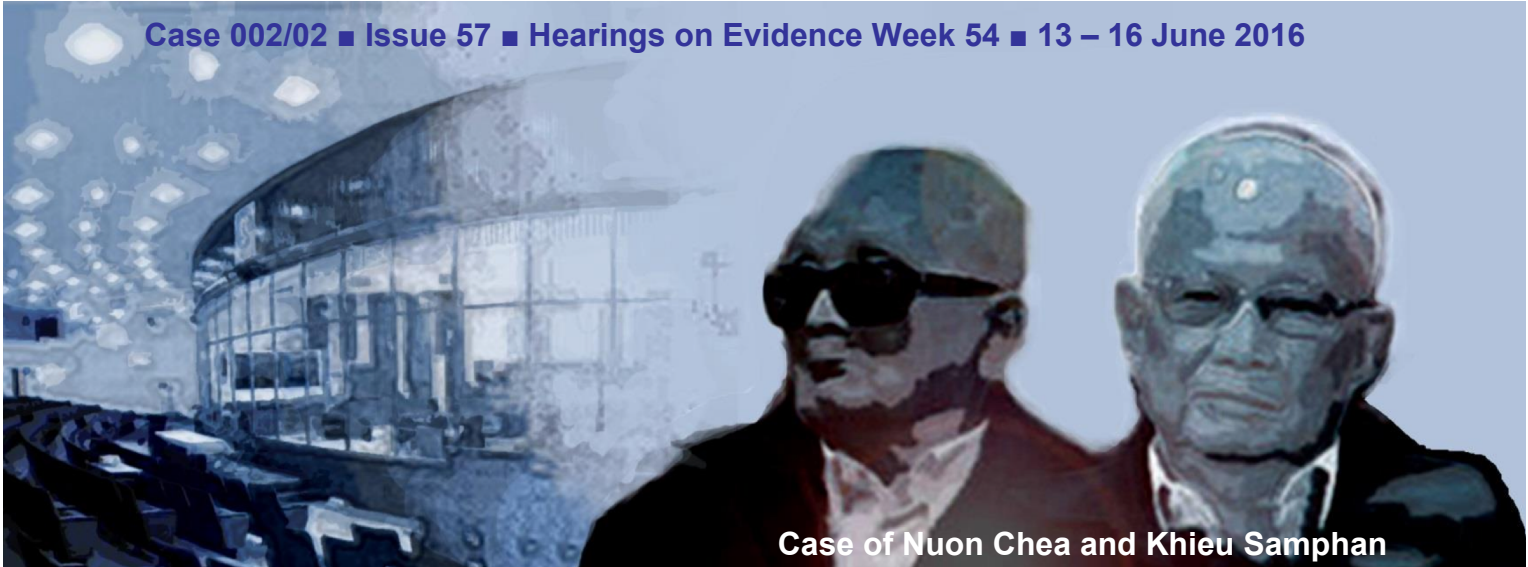


KRT TRIAL MONITOR

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Case of Nuon Chea and Khieu Samphan

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(previously known as the UC Berkeley War Crimes Studies Center)

*“The upper echelon demanded photos.
I said if they don’t trust me how could they use me to carry out my work?
If I am ordered to kill them I kill them!”*

- Witness Kaing Guek Eav, *alias* Duch

I. OVERVIEW

This week the Trial Chamber continued to hear from Kaing Guek Eav, more commonly known by his revolutionary alias “Duch,” as a Witness in the segment on S-21 in Case 002/02.¹ Duch began his testimony last week and will continue until the end of next week. The Witness was questioned by the OCP, CPLCL and Judges about a range of topics including internal purges, treatment of the Cham minority, ethnic Vietnamese and former Lon Nol officials, as well as interrogations and torture. At the end of the day on Thursday Defense Counsel for Nuon Chea began to question the Witness, whose demeanor changed significantly, becoming much less cooperative. The issue of torture-tainted evidence plagued proceedings once again this week, however on this occasion, it was the Judges and the OCP, rather than Defense Counsel, who were prevented from using documents. At the end of the week, the Civil Party Lead Co-Lawyers presented their proposals for reparations projects to be undertaken should either of the Accused be found guilty of any of the charges against them in Case 002/02. Duch will continue his testimony over the full four days of hearings next week, questioned by both Defense Teams. In addition to the testimony of Duch, which was heard live throughout the week, this report also details the testimony of two other witnesses: Ms. You Vann and Ms. Prak Yut, who testified in January 2016. The two female cadres from the Southwest Zone testified in closed sessions during the segment on the treatment of the ethnic Cham. The Court released redacted transcripts of their testimony this week, so we are including coverage of those witnesses in this week’s report.

II. SUMMARY OF WITNESS TESTIMONY

The only witness to appear in court this week was Kaing Guek Eav, *alias* Duch, who was convicted and sentenced to life imprisonment by the ECCC Trial Chamber in Case 001.² As the former head of the S-21 Security Center in Phnom Penh, Duch was able to provide testimony on treatment of prisoners (particularly well-known prisoners) who went through his security center. Sections B and C of this report cover the testimony of two additional witnesses:

You Vann and Prak Yut, who appeared before the Trial Chamber in “in camera” sessions six months ago, in January 2016. The two women worked together in the Southwest and later Central Zone, and mainly provided testimony on the treatment of the Cham in these areas, as well as the policy of forced marriage.

A. Summary of Testimony by Witness Kaing Guek Eav

Duch testified on a wide range of topics during the four days of his testimony this week. Parties asked him about the conditions at S-21, as well as interrogation and torture techniques and purges of high-ranking cadres.³

1. General Conditions at S-21

Duch had limited knowledge about food rations at S-21, although he confirmed lists would be drawn up of prisoners whose health had deteriorated and who needed to be provided with enough food to keep them alive in order to obtain their confessions.⁴ Duch said he was warned to work to prevent prisoners escaping or committing suicide. He said one prisoner escaped at a time when Duch, Mam Nai and Hor had all gone to the rural areas, and so after this time the three men ensured they never all left the prison at the same time. He also said there was a case where a man named Sou Samphan swallowed a screw from the window in an attempt to kill himself and was operated on by a medic to remove the screw. He also told the Court that a pregnant woman had used a razor to slice open her abdomen in another apparent suicide attempt.⁵ Duch singled out Koy Thuon specifically as a prisoner who was monitored closely to prevent him committing suicide.⁶ Duch said he gave this order to his subordinates himself. He repeated his testimony that no one was released from S-21 except for Dy Phun, who was kept alive due to his skills as a dentist.

