonomy, and was required to follow instructions from the Center. He emphasized that he was not involved in arrests or the deaths of prisoners while he was in these positions. Sao Sarun explained that Sector 105 was different from other Sectors, as they did not report through a zone but instead reported directly to the Central Committee.

#### **2. CPK Policies**

Sao Sarun gave evidence of what he heard when attending a meeting in April or May of 1975. The meeting was attended by senior CPK leaders including Pol Pot and Nuon Chea and took place near Olympic Stadium in Phnom Penh. He told the court that at this meeting it was announced that money would be reintroduced into circulation by 1980. He also said that there



was a plan announced to reopen the market and begin selling vegetables near the location of the current Central Market. Sao Sarun stated that the CPK leadership announced they planned to return evacuees and generally repopulate the city of Phnom Penh.

Sao Sarun testified that he “did not know much” about any CPK policy on forced or arranged marriage. He said he witnessed “one or two couples” who had marriages arranged during the DK regime, adding that: “It would not be possible to marry them according to the old tradition,” without expanding further. He said that he had heard that the KR were concerned by the small population of DK and that they therefore encouraged youths to marry and reproduce, but did not elaborate further.<sup>15</sup>

### **3. Purges in Sector 105**

Witness Sao Sarun was also questioned about purges that took place within Sector 105 in Mondulkiri during his time as both District and Sector Secretary there. The Witness denied that there were large-scale arrests at the time, or that entire families were arrested together with any individual cadre who was accused of betraying the CPK. Consistent with his earlier testimony in Case 002/01, the Witness claimed that, despite his relatively high rank, he had no knowledge of the procedures in place to arrest individuals from Sector 105. When asked about arrests of members of Kham Phoun’s network and the problems between Kham Phoun’s and Laing’s networks, he said he did not know anything about this because it was a complicated dispute, and explained that he had been District Secretary in Pech Chanda at that time and therefore did not know much about it.<sup>16</sup>

Sao Sarun said that during a meeting in 1977, Pol Pot read him a “confession” which implicated him, along with Ta Khun and Ta Laing, who had already been targeted in the purges of Sector 105. The Witness said that Pol Pot asked him whether the information contained in the “confession,” that Sao Sarun had committed treason, was accurate, and the Witness said he swore that it was not. After he was shown the “confession” there were no repercussions. Sao Sarun even testified that Pol Pot believed confessions were unreliable and unsubstantiated because people who gave them “overstated the facts.”

### **4. Vietnam’s Foreign Policy in Mondulkiri**

The Witness said that he knew of large-scale fighting and clashes between KR and Vietnamese troops along the Mondulkiri border with Vietnam during DK. He said he learnt of this through reports released by the Central Committee. Moreover he added that he witnessed Vietnamese attacks on the border first-hand, saying that Vietnamese forces ambushed DK troops in Mondulkiri, contradicting Bun Loeng Chauy’s earlier testimony that KR forces had attacked first. Sao Sarun said that he did not know the reason behind the Vietnamese attacks, however he speculated that Vietnam aimed to conquer Cambodian territory. He later expanded on his explanation, saying that the DK leaders knew that there was a clear policy in Vietnam to absorb Cambodia into the Indo-Chinese Federation. Sao Sarun said that although he had been warned to look out for “Vietnamese spies” he was unable to locate any in the Mondulkiri area.

### **5. Phnom Kraol**

As he had been called specifically to testify on Phnom Kraol, Sao Sarun was asked about his knowledge of the Security Center and about its function in the DK regime. He told the court that although he knew of the center’s existence, he was not aware of the tasks performed there or who was in charge. Sao Sarun was able to describe the location of Phnom Kraol in relation to offices K-11 and K-17, saying both were near the security center, with K-17 being within 200 meters of it. When asked about Sophea, his younger brother-in-law, and Meng, his younger brother, the Witness explained that their positions were primarily security based, but did not connect either to Phnom Kraol Security Center specifically. He said that Sophea was head of

K-11 and that this office was near Phnom Kraol.