2. Children, Elderly, Sick at S-21

The Witness testified about the treatment of children, older people, and the ill at S-21. He explained that “Children of those who were arrested had to be smashed as well,” describing the Party’s requirement for an “absolute stance” with regard to offspring.⁷ Duch recalled in particular the three children Sang Onn who died at the Security Center, expressing his regret at their deaths. He said he had tried to keep them alive, but that when he talked about this with Son Sen, his superior advised him to be “absolute” in his stance. The youngest child died of “malnutrition or swelling disease,” but it is unclear from his in court testimony how the other two children died. Duch also testified that those who had sexually transmitted diseases and tuberculosis at S-21 were executed because cadres feared they would infect other inmates as there was no medical treatment these illnesses at the time. As part of his explanation for deciding to execute the sick and weak, Duch repeated the DK-era slogan: “To keep you is no gain, to lose you is no loss.” Duch was also confronted with documents showing the arrival at S-21 of six elderly women, aged between 70 and 92. According to the documents they had been transferred to S-21 from Prey Sar, however he was unable to provide further detail of their arrival.⁸

3. Interrogations & Torture

Duch told the Court that he learned interrogation methods from his own experiences as a prisoner,⁹ from watching movies, reading books¹⁰ and from the teachings of Ancient Chinese Judge Pao Kong. Duch stressed that over time he had developed his own interrogation ideology, and that it was these principles that he passed on to his staff in his study sessions. During questioning, Duch was confronted with statements from Chum Mey and Pha Tha Chan; both former inmates at S-21.¹¹ In his testimony, Chum Mey stated that his toenails had been extracted, that he had received electric shocks to the ears and that he had to clean his own feces from the floor with his tongue.¹² Duch disputed this testimony, saying he had once been

told of toenails being extracted by Hor, but had subsequently ordered the practice to stop. He went so far as to state “Nothing happened to the toenails of Chum Mey,” saying they had looked normal when he had seen them during previous Court proceedings. Duch was also confronted with evidence from Pha Tha Chan; a Vietnamese-speaking prisoner who had helped the interrogator Mam Nai with the questioning of Vietnamese prisoners. Judge Lavergne showed Duch an interview with Pha Tha Chan in which the former prisoner described beatings with whips, clubs, electrocution and toenail extraction. In the interview Pha Tha Chan explained that the Vietnamese prisoners had been ordinary people, that no Vietnamese incursion had taken place and that the Khmer Rouge had been themselves entering Vietnam to capture Vietnamese civilians or soldiers in order to legitimize their claims that Vietnam was attempting to take over Cambodia. Again, Duch disputed the contents of the interview, saying Pha Tha Chan “exaggerated” the methods of torture in order to justify the Vietnamese invasion of Cambodia in 1979. Duch also testified that on 8 October 1978 he had recommended to the upper echelon that they end the practice of using torture on Khmer prisoners, because interrogators could obtain “80% of confessions” without it.¹³ He said although Pol Pot had accepted this advice, Nuon Chea later ordered the practice continue.

4. Censorship of Confessions

Duch also described the process for assessing confessions. He said he would send confessions to the upper echelon and whenever an important person was implicated by a prisoner, Duch would need to seek advice from his superior on whether to censor the name. Duch recalled Nuon Chea instructing him not to record the name of Poeun when it arose in a prisoner’s confession. Poeun was the revolutionary name of Ieng Sary’s son-in-law Hong, with whom Duch had been friends in the early 1970s.¹⁴ He said “When a Party did not want names included, I removed the name.” Further, Duch also confirmed his prior testimony that he had once censored Khieu Samphan’s name from the confession of Choeung, on the orders of Nuon Chea.

5. Purge of S-21 Cadres

Duch testified about the arrest of many cadres from within S-21. One of these men was Huy Srae; the head of Prey Sar, who was arrested because he had allowed a person under his control to flee.¹⁵ Hor forwarded a report on this incident to Duch, who sent it on to the upper echelon. They instructed him and Hor to begin planning Huy Srae’s arrest. The Witness also described the arrests of three S-21 medics in April and May 1978. Duch could not recall the details about the arrest of the first medic, Pheng Try, however he did remember the circumstances of the other two. He said Sam Oeur was arrested because he disrupted some documents in Duch’s study when he did not have permission to touch anything. The third medic, Cheng Pao, was arrested after giving Hor dysentery medicine to which he was allergic. Duch said Son Sen claimed the medicine must have contained arsenic, and therefore the medic must be arrested. The Witness clarified that most of the members purged from S-21 had come from Division 703 and not from his own former Security Center at M-13. When asked why Hor was one of the few Division 703 cadres to survive the purge, Duch said this was because the cadre was “meticulous” in his work.

6. Internal Purges & Arrests of Important Prisoners

Duch testified in detail about arrests and interrogations of important prisoners. He said that initially these significant arrests were kept secret, however later Pol Pot ordered the dissemination of the confessions of these people for propaganda purposes. He also said that he sometimes received orders from Pol Pot via Son Sen to take photographs of the bodies of important prisoners. He explained that these men had already been buried so Poch, the leader of the guard unit, had to exhume the bodies. He remembered the first prisoner to be photographed after execution was Ly Phael *alias* Phaen and that Nat, Hok and Vorn Vet had

been the last people to be photographed. He could not recall of pictures of the executed Westerners had been taken or not.

a. Sao Phim

Duch stated that Sao Phim had been the head of the East Zone and Chieng his deputy. He testified that Sao Phim's arrest in June 1978 was accompanied by a large number of other arrests of East Zone cadres,¹⁶ and that Roeung, the assistant to the General Staff, had been in charge of sending prisoners from the East Zone to S-21. Prior to the mass arrests in the East Zone, Nuon Chea had instructed Duch to have the "maximum" number of S-21 prisoners executed in order to make space for the incoming prisoners. He explained that after Sao Phim's arrest it became more common for large prisoner groups to be sent to S-21. He recalled one incident in which between 300 and 400 East Zone cadres were brought to S-21 on trucks, put in cells without being interrogated and then sent for execution the same day, on the request of Nuon Chea.

b. Vorn Vet

Duch also testified about the arrest of his former superior Vorn Vet, who was arrested by Comrade Lin on 2 November 1978 at the end of a meeting of the Party Center. He said that Vorn Vet's subordinates Cheng Orn and Koeung were arrested at the same time. Vorn Vet was interrogated by Pon, who splashed him with iced water and directed a fan at him to make him shiver. The Witness told the Court that, prior to his interrogation, Vorn Vet had told him that Pol Pot was paranoid. Duch explained that he had made progress reports to Nuon Chea on a regular basis and that he had provided instructions on how to interrogate Vorn Vet.

c. Sua Vasi

Duch also testified that Sua Vasi, *alias* Doeun, the chairman of Office 870, was arrested on the orders of the upper echelon in 1977. He said that Doeun had been interrogated by Pon and that Duch and Doeun had exchanged several letters throughout his interrogation. Duch explained that he had instructed Doeun to stop lying and that Doeun had asked to be pardoned. Nuon Chea, he said, had laughed at this request. Doeun was not released.