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

Sao Sarun appeared confident when answering questions. He did appear to have difficulties remembering exact dates, which he explained, was due to his advanced age and the length of time that had passed since the events in question. Generally, the witness was able to follow proceedings and questioning, and did not need to ask for many questions to be repeated. At times the Witness seemed agitated by certain lines of questioning, particularly when confronted with documents that appeared to contradict his statements. As was the case during his previous testimony, the Witness continued to deny having any knowledge of procedures for arresting individuals from Sector 105 or any arrests and killings occurring during his time as either District or Sector Secretary.

## **C. Summary of Testimony by Sun Vuth**

Mr. Sun Vuth was the first Civil Party to testify in the segment on security centers and internal purges in Case 002/02.<sup>17</sup> He testified about his own experience and harm suffered under the regime, and gave testimony in relation to Phnom Kraol Security Center. At the end of his testimony Sun Vuth made a statement of suffering and asked two questions to the Accused.

### **1. Civil Party Background, Family and Position in Army**

Mr. Sun Vuth, a 59 year-old from Huos Village, Yieng Commune, Puok District, Siem Reap Province, testified to being a former soldier and messenger in the KR Revolutionary Army. He told the Chamber that he was “required by *Angkar*” to become a soldier in 1974, against his wishes. He said he was a soldier in Division 920, under the command of Ta Chhin, for whom he was also the personal messenger. Sun Vuth said he was appointed by Ta Chhin to lead Company 3 within Battalion 11, in early 1977, and was in charge of defending the Mondulkiri border with Vietnam.<sup>18</sup> He said that primarily this role involved setting up spikes and traps on the Cambodian side of the border to stop Vietnamese forces and “spies” from entering the country.

### **2. Arrest of Civil Party and Other Cadres from Division 920**

The Civil Party first told the Chamber about the arrest of his Division 920 superiors; commander Ta Chhin and his deputy Ta Soy, as well as Comrades Kol, Non and Yeng. He said he was told that these men had betrayed *Angkar*, and the DK regime, however he told the Chamber that he was not personally aware of any such betrayal. Sun Vuth described himself as a very loyal follower of *Angkar* and said that even after his superiors were arrested he never imagined that he would be a target of the regime, since he had never betrayed anyone. As a result, the Civil Party described his shock when he was arrested about one month after the arrest of Ta Chhin and Ta Soy.<sup>19</sup> He recalled that three people; Pheng, Bei and Say, from the Division Headquarters, had arrested him, then blindfolded and escorted to a detention center. He estimated that the detention site was about 500 meters away from the district office.

### **3. Conditions and Interrogations while Detained**

Although the Civil Party was called to testify on the Phnom Kraol Security Center, he was unable to conclusively confirm that the location at which he was detained was Phnom Kraol.<sup>20</sup> Sun Vuth told the Court that on arrival at the detention center he was taken immediately to a building about 10 meters long and 5-6 meters wide, containing three rooms. He said the Center was near a mountain and close to the Au Chbar stream.<sup>21</sup> He said that he was detained on his own for the first two days, after which he was joined in the room by two other prisoners. He explained that initially both his ankles and wrists were placed in wooden shackles, however he

said that later he was shackled by just one ankle and one wrist. The Civil Party said that he was not given any food during the first day of his imprisonment, but on the second day he was given a small amount of rice, which he described as “about the size of [his] wrist,” and some water.

The Civil Party testified that during his detention he was taken to a hut for interrogation, and was accused of betraying Angkar, and of being in the network of Ta Soy and Ta Chhin. He told the Court that he was tortured by electrocution, and that he was shocked so many times that he lost consciousness. Sun Vuth said when he awoke, he was shocked, passed out again, and was then beaten up by the guards. He said the guards threatened to kill him if he did not answer their questions truthfully, however he consistently told the guards he had done nothing wrong. The Civil Party said that he was interrogated two or three times, and that the interrogators came from Division 801, under the command of Ta 05, the alias of Sou Saroeun. The Civil Party was questioned by Defense Counsel for Khieu Samphan about why he had not mentioned this torture in his original Civil Party Application under the section on “bodily and psychological harm.” Sun Vuth said that he was never asked about torture when he was filling out his application and that was why he did not include it.

#### **4. Fleeing Detention and Fate of Family Members**

During his testimony, it was unclear for how long Sun Vuth had been detained. In his original Civil Party application he said he was detained for one year, then when questioned by the OCP he said it was for three months and ten days, and later said it was from mid-July 1977 for approximately five or six months. Defense Counsel for Khieu Samphan Anta Guissé tried to clarify this issue however the Civil Party was unable to respond with certainty.

While unable to specify the exact length of his detention, Sun Vuth was able to testify about the details of his escape. He said that one night he had a dream in which his parents told him he would be killed the following day, and so when he woke up he escaped, taking the two other prisoners detained along with him. He described the events of his escape rather vaguely saying that he managed to release himself from his shackles, and then help his fellow detainees release themselves before prizing open the locked door of their detention room with a metal bar and running 500 meters from the prison into the forest. When questioned by the Defense about how this story was possible, particularly when he had also testified that there were guards 10 meters away who slept through the escape, the Civil Party only said: “Maybe the spirit of my mother saved me.”

The Civil Party told the court that after he escaped detention in 1977 he remained in the forest until 1986. He said that upon his return he learnt that his father, mother, three of his siblings, and eight cousins and nieces, had all been arrested and killed by the regime in 1976. He told the court he could not understand why, and said that he felt angry and lost after being so loyal to *Angkar* throughout the DK regime.

#### **5. Arranged Marriages**

The Civil Party told the Chamber that he was aware of a DK policy on forced marriage. Sun Vuth told the Chamber that not all combatants were forced to be married, only those of a certain age. He said he himself was told a marriage had been arranged for him, with a woman named Nieu, however he said that he was able to convince the cadres that he was too young and did not want to get married. The Civil Party testified that he then attended the group marriage ceremony in which he was initially meant to take part. He said at this event seven other couples were married pursuant to instructions from *Angkar*. He explained that, after the ceremony, these couples were monitored to ensure that they consummated the marriage, and that the monitors would report on this to the upper echelon. He said that he heard if any couple refused to consummate their marriage, they would be sent for reeducation.

## **6. Treatment of the Vietnamese**

Sun Vuth was also asked about the relationship between DK and Vietnam, which the Civil Party described as changing over time. He said that initially, in 1975, the relationship between the two countries was friendly, and that the Vietnamese had even given support to the revolution in Mondulhiri. However, he explained that in 1976 sporadic fighting developed along the border, and in 1977 major clashes began. He said that a border dispute in which the Vietnamese claimed that they were the rightful occupants of territory allegedly within DK. He explained that the order came from *Angkar* to “smash” the Vietnamese forces in the region, and that the KR forces opened fire and attacked first. He explained that he and others in his Company were sent out to build spikes, pits and traps to prevent Vietnamese forces entering DK territory.

## **7. Civil Party Statement of Suffering**

At the end of his testimony, Sun Vuth made a short Statement of Suffering, in relation to the harms he suffered during DK. He said he had been a loyal soldier, following instructions and serving his nation, but that he was nevertheless arrested and accused of treason. He described being shocked and upset by the accusation of betraying *Angkar*, saying: “I sacrificed my life for the motherland and for the party.” He then asked the Accused for an explanation as to why he was treated badly after being so loyal to the regime. He also spoke about his relatives who were arrested and killed, describing his pain at learning of their fate. He asked why they had died when they had done nothing wrong. Neither Defense Team responded to the Civil Party’s Statement of Suffering.

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

This week no major legal issues were raised during proceedings. The Trial Chamber spent some time arranging procedural issues around upcoming witnesses to testify during the segment on security centers and internal purges.

### **A. Trial Chamber’s Response to Request to Call 2-TCW-1017**

On Wednesday the President announced that the Trial Chamber was rejecting the request to call witness 2-TCW-1017 who was requested to appear in relation to Phnom Kraol Security Center. After many attempts by WESU to contact this individual it became clear that the Witness had moved permanently to Thailand. After being unable to contact 2-TCW-1017, and deciding that making a formal request to the Thai Government would be too time-consuming, the Trial Chamber decided to reject the request to call this Witness.