d. Koy Thuon

Duch spent a significant amount of time testifying about Koy Thuon, former DK Deputy Prime Minister for Commerce. He said that although Pol Pot had given the order to arrest Koy Thuon, it was Son Sen who had informed him that Koy Thuon was being sent to S-21. He recalled that on the day of his arrest on 8 April 1976, Koy Thuon had been escorted to his house on Monivong Boulevard, where he had then been arrested. He said that at first Koy Thoun had been unwilling to make a confession and that he had to replace the interrogator Pon with Thoy to get a confession.¹⁷ He said Koy Thoun had not confessed until 29 April, but that once he did he implicated several party members. Duch recalled that Son Sen followed the interrogation very closely and instructed him to tell Koy Thuon to refrain from implicating members of the Central Committee members. Koy Thoun had to re-write his confession several times until Son Sen accepted it. Duch said that once the confession had been accepted, hundreds of people from the North Zone were arrested. Duch explained Koy Thuon was arrested for having "affairs" with married women and for "smashing" the husbands of one of these women.

e. Pang

Duch testified that Chhim Sam Aok, *alias* Pang had been the spokesperson for Pol Pot and the head of his guard unit. Only after the end of the regime, he said, had he learned that Pang had also been the chairman of the S-71 Office. He stated that he had come to know Pang though

Nat at S-21. He explained that at that point in time he had not been aware of Pang's important position, nor that he was a member of the *Santebal*.¹⁸ He explained that Pang usually delivered messages from Pol Pot to him at S-21 and that Pang had delivered prisoners to S-21 on several occasions. He explained that after Pang was arrested he was replaced by Lin *alias* Kaen from Division 180.

7. Sexual and Gender Based Violence

The Witness was asked many questions about sexual and gender-based violence alleged to have occurred at S-21. The only case that Duch admitted knowing about was that of Doem Saroeun, his former professor. He said he had heard she was sexually assaulted by a male interrogator who inserted a wooden stick into her vagina. Duch said that when he was informed about this incident, he removed the interrogator from the women's interrogation unit, as he said he did not have the power to arrest him. He also said that after this incident that he created a female interrogation unit.¹⁹ He said he informed Son Sen about this incident, however he said he never received instructions to punish the interrogator. Duch explained that he followed the twelve moral commandments of a revolutionary, one of which states that revolutionaries must not violate women. In light of this, Duch said, he instructed male interrogators to leave the doors and windows open while interrogating women. He said Nuon Chea instructed him never to interrogate any female prisoners himself. Duch would not recognize the possibility of rape having taken place at S-21, saying: "There were no cases of violent rapes, but there were cases that they loved one another and committed immoral misconducts." He said that if individuals were caught in such an act they would usually be smashed, however occasionally they would be reeducated or forced to marry.

8. Blood-drawing and Medical Experiments

Duch told the Trial Chamber that blood-drawing had taken place at S-21, but not at Prey Sar. He said he personally selected subjects who were in good health and had no sexually transmitted or other diseases. When asked whether prisoners had ever been brought from Prey Sar to S-21 to have their blood drawn Duch said it was possible, although he was not certain.

9. Vietnamese Prisoners

Duch told Trial Chamber that there were no Vietnamese civilians living in Cambodia after 1974, only soldiers who were stationed at the border. He said the first Vietnamese soldier to be arrested was Vo Ding Ngor, who arrived at S-21 on 6 January 1978, after which many more were arrested later in the year. He said he received orders from the upper echelon that "*yuon*" soldiers were to confess to plans wanting to invade DK.²⁰ Mam Nai and Pha Ta Chan interrogated Vietnamese soldiers together. He said only a few "*yuon* people" were arrested and the majority were "*yuon* soldiers." He explained that it would be a "waste of time to interrogate civilians about soldier matters." Noun Chea issued instructions to record the confessions of Vietnamese soldiers and broadcast them on the radio. The confessions were broadcast in Vietnamese, and then the Khmer translation was read out by the broadcaster. Duch said that Nuon Chea made minor changes to the scripts before the confessions were broadcast; for example, he might exaggerate the number of firearms the prisoner had been arrested with. Duch also told the Trial Chamber about a film of Vietnamese prisoners that was produced by Pol Pot's nephew Theng, who had studied cinematography in China.²¹ After the film was produced, the Vietnamese prisoners were all smashed. Duch said this film was never shown in DK or at S-21, but it was used at a conference held in Jakarta to demonstrate the existential threat the Vietnamese posed to DK.²²

10. Thai Prisoners

Although Duch denied the existence of prisoner exchanges between Cambodia and Vietnam, he did say that this had once happened with a group of Thai prisoners. He said he recalled a group of 26 Thai prisoners being forcibly returned to Thailand after being arrested in DK territory. He said there was a liaison officer named either Sou or Khan who negotiated between the Thai and Cambodian sides. Duch told the Court that all foreigners who entered DK territory were considered spies and would be arrested and smashed. In addition to the list of Thai prisoners who were returned to Thailand, the Witness also testified about a group of 600 Thai prisoners listed as “fishermen” who were executed while Nat was still in charge of S-21. He said Nat received an order from the upper echelon, which he forwarded to Khim Vat *alias* Hor, to oversee the execution of the large group at Kampong Sam Province, where the prisoners were arrested.

11. Roles of the Accused

Duch said Khieu Samphan was known as the Chairman of the State Presidium of DK during the regime, although Duch also hinted at other, less clear positions the Accused had held, saying “in reality [Khieu Samphan] was the chief of the committee surrounding the center.”²³ Regarding Nuon Chea, Duch confirmed his testimony of last week that Nuon Chea became his superior after Son Sen went to the Eastern “battlefield” on 15 August 1977. He said he would send and receive reports from Nuon Chea through Pang, adding that Nuon Chea did not communicate by telephone as Son Sen had. The Witness also recalled some of the actions of Nuon Chea. He said that two of his nieces, Lach Dara *alias* Thorn and Lach Nary *alias* Nan, were both arrested after the arrests of their husbands. Duch recalled that Nan (who was pregnant at the time) and her husband were “smashed” along with the husband of Thorn. Thorn alone survived.²⁴

12. Fleeing S-21 on 7 January 1979

The Witness testified that on 6 January 1979 he was called by Comrade Lin to attend a meeting with Khieu Samphan, where he instructed S-21 staff to work normally, even as Vietnamese forces advanced on Phnom Penh. Duch followed this advice, but on 7 January 1979 around 10:00AM he heard sound of tanks and realized Vietnamese troops had entered the city. He instructed his subordinate Prak Nan to kill the four remaining prisoners in S-21 before fleeing the compound together. He pointed out that this killing was an instruction from Nuon Chea, and added that Nuon Chea never ordered him to destroy any documents before he fled.