### **B. Scheduling of Upcoming Witnesses in Segment on S-21**

The Chamber also addressed upcoming scheduling for the segment on security centers, particularly S-21 Security Center. Both Defense Teams requested more time to prepare for hearings on S-21, preferably until after the upcoming Khmer New Year break. The OCP and LCLCPs did not oppose the scheduling of S-21 witnesses until after the other two security centers, however they did protest to the delay, suggesting that if all other witnesses concluded testifying prior to Khmer New Year, the Chamber should begin the segment on S-21 in order to maximize trial time. After deliberating, the Bench decided to schedule all S-21 witnesses after the break. As yet only two witnesses are scheduled to testify next week.

In addition to general scheduling, the Trial Chamber also invited Parties’ oral submissions on the Nuon Chea Defense Request for additional time to question Witness 2-TCW-916 on S-21 Security Center. The Nuon Chea Defense posit that the allotted four days total for this Witness’s appearance would be insufficient as he is a fundamental Witness in this trial segment



and has provided thousands of pages of testimony already. The Defense team requested their questioning time be extended to four days, and also asked to clarify which team would be questioning the Witness first, as 2-TCW-916 had been requested by both sides of the Chamber. In addition, Counsel Koppe enquired whether any further documents would be disclosed by the OCP ahead of the appearance by this Witness. Defense Counsel for Khieu Samphan agreed with the Nuon Chea Defense request, adding that they too would like extra time however not as much as the Nuon Chea team, specifying that two days should be sufficient. The OCP expressed no objection to increasing the time allotted to Witness 2-TCW-916, saying they believed doubling the currently allotted four days to eight days in total should be sufficient, and noted that due to the Witness's advanced age and poor health it might be necessary to schedule him to appear only in the morning sessions. The OCP also requested clarification on which team would question the Witness first. The Trial Chamber will issue a ruling on the upcoming appearance of this Witness in due course.

#### **IV. TRIAL MANAGEMENT**

This week the Trial Chamber successfully heard the testimony of two witnesses and one Civil Party. One witness appeared via video-link from Oddar Meanchey Province.

##### **A. Attendance**

Due to poor health, Nuon Chea continued to waive his right to be present in the courtroom and observed proceedings from the holding cell this week, while Khieu Samphan was present in the courtroom during all sessions. Both witnesses testified with the assistance of a duty counsel this week. Ms. Sok Socheata was appointed as a Duty Counsel for Bun Loeng Chauy and Mr. Moeung Sovan was appointed as a duty counsel for Sao Sarun. Sao Sarun was also assisted during his testimony by Nhaem Samnang, a staff-member from WESU, who provided technical assistance for the video link from Oddar Meanchey Province.

**Judge Attendance:** This week national Judge You Ottara was absent in the afternoon sessions on Tuesday and for the rest of this week due to personal commitments. National Judge Thou Mony was appointed by the Chamber to take his place. All other judges of the Bench were present in the courtroom as usual this week.

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

**Parties:** All Parties were properly represented in the courtroom throughout the week.

##### **Attendance by the public:**

| DATE                  | MORNING   | AFTERNOON  |
|-----------------------|---|--|
| Monday<br>28/02/2016  | <ul style="list-style-type: none"> <li>Approximately 100 students from Oudong High School, Oudong District, Kampong Speu Province</li> <li>Seven foreign observers</li> </ul> | <ul style="list-style-type: none"> <li>Approximately 150 students from Veal Pong High School, Oudong District, Kampong Speu Province</li> </ul>                                      |
| Tuesday<br>29/03/2016 | <ul style="list-style-type: none"> <li>Approximately 100 students from Bun Rany Hun Sen Chan Thnal High School, Oudong District, Kampong Speu Province</li> </ul>             | <ul style="list-style-type: none"> <li>Approximately 150 students from Hun Sen Bat Deng High School, Oudong District, Kampong Speu Province</li> <li>One foreign observer</li> </ul> |

|                         |  |  |
|-------------------------|--|--|
| Wednesday<br>30/03/2016 | <ul style="list-style-type: none"> <li>▪ Approximately 150 students and two teachers from Svay Pak High School, Russei Keo District, Phnom Penh</li> <li>▪ One foreign observer</li> </ul>     | <ul style="list-style-type: none"> <li>▪ Approximately 50 students from Students Association-Scholarship of Samdech Techno Hun Sen and 150 Villagers from Suong District, Tboung Khmum Province</li> </ul> |
| Thursday<br>31/03/2016  | <ul style="list-style-type: none"> <li>▪ Approximately 150 students and two teachers from Russei Keo High School, Russei Keo District, Phnom Penh</li> <li>▪ Five foreign observers</li> </ul> | <ul style="list-style-type: none"> <li>▪ Approximately 250 villagers from Svay Chrum District, Svay Rieng Province</li> <li>▪ 12 foreign observers</li> </ul>  |

## B. Time Management

This week the Trial Chamber successfully managed to hear two witnesses and one Civil Party over four days. On Tuesday 29 March, national lead Co-Lawyer for Civil Parties, Pich Ang agreed to cede the time allotted to his team to the Prosecution to finish questioning Sao Sarun. The Trial Chamber adjourned early on Thursday afternoon after a discussion on the Nuon Chea Defense Team's oral submission on the appearance of upcoming witnesses. Although the Trial Chamber did not rule on this immediately, they did announce that only two witnesses were scheduled to appear next week, prior to the week-long Khmer New Year break.

## C. Courtroom Etiquette

The President of the Trial Chamber intervened several times during Witness Sao Sarun's testimony this week to re-explain questions to the Witness, who was aging. Although there were some disagreements this week, all Parties conducted themselves in a professional manner.

## D. Translation and Technical Issues

Proceedings generally ran smoothly this week, however there were a few technical disruptions due to the use of video-link to facilitate the testimony of Sao Sarun from Oddar Meanchey. As the Witness began his testimony, the OCP asked the audio-visual unit to ensure that the Witness's response to questions was shown on camera promptly after the question was asked, without any gaps. Other than this there were a few pauses in the video where the Witness had failed to hear the question due to a minor technical issue.<sup>22</sup> Regarding the translation issues, on Thursday the President of the Trial Chamber criticized the English to Khmer interpreter for providing a shortened interpretation of a question by Victor Koppe. KRT Monitors also noted a number of interpretation errors concerning names, dates and numbers both from Khmer to English<sup>23</sup> and English to Khmer.<sup>24</sup>

## E. Time Table

| DATE                  | START | MORNING BREAK | LUNCH       | AFTERNOON BREAK | RECESS | TOTAL HOURS           |
|-----------------------|-------|---------------|-------------|-----------------|--------|-----------------------|
| Monday<br>28/03/2016  | 9:05  | 10:08-10:30   | 11:33-13:31 | 14:43-15:01     | 15:58  | 4 hours<br>15 minutes |
| Tuesday<br>29/03/2016 | 9:04  | 10:08-10:30   | 11:32-13:30 | 14:43-15:02     | 16:00  | 6 hours<br>17 minutes |

|  |      |             |             |                          |       |                       |
|--|------|-------------|-------------|--------------------------|-------|-----------------------|
| Wednesday<br>30/03/2016                    | 9:01 | 10:11-10:29 | 11.35-13-29 | 14:43-15:03              | 16:08 | 4 hours<br>35 minutes |
| Thursday<br>31/03/2016                     | 9:01 | 10:10-10:30 | 11:30-13:35 | -                        | 15:05 | 3 hours<br>39 minute  |
| Average number of hours in session         |      |             |             | 4 hours and 41 minutes   |       |                       |
| Total number of hours this week            |      |             |             | 18 hours and 46 minutes  |       |                       |
| Total number of hours, day, weeks at trial |      |             |             | 629 hours and 37 minutes |       |                       |
| 170 TRIAL DAYS OVER 49 WEEKS               |      |             |             |                          |       |                       |

\*This report was authored by Sinvutha Heng, Melanie Hyde, Nicholas Maycock, Caitlin McCaffrie, Visot Nom and Lina Tay, 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”</i> (CaseNo.001/18-07-2007-ECCC)                               |
| 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  |
| WESU     | Witness and Expert Support Unit  |

<sup>1</sup> SAO Sarun testified previously in Case 002/01. For a summary of his earlier testimony see: CASE 002/01 KRT TRIAL MONITOR, Issue 25, Hearings on Evidence Week 20 (4-7 June 2012), pp. 5-9 and CASE 002/01 KRT TRIAL MONITOR, Issue 26, Hearings on Evidence Week 21 (11-14 June 2012), pp. 1-4.