13. Witness Demeanor and Credibility

Just as in the previous two weeks, Witness Kaing Guek Eav had no difficulties following proceedings and answering most questions put to him. As before he was a very forthcoming with his responses, although sometimes he would provide such lengthy responses that he went beyond the scope of the original question. There was a noticeable shift in Duch’s demeanor when Defense Counsel Koppe began questioning him, and particularly pressing him on points of discrepancy in his testimony. The Witness stated, “I am not happy with the way you question me” and “How could you ask me such a question?” He also repeatedly asked for documents or evidence of the claims Defense Counsel was making, and vehemently disputed most of the previous testimony given by other S-21 witnesses such as Lach Mean, Him Huy and Prak Khan. Duch seemed to wish to position himself as the only reliable expert on S-21. His denial of circumstances described by several Witnesses were not convincing. He also appeared to have trouble understanding evidence presented to him that he had not previously been seen in either Case 001 or Case 002/01, a topic which is discussed further in Section III.A.

B. Summary of Testimony by Witness You Vann

Duch was the only witness to testify in court this week. However, the ECCC released redacted transcripts this week of previously unavailable testimony that had been held in closed session on 14 and 18 January 2016. In those sessions, Witness You Vann testified before the Trial Chamber on the treatment of the Cham.²⁵ You Vann was a teenager during the DK regime. She currently lives in Kbal Hong Thmei Village, Lvea Leu Commune, Chamkar Leu District, Kampong Cham Province, and works as a rice farmer.²⁶ She testified with the assistance of Meoung Sovann as Duty Counsel.

1. Witness's Background and Positions in Kampot

You Vann testified to working as a military nurse in Kampot in 1975, at which time she was responsible for carrying soldiers wounded in battle with Lon Nol forces from the battlefield to hospital. After fighting ended, You Vann was transferred to a sewing unit on the orders of Prak Yut, who was Deputy Secretary of Kampot. The Witness confirmed that at the time, Ta Mok was Chief of the Southwest Zone and was “like a father” to Prak Yut. After some time in the sewing unit, You Vann was transferred to Kampong Cham, in Central Zone’s Sector 41,²⁷ on the instructions of Ta Mok²⁸ and Prak Yut, where she remained working until the Vietnamese troops arrived after 7 January 1979.

2. Sighting of Khieu Samphan

The Witness testified that, while en route to Kampong Cham, she stopped overnight at a university campus in Phnom Penh. They arrived after dark and left at 8:00AM the following morning, so the Witness was unable to describe the location in detail. However, she did recall that at about 7:00AM a bus passed by slowly and she and other passers by stood by and waved. She said Prak Yut told her at the time that Khieu Samphan was on the bus, sitting by an open window on the right hand side of the vehicle, however she herself did not recognize him as she did not know what he looked like, and she conceded the bus was crowded.

3. Position in Kampong Siem

The Witness testified that after being transferred to Kampong Siem District in Kampong Cham, she worked as a messenger for Prak Yut for one year. As Prak Yut’s messenger, You Vann would transport letters, sealed in envelopes, on behalf of Prak Yut, or transport Prak Yut by bicycle to meetings at the commune level. She described fearing for her life at this time because people believed her to be the daughter of a wealthy family, and her mother had already been killed in the regime. You Vann testified that Ta Mok would hold meetings about rice production that Prak Yut had to attend in Prey Chhor every three to four months. She was confident about the contents of the meetings because she said participants used microphones and loud speakers so she could hear them clearly from outside, even if she did not attend the meetings herself due to her lower rank. The Witness also said Prak Yut went to Phnom Penh once or twice a month for study sessions, although she went by car and so the Witness did not accompany her.²⁹ She said Ta Mok held meetings weekly for all three communes in Kampong Siem.

In addition to being a messenger for Prak Yut, You Vann also held the position of chief of a mobile unit of approximately 200 people, both Cham and Khmer, who she claimed she treated equally. As unit chief she would supervise women and girls farming rice. She said women would only work in the morning, while younger girls would work in the morning, afternoon and night. You Vann said pregnant women were assigned “light” work such as planting, if this was approved by Prak Yut. She also said she was sometimes in charge of deciding who would work on dykes, selecting the healthiest to go there once or twice a month to replace people who fell “sick” at the construction sites. She said workers were restricted from travelling freely to

other villages, but that village chiefs could give them permission to travel to work elsewhere or visit family. You Vann said that it was about five months prior to the arrival of Vietnamese troops that she was also given a position on the Commune Committee as Deputy Chief of Ro'ang Commune. Prak Yut was Kampong Siem District Chief, with Phon in charge of the district army and Phaen as his deputy. In the commune, workers ate communally and if there was a shortage of rice it was the Witness's job to report this to Prak Yut. You Vann recalled two or three people falling sick every day, saying in these cases they would be sent to the district hospital and brought back when they had recovered.

4. Treatment of Cham, Vietnamese and Former Lon Nol Soldiers & Officials

A large part of You Vann's non-redacted testimony centered around the treatment to of ethnic Cham and Vietnamese people, and former soldiers and officials of the Lon Nol regime. The Witness said that for a long time in Kampong Cham, many Cham people chose to live in villages along the river as they were proficient at fishing, adding that when she arrived in the area the Cham and Khmer population lived mingled together. Sometime in mid to late 1978, Prak Yut requested You Vann compile a list of Cham, Vietnamese and former Lon Nol soldiers living in the area. You Vann said she made a type-written list of such people living in Kampong Siem District, including the name of both the individual and their spouse, although not the names of children. She estimated between 200 and 300 names were on the list, including most of the village chiefs from the communes in Kampong Siem. She confirmed Counsel Koppe's contention that most names on the list were village chiefs, while names of Cham, Vietnamese, and Lon Nol soldiers were the minority.

The Witness said that after she passed on the list to Prak Yut she noticed the people whose names had been on the list began to disappear. Later she heard from Khon that district and sector military had worked together to arrest those listed; in some cases the whole family would disappear. You Vann said she did not hear Prak Yut use the word "purge" but did hear her use the phrase "cleaning up" in reference to the people listed. The Witness added that if parents disappeared, their children would be taken by the Commune Chief and assigned to work in a different unit. Interestingly, she said no individuals from her own mobile unit were arrested or disappeared. As she believed the majority of those on the list were village chiefs, You Vann agreed with a statement put forward by the Nuon Chea defense that there was: "No policy to kill Cham because they were Cham." Regarding Lon Nol soldiers specifically, Defense Counsel for Nuon Chea presented the Witness with documents from Kampot during the time the Witness lived there which claimed that Lon Nol soldiers had been re-educated rather than executed there. The Witness denied knowledge of the document, explaining that her position in Kampot had been lower than her position in Kampong Siem and she was not privy to much information at that time.

5. Forced Marriage

You Vann was also asked in detail about marriage ceremonies during DK. She said that if a couple wanted to be married, they would make a request to the village chief who took the proposal to commune and district level. She said marriages took place in the District Office and Prak Yut would preside over the ceremonies. The Witness said she herself would also attend the ceremonies in her capacity as a Deputy Chief, although she made it clear that she was not authorized to arrange the ceremonies herself. She said Khmer and Cham people were forbidden from marrying outside their own ethnic group, although she was not sure if there were any similar restrictions on the children of former Lon Nol officials.³⁰ Although Khmer could only marry Khmer, and Cham only Cham, the ceremonies were held together at the same time without any traditional or religious aspects.

The Witness recalled one particular wedding ceremony she attended in August 1978 of four Cham and four Khmer couples. After the wedding ceremony was over, all couples were

instructed to leave the mobile unit and return to their village or cooperative to live with their parents. The Witness also said that most couples were made to consummate their marriage, and if they refused they would be reeducated once or twice, after which no one refused anymore.³¹ Divorce was not possible in DK. The Witness described the wedding of Prak Yut that was held during the DK regime, as she attended this wedding herself. She said Prak Yut seemed happy at the time and that she made a small “feast” for participants. Her husband was the nephew of a district chief, which You Vann surmised meant that he was a military chief, as this was the usual position. She heard he was the regiment commander in Sector 35 although never met the man personally.

6. Witness Demeanor and Credibility

As the Witness testified during closed session it is challenging for monitors to assess the demeanor of the Witness during her testimony. Based on the redacted transcript it appears that You Vann was an accommodating witness who endeavored to respond to questions put to her. When she could not respond, she explained why, for example Prak Yut not telling her about certain matters because she was female.³²

C. Summary of Testimony by Witness Prak Yut

Prak Yut’s testimony immediately followed that of You Vann on 19, 20 and 21 January 2016.³³ Prak Yut testified to being born in 1947 in Tram Kak District and becoming Secretary of Kampot District in 1970.³⁴ She was You Vann’s superior in both Kampot and Kampong Siem during the DK regime, however she disputed much of the testimony provided by You Vann.

1. Witness’s Role during DK Regime

Prak Yut testified that she became chief of a unit in Kampot, (DK Sector 35) after 17 April 1975, where she was in charge of a group of 100 women making clothes.³⁵ She said she relocated to Kampong Siem (DK Sector 41) in January 1977 on the instructions of Kang Chap.³⁶ She confirmed You Vann’s testimony that en route from Kampot to Kampong Siem they stopped overnight in Phnom Penh, however she “categorically denied” You Vann’s claim that they had seen Khieu Samphan drive past in a bus, repeatedly saying You Vann was “a little girl” at the time.³⁷ Prak Yut said that in Kampong Siem she had responsibility for a mobile unit and that most members of the mobile unit were young and single and would leave the unit to return to the villages when they were married; however Prak Yut added that she had no authority to force them to leave the mobile unit. She said because she was at district level she was not responsible for food rations, as this was a commune level issue, however she did control how much food was apportioned to each commune within Kampong Siem. She also testified to having no authority to carry out arrests without the orders of the upper echelon.

2. Meetings and Study Sessions

Prak Yut testified that she occasionally attended political study sessions both in Kampot and later in Kampong Cham, however she clarified that she only attended these when she had been invited. She estimated that during DK she had been to meetings in Phnom Penh five times on the invitation of Kang Chap: four times while she was based in Kampot and once after she transferred to Kampong Cham. She said she attended one meeting at Olympic Stadium in 1975 where she heard Pol Pot and Nuon Chea speak about building dams, canals and growing rice.³⁸ She said the men did not speak about internal affairs or politics, only the need to work harder. She said she saw Khieu Samphan attend one of the meetings in Phnom Penh but added that he “was simply present; he did not say anything.” Another meeting she attended at Olympic Stadium was held in May 1975, possibly on 20 May and lasted for three to five days. She said that Ta Mok, Sao Phim and Pol Pot had been present, but that she was not certain about the presence of Nuon Chea and Khieu Samphan. She estimated around 300 or 400

people had attended the meeting and that participants came from every province. She said Pol Pot spoke in the morning about the need to form cooperatives and the need to reestablish pagodas. She said she did not recall any discussion about the treatment of Lon Nol soldiers or Cham people at this meeting.

3. Treatment of the Cham

A significant portion of the Witness's un-redacted testimony related to the targeting of ethnic Cham people in Kampong Siem District. Prak Yut testified that she received an order from the sector level to compile a list of all the Cham people living in each commune within Kampong Siem, although she claimed not to know why such a list had been requested. She said at the time Cham people lived throughout Kampong Cham Province and usually lived intermingled with Khmer people. She said the list was chiefly prepared by Si, the Deputy District Chief from Takeo, and after the list was compiled from the lower levels she forwarded it to the upper level. Contradicting the testimony of You Vann, Prak Yut said the Vietnamese community was not on this list.³⁹ Despite the creation of this list, the Witness repeatedly claimed that the Cham people experienced no discrimination in either Kampot or Kampong Siem. She denied there was a policy of providing them with less food, making them work harder, or targeting them in any other way. Although she did agree that the Cham people could not follow their religion openly, she said this was the same for Buddhists. She also testified that they were allowed to use the Cham language amongst themselves, just not with Khmer-speakers.

The Witness said she never heard of arrests of Cham people prior to 1977. Although she said she was not involved in this process, she said that after 1977 "bad elements" among the Cham were targeted, not all Cham people. She said she had no knowledge of any Cham rebellions or other types of subversive activity,⁴⁰ however any individual who was "against the revolution" was likely to be arrested. Although earlier the Witness testified to having no authority to arrest individuals without instructions from the upper echelon, later Prak Yut testified that, "Before the arrest was carried out, I had to make sure only bad elements were arrested and not every Cham." She described "bad elements" as those causing conflict in the community. She could not estimate how many Cham had been arrested due to the size of Kampong Siem, however repeatedly emphasized that it was not all Cham people.

The Witness appeared adamant that there had been no nation-wide policy targeting the Cham, saying that she had read many editions of CPK magazine "Revolutionary Flag" and listened to radio broadcasts and never heard of any such policy.⁴¹ In order to demonstrate that she had not treated Cham people differently from Khmer people, Prak Yut told the story of a Cham woman named Pheap. Pheap came from Steung Kaev, an area in which a lot of Cham people live. The Witness said Pheap was sent to work with Prak Yut in Kampot by her parents when she was aged 12 or 13. Prak Yut said she originally did not know the girl was ethnically Cham, but that she raised the girl herself and brought her with her to work in Kampong Siem. The Witness said that when the order came to make a list of Cham people, she had asked the upper echelon what to do about Pheap and was told not to mention it, and as a result Pheap is still alive today. Prak Yut described comforting the girl when she was frightened, telling her: "If I were to kill you it means that I would kill myself."