<sup>2</sup> Witness BUN Loeng Chauy (2-TCW-838) was questioned in the following order: President NIL Nonn; international assistant prosecutor Dale LYSAK; national Civil Party lawyer TY Srinna; international co-counsel for Nuon Chea, Victor KOPPE; international co-counsel for Khieu Samphan, Anta GUISSSE and national co-counsel for Khieu Samphan, KONG Sam Onn. His birth name is CHAN Bun Leuk.

<sup>3</sup> The Witness said that it was the North Vietnamese who ‘liberated’ Mondulhiri in June 1970, and that they then handed over administration of the area to the Khmer Rouge. He also said that until late 1974 or early 1975 the Vietnamese provided aid to the Khmer Rouge in Keo Sema District, Mondulhiri Province.

<sup>4</sup> In prior DC-Cam and OCIJ statements it had been recorded that the Witness was Deputy Secretary of Keo Sema District, rather than Deputy Chief of the District Office, which is a much lower position. The Witness was consistent in his denial of having a high-ranking position. On Tuesday morning before the Witness’s testimony continued, President Nil Nonn clarified that in the Khmer version of the Witness’s prior statements he had consistently testified to being Deputy Chief of the District Office, but that this had been mistranslated in English to Deputy Secretary of the District.

<sup>5</sup> The Witness did not explicitly refer to this security center by the name of Phnom Kraol, however he later testified that there was only one security center in Koh Nhek District, which supports the theory that he was referring to Phnom Kraol Security Center.

<sup>6</sup> BUN Loeng Chauy identified Comrade Thin as being the Chief of K-17 Office until he was accused of committing an “immoral act” and was arrested and detained in Norng Kaloek worksite. He said that Thin survived the regime and passed away last year. According to the Witness, Thin was replaced by VIN Loy as the head of K-17. He said he knew this because it was VIN Loy who accompanied the Witness to the hospital in 1978 and he told him so himself. BUN Loeng Chauy said he never saw Loy after 1978 and heard he had been arrested.

<sup>7</sup> Of the 18 men, the Witness could remember some names: Sien (alias Nhun), Lam, Lain, Khlak, Noen and his Uncle Vorn. He identified the man known as Nhun as the leader of the group who fled and former chief of K-16. The



Witness also said that Lam survived the regime and is still alive today, prompting the OCP to read from Lam's OCIJ interview.

<sup>8</sup> BUN Loeng Chauy could recall the names of some of the women who were arrested. He said that: Kim Hin was the wife of Nhun; Ly was the wife of Lam; Hoeun was the wife of Lain and Horn was the wife of Noeun.

<sup>9</sup> Defense Counsel Victor Koppe indeed objected to the implication that the the women were arrested for the actions of their husbands, saying "It's a bit sexist to refer to them as 'wives of' when primarily they are referred to as combatants" on the list.

<sup>10</sup> Office of the Co-Investigating Judges. "Closing Order" (15 September 2010) D427 para 625-644, pp. 158-162. [hereinafter **CLOSING ORDER**]

<sup>11</sup> CLOSING ORDER, para 627, p. 159.

<sup>12</sup> The Witness clarified that from 1970-1975 former Lon Nol soldiers were not targeted, and that only those who did not have "good behaviour" were later arrested.

<sup>13</sup> Witness SAO Sarun (2-TCW-1012) was questioned in the following order: President Nil Nonn; international co-prosecutor Nicholas KOUMJIAN; international co-counsel for Nuon Chea, Victor KOPPE; international co-counsel for Khieu Samphan, Anta GUISSÉ.