4. Treatment of former Lon Nol Soldiers and Officials

Regarding Lon Nol soldiers, Prak Yut described a similar practice to that concerning the Cham. She said she was tasked with identifying: "Former Lon Nol soldiers who were considered not good; for those who were good, they were spared." She said she had the authority to choose who was "good" and "not good" and that it was her job to reeducate those deemed "not good." She said she would travel around to various communes throughout the district organizing such meetings, and if she didn't have time to conduct the session herself, which usually lasted for a half or full day, she would delegate the role to a commune or village chief. She said this

reeducation consisted of explaining the principles of the revolution, and that if Lon Nol soldiers reformed then they were able to live “peacefully” in Democratic Kampuchea.

5. CPK Marriage Policy

The Witness testified that while she was in Kampong Siem there were not many wedding ceremonies, but that she personally organized a ceremony for two couples. She said marriages would take place once a couple had made a request, and it had been approved by the sector. She said she never organized marriages herself, except in the case of her younger brother who came to her and asked to marry a woman. She said she organized the wedding banquet for her brother’s wedding and that the couple remain married today. She was insistent that marriages only took place when both parties consented, and said ceremonies were usually presided over by the commune chief. She could recall no prohibition of Cham and Khmer people marrying each other, and also denied there were cases when couples refused to consummate their marriages, in both cases disputing the testimony of You Vann. When prompted, the Witness confirmed that she had attended the group wedding of eight couples: four Khmer and four Cham, that was previously mentioned by You Vann. She also said the wedding took place in August 1978.

6. Witness’s Marriage

In addition to general CPK policy toward marriage, Prak Yut also described her own marriage. She said she was married in either 1973 or 1975, to a man chosen for her by *Angkar*. She said it was Ta Chap’s idea that she marry, even though she was quite young at the time, and she said although she was reluctant, she had to obey instructions: “I had to make that decision because sooner or later, as a woman, I had to marry a man.” She said she worked in a different location from her husband as he was in the military and they only met occasionally at sector-level meeting, adding that they never argued. Prak Yut said Ta Mok called her from the Central Zone to meet her in the Southwest Zone after the arrest of her husband. At this time, she spent one night in the Southwest Zone. Ta Mok told her that her husband had been arrested for his links to the CIA, and the Witness said this surprised her as she did not know what the CIA was at the time.⁴² Although first Prak Yut said this was the only time she met Ta Mok, she later said she could not recall the number of times she met him. She was not asked about her second marriage, which had been described as a “feast” earlier by You Vann.

7. Witness Demeanor and Credibility

As with the testimony of You Vann, it is difficult for monitors to assess the Witness’s demeanor and credibility based on redacted transcripts. However, from the parts of the transcript publicly accessible, Prak Yut appeared relatively cooperative, albeit with some memory problems which are understandable due to her advancing age and the amount of time that has passed since the events in question. The Witness apologized on a number of occasions for having difficulties recalling specific events or aspects of her prior testimony. Several aspects of her testimony differed from that of You Vann who appeared before her, and when confronted with these disparities the Witness responded that her own memory might be faulty. Her admission of personal responsibility also appeared to shift throughout her testimony; sometimes she would say she had no authority to make decisions without instruction from the upper echelon, while other times she appeared to make decisions autonomously.

III. LEGAL AND PROCEDURAL ISSUES

This week the main legal issues to disrupt proceedings stemmed from torture-tainted evidence and problems caused by the Witness’s wealth of knowledge learned after the DK period. Additionally, at the end of the week, Civil Parties presented nine proposed projects concerning reparations for Civil Party victims in Case 002/02, outlined below in Section III.C.

A. Witness's Contemporaneous Knowledge

Ever since Duch began his testimony in Case 002/02, Defense Counsel for Nuon Chea has drawn attention to the problem posed by the amount of knowledge the Witness has gained after the DK period, making it difficult to ascertain whether his basis for responses comes from contemporaneous DK knowledge or not. On Monday it became clear that Duch had a copy of the Case 001 Case File in his prison cell, and it appeared he was very familiar with all the documents in the file. This week as Victor Koppe began his questioning he tried to underscore this point by confronting the Witness with statements in which the source of his knowledge seemed to come from after 1979, such as: "Following David Chandler's book, Koy Thuon was stood down on 8 April 1976." When pressed on this point, Duch became agitated and defensive, saying "I was the one who was there, not [Chandler]. However the exact date of detention was in his book." When pressed further the Witness began explaining the "theory of knowledge" to the Defense Counsel, explaining the interrelation between knowledge and memory cannot be separated. The Bench confronted this issue by consistently reminding the Witness to refrain from using his post-1979 knowledge to respond to questions.

B. Use of Torture-Tainted Evidence

One the recurring topics of Case 002/02, that of torture tainted evidence, was subject for debate many times this week. While previously the Trial Chamber has mostly faced objections from the Prosecution over Defense attempts to use documents allegedly tainted by torture, this week the objections came from the other side. In one instance the Prosecution attempted to use the initial biographical and introductory statements at the beginning of confessions, arguing that such statements had been made at the outset of an interrogation and therefore necessarily predate any torture that may have been inflicted. The Defense for Khieu Samphan objected to this by saying that the Prosecution itself had argued that from the moment a person had been questioned at S-21, the possibility that torture had been applied was too great to use the contents of such statements. The Trial Chamber sustained the objection and upheld its ruling that any confessions from S-21 or information based on such confessions should be viewed as torture-tainted in principle.⁴³ The Prosecution later attempted to use a document produced at S-21 in which a prisoner denied any wrongdoing, arguing that such a document could not have been the product of torture since the prisoner does not confess to anything. This strange argument was objected to by both defense teams, with Counsel Koppe noting that he was "very curious to see how you are going to deal with this in light of the decision you are not going to use Koy Thuon's confession."⁴⁴ The Chamber ultimately sustained this objection.

Later, the Prosecution again tried to introduce information contained in confessions broadcast on the radio, arguing that the dissemination of the information over the radio exempted it from the Convention Against Torture. The Khieu Samphan Defense Team disagreed, and reminded the Trial Chamber of a similar prior incident in which it had already decided against allowing such information to be presented. The Court upheld the objection and instructed the Prosecution to not use such information.

Notably, both President Nil Nonn and Judge Jean-Marc Lavergne faced objections when they sought to use confessions in their own questioning of the Witness this week. The President used a document written by Sua Vasi, *alias* Doeun to Duch that Doeun had written while he was detained at S-21 and that described methods of torture. Counsel Guissé objected once again, pointing out that such a letter constitutes torture-tainted evidence. The President acknowledged this, saying he "could not find any other surviving document [concerning this] but I will ask a general question instead." On Thursday, Judge Lavergne based some of his questioning on a biography which included the phrase "who confesses that..." and he argued the term "confess" can also mean "state" or "say" in this context. After National Counsel for Khieu Samphan read the passage in the original Khmer, and established the meaning was

indeed “confess,” the Bench deliberated for five minutes before denying the use of the concerned document, a decision to which Judge Lavergne voiced his dissent for the record.

C. Civil Party Presentation on Proposed Reparations Projects

As scheduled in the Trial Chamber’s 10 June 2016 memorandum, on Thursday this week Lead Co-Lawyers for Civil Parties made an oral presentation before the Trial Chamber about their proposed reparation projects in Case 002/02.⁴⁵ Internal Rule 23 *quinquies* provides that “If an Accused is convicted, the Chambers may award only collective and moral reparations to Civil Parties.”⁴⁶ Prior to detailing the projects, international Lead Co-Lawyer for Civil Parties Marie Guiraud explained that the ideas for the projects had come from a direct consultation process with Civil Parties in provinces including Kampot, Mondulkiri, Banteay Meanchey and Koh Kong, coordinated by the Civil Party Lawyers and the Victim Support Section with financial support from the German Service for Peace. Counsel Marie Guiraud elaborated that the projects were intentionally designed following the line of the United Nations principle of reparation in 2005 including guarantees of non-repetition, education and awareness, satisfaction and rehabilitation. Counsel pointed out among the nine projects to be presented today, eight are currently ready to be implemented and have sufficient funding. National Lead Co-Lawyer for Civil Parties, Pich Ang, told the Chamber that it was possible other projects may exist in the future should they receive financial support and approval from the Royal Government of Cambodia, including a memorial center museum in Siem Reap, a public ceremony to commemorate the victims of Khmer Rouge regime, preservation of crime sites throughout the country and symbolic reminder of existing infrastructure by rendering names of public road or bridge to ‘memorial’ to honor victims of Khmer Rouge regime. The nine proposed reparation projects were grouped into three categories: (a) Guarantee of Non-Repetition (b) Treatment of Specific Groups and (c) Satisfaction and Rehabilitation.

a. Guarantee of Non-Repetition

The Lead Co-Lawyers explained that projects based on a guarantee of non-repetition aim at upholding international statutes through education and the learning about the history of the Khmer Rouge. The projects are to be implemented through cooperation between non-governmental organizations and the Ministry of Education in high schools and universities in Cambodia. The following are the specific projects:

- i) *Web Application of Khmer Rouge History Education.* This project will be implemented by Bophana Audiovisual Center, developing educational content through an application with all elements contained in Casefile in Case 002/02 such as training modules, education modules and archival of films, photographs, articles, Civil Party’s testimony, images of the trial, documents and audio files.
- ii) *Training of teachers to teach Khmer Rouge History at High Schools and Universities.* With support from DC-Cam Center, the project aims at providing capacity-building to teachers to teach history of Democratic Kampuchea in high schools and universities across the country.
- iii) *Educational and Artistic Project.* With support from Metahouse, this project aims at creating community or theatre play produced by young Cambodian authors, which will be performed in all schools and high schools throughout Cambodia. The play will demonstrate acts of courage, resistance and solidarity that occurred during the DK period. Through the play, the project also encourages intergenerational dialogue in relation to DK experience and knowledge.

b. Treatment of Specific Groups

The projects aimed at providing support of rehabilitation for certain Civil Parties who were Cham ethnic minorities and victims of forced marriage are advancing their ages. The following

are specific projects:

- i) *Films about the Cham*. Metahouse will coordinate to produce and distribute films about Cham made by young Cham filmmakers, Civil Parties and other victims who experienced the DK regime, with supervision of professional filmmakers.
- ii) *Pkasla Krom Angkar for Victims of Forced Marriage*. This project is a joint collaboration between Khmer Arts Academy, Kdei Karuna, TPO and Bophana Center to produce a contemporary dance, create permanent archives of stories of forced marriage and rape, and provide freely open space for dialogue in community following dance performance.
- iii) *Voice of Ethnic Minorities*. With support from Kdei Karuna, the project aims at providing community dialogue and outreach events for ethnic minority communities throughout the country such as theatre, public truth-telling and oral history telling.

c. Satisfaction and Rehabilitation

Satisfaction projects are chiefly aimed at distributing the judgment in Case 002/02. The following are specific projects:

- i) *Publicity of Untold Stories of Civil Parties*. The Cambodian Human Rights Action Committee (CHRAC) collects and publishes personal accounts of 30 Civil Parties who could not testify in front of the Trial Chamber in Case 002/02. This project aims to produce an illustrative book of those Civil Parties' stories, describing their suffering experiences during the DK period. Those books will be distributed to libraries throughout the country.
- ii) *Rehabilitation*. This project aims at rehabilitating health and mental well-being for the Civil Parties. Help Age Cambodia is in charge of implementing this project through many activities such as capacity building training activities for health professionals and village health volunteers on physical and mental health care issues, and provide mobile health camps for 3635 people in 81 villages in three provinces.
- iii) *Victim Access to Khmer Rouge Tribunal Records*. This project has not been implemented yet. The proposal is to call for collaboration between Royal Government of Cambodia through Council Minister and the Legal Document Center of the ECCC. This project aims at providing Civil Parties, victims of the DK regime and young generation access to judicial record of ECCC trial.

IV. TRIAL MANAGEMENT

This week the Trial Chamber heard the testimony of Witness Kaing Guek Eav *alias* Duch over four days. The testimony of the Witness will continue under questioning from both Defense Teams next week.

A. Attendance

This week Nuon Chea continued to waive his right to be present in the courtroom and observed the proceedings all week from the holding cell due to his poor health, while Khieu Samphan was present in the courtroom throughout all sessions throughout the week.

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

Parties: All Parties were properly represented in the courtroom all week. In the last session on Thursday, Counsel Victor Koppe, international Defense Lawyer for Nuon Chea was absent and was replaced by his international colleague Ms. Doreen Chen.

Attendance by the public:

| DATE | MORNING | AFTERNOON |
|-------------------------|--|--|
| Monday 13/06/2016 | <ul style="list-style-type: none"> ▪ Approximately 100 villagers and two monks from Oudong District, Kampong Speu Province ▪ Two foreign observers ▪ Eight Civil Parties | <ul style="list-style-type: none"> ▪ Approximately 110 villagers from Oudong District, Kampong Speu Province ▪ Four foreign observers ▪ Nine Civil Parties |
| Tuesday 14/06/2016 | <ul style="list-style-type: none"> ▪ Approximately 150 villagers from Oudong District, Kampong Speu Province. ▪ Two foreign observers. | <ul style="list-style-type: none"> ▪ Approximately 130 villagers from Oudong District, Kampong Speu Province. ▪ Two foreign observers. |
| Wednesday 15/06/2016 | <ul style="list-style-type: none"> ▪ Approximately 180 students and four teachers from Chea Sim Santhormok High School, Phnom Penh. ▪ Nine foreign observers ▪ Nine Civil Parties | <ul style="list-style-type: none"> ▪ Approximately 210 students, four teachers and six villagers from 24-September High School, Basedth District, Kampong Speu Province ▪ Two foreign observers ▪ Eight Civil Parties |
| Thursday 16/06/2016 | <ul style="list-style-type: none"> ▪ Approximately 310 students and five teachers from Chea Sim Santhormok High School, Phnom Penh ▪ 36 students from Royal University of Phnom Penh, Phnom Penh ▪ Nine foreign observers ▪ Nine Civil Parties | <ul style="list-style-type: none"> ▪ 45 villagers and approximately 180 students and seven teachers from Hun Sen Samroang High School and Hun Sen Onlong Chrey High School, Thpong District, Kampong Speu Province ▪ Nine foreigners observe ▪ Nine Civil Parties |