<sup>14</sup> In his June 2012 testimony in Case 002/01, SAO Sarun testified that he was appointed Sector Secretary in 1978 and only served for two months prior to the arrival of the Vietnamese in January 1979. BUN Loeng Chauy testified that Sao Sarun was Sector Secretary for "less than a year" before the arrival of the Vietnamese. Previous witnesses CHAN Taury and NET Savath both testified about the death of Ta Ham, alias Laing, and concurred that he died sometime in 1977, possibly September; a date which is also contained within the closing order. It is thus unclear who was Sector Secretary after Ta Ham's death and before September 1978 if it was not SAO Sarun. For a summary of CHAN Taury and NET Savath's prior testimony see: CASE 002/02 KRT TRIAL MONITOR, Issue 46, Hearings on Evidence Week 43 (7-11 March 2016), pp. 5-8.

<sup>15</sup> SAO Sarun also denied knowledge of any forced marriage policy in his testimony in Case 002/01.

<sup>16</sup> In June 2012 SAO Sarun testified that he had heard that Kham Phoun killed Ta Laing (alias of Ta Ham) with car parts before fatally shooting himself. Others have testified that both men died in unclear circumstances in late 1977. It was after the deaths of these two men that purges began to increase in both more frequent and more comprehensive in Sector 105, according to CLOSING ORDER para 628.

<sup>17</sup> Civil Party SUN Vuth (2-TCCP-1016) was questioned in the following order: President NIL Nonn; Civil Party lawyer LOR Chunt; national Civil Party lead co-lawyer PICH Ang; international assistant prosecutor Dale LYSAK; Judge Jean-Marc LAVERGNE; international co-counsel for Nuon Chea, Victor KOPPE; international co-counsel for Khieu Samphan, Anta GUISSÉ.

<sup>18</sup> There was some uncertainty about the exact timing of Sun Vuth's appointment as Company Chief. On Wednesday he said Ta Chhin appointed him in 1975 after the liberation of Phnom Penh, however the next day he said it took place in early 1977 shortly before Ta Chhin was arrested, and then later in the day he made it sound as if he had been appointed after the arrest of Ta Chhin.

<sup>19</sup> Although Sun Vuth initially said that he was arrested about one month after Ta Chhin, he later said that it was during the harvest season, which is in November and December. After the OCP presented him with documents showing that Ta Chhin had entered S-21 on 5 March 1977, it seems possible that the Civil Party was in fact arrested as many as seven or eight months after Ta Chhin.

<sup>20</sup> Defense Counsel Guissé objected to the national LCLCP Pich Ang's use of the name 'Phnom Kraol' to refer to the detention center during his questioning, as the Civil Party was yet to refer to the center by this name himself. Later, Prosecutor Dale Lysak read from the testimony of a sector level soldier who was describing Phnom Kraol in an attempt to get the Witness to make a comparison with the place he was detained, however Sun Vuth was not able to confirm or deny that it was the same place. Proceedings continued without this issue ever being resolved.

<sup>21</sup> The Civil Party clarified that the stream was named Au Chbar, rather than Au Lpeu, which was the name he gave it in his original Civil Party Application. This is consistent with the earlier testimony of Bun Loeng Chauy this week, who said he had never heard of a Au Lpeu stream in Koh Nhek, but did know of Au Chbar stream.

<sup>22</sup> On Tuesday Duty Counsel Moeung Savan was heard to repeat a question that was asked to Witness Sao Sarun, who appeared not to have heard it when first asked. Moeung Sovan was criticized by President Nil Nonn, who reminded him that his role as Duty Counsel is only to advise his client in cases of potential self-incrimination.

<sup>23</sup> Monitors noted errors translating from Khmer to English, including: '2 or 3 times per month' to 'one per month'; 'annual Party congress' to 'big congress'; and 'battalion' to 'company.'

<sup>24</sup> Monitors noted errors translating from English to Khmer, including: '140' to '160'; 'later in 1977' to 'later'; '310' to '810'; 'Hun Sen' to 'Son Sen'; 'Case 001 Judgment' to 'Case 002/01 Judgment'; 'International Co-Investigating Judge' to 'International Prosecutor.'