B. Time Management

This week the Trial Chamber effectively managed time allocated to all Parties. On Tuesday 14 June, the Trial Chamber granted the request by international Deputy Co-Prosecutor Dale Lysak for 30 minutes extra time to conclude his line of questioning, allotting an equivalent amount of time to the combined Defense Teams. Although initially the Bench was assigned one full day to question the witness, International Judge Jean-Marc Lavergne spent almost one and a half days asking questions, in addition to the time already used by President Nil Nonn. On Thursday the Trial Chamber also dedicated the final session to hear the presentation of Lead Co-Lawyers for Civil Parties in relation to reparation projects in Case 002/02.

C. Courtroom Etiquette

As Duch appeared to become more agitated while facing questions from the Defense, Nil Nonn intervened to remind the Witness to respond to questions in a “civilized” way. At one point this week President Nil Nonn seemed to become confused about the correct time, and attempted to adjourn proceedings twenty minutes early in afternoon on Monday, but he was corrected by his colleagues and overall proceedings ran smoothly throughout the week.

D. Translation and Technical Issues

This week a few minor translation problems appeared to be the result of difficulties of the interpreters to keep up with the fast pace of the Witness’s speech. Monitors also noted a

number of errors and mistranslations of dates, numbers and the names of S-21 prisoners.⁴⁷ On one occasion on Tuesday June 14, Khmer-to-English interpreter sought for apology for rendering wrong translation and corrected it immediately.⁴⁸ There were no substantial technical interruptions and overall the week ran smoothly.

E. Time Table

| DATE | START | MORNING BREAK | LUNCH | AFTERNOON BREAK | RECESS | TOTAL HOURS |
|--|-------|------------------|-------------|--------------------------|--------|-----------------------|
| Monday 13/06/2016 | 9:00 | 10:09-10:29 | 11:31-13:30 | 14:38-14:59 | 16:06 | 4 hours 26 minutes |
| Tuesday 14/06/2016 | 9:00 | 10:15-10:34 | 11:31-13:31 | 14:38-15:00 | 16:04 | 4 hours 23 minutes |
| Wednesday 15/06/2016 | 9:00 | 10:08-10:33 | 11:35-13:29 | 14:41-14:59 | 16:03 | 4 hours 26 minutes |
| Thursday 16/06/2016 | 9:01 | 10:16-10:38 | 11:31-13:30 | 14:41-15:04 | 15:39 | 3 hours 54 minutes |
| Average number of hours in session | | | | 4 hours and 17 minutes | | |
| Total number of hours this week | | | | 17 hours and 9 minutes | | |
| Total number of hours, day, weeks at trial | | | | 734 hours and 36 minutes | | |
| 197 TRIAL DAYS OVER 57 WEEKS | | | | | | |

*This report was authored by Lena Harris-Pomeroy, Somaly Kum, Caitlin McCaffrie, Visot Nom, Lina Tay, Sathapor Thom 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 Eav alias “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 |

¹ KAING Guek Eav began his testimony last Tuesday 7 June 2016. For a summary of his testimony at that time, see CASE 002/02 KRT TRIAL MONITOR, Issue 56, Hearings on Evidence Week 53 (6-9 June 2016). He also testified as a witness in Case 002/01 over twelve days between 19 March – 10 April 2012. For summaries of his testimony in Case 002/01 see CASE 002 KRT TRIAL MONITOR, Issue 15, Hearings on Evidence Week 10 (19-21 March 2012); CASE 002 KRT TRIAL MONITOR, Issue 16, Hearings on Evidence Week 11 (26-29 March 2012); CASE 002 KRT TRIAL MONITOR, Issue 17, Hearings on Evidence Week 12 (2-5 April 2012); CASE 002 KRT TRIAL MONITOR, Issue 18, Hearings on Evidence Week 13 (9-10 April 2012).

² KAING Guek Eav (*alias* Duch) was found guilty by the Trial Chamber and sentenced to 35 years’ imprisonment on 26 July 2010, see Trial Chamber “Judgment” (26 July 2010), E188. KAING Guek Eav appealed the verdict to the Supreme Court Chamber, which was dismissed. The OCP also appealed the verdict, and on 3 February 2012 the Supreme Court Chamber quashed the decision of the Trial Chamber and increased the Accused’s sentence to life imprisonment, see Supreme Court Chamber, “Appeal Judgment” (3 February 2012), F28.

³ KAING Guek Eav was questioned in the following order this week: international Civil Party co-lawyer, Marie GUIRAUD; national Civil Party lead co-lawyer Pich ANG; international Assistant Prosecutor Dale LYSAK; President NIL Nonn; Judge Jean-Marc LAVERGNE; international co-counsel for Nuon Chea, Victor KOPPE.

⁴ One example provided by Duch of such a prisoner was Ke Koem Huot

⁵ LACH Mean also recounted this incident in his own testimony before the Court. He testified that the woman had been arrested for having an “immoral affair” with a man that had resulted in her pregnancy, see CASE 002/02 KRT TRIAL MONITOR, Issue 52, Hearings on Evidence Week 49 (25-28 April 2016) p. 4.

⁶ Duch explained that after a violent outburst he had been afraid that Koy Thuon, who was kept at a house to the south of Ponheat Yat High School, would attempt to commit suicide. He assigned two special guards and had his ankles shackled to a rattan bed to minimize the risk of Koy Thuon hurting himself. Duch stated that he had personally been in charge of supervising and interrogating Koy Thuon.

⁷ Later as an example, Duch recounted that when Huy Srae was arrested, so were his wife, Comrade Khoeun, and their young child who was less than one year old at the time.

⁸ The documents related to the six elderly women were discovered as part of the recently updated OCIJ list of S-21 prisoners, which Duch had not seen before. Duch seemed to question the validity of the documents on the

grounds that they had not formed part of either his own case or Case 002/01, and therefore he was unable to respond to the question fully.

⁹ DUCH was arrested on 5 January 1968 and subsequently detained at Prey Sar until the Lon Nol coup in 1970. Extraordinary Chambers in the Courts of Cambodia, “Case 001 Judgment” (26 July 2010) E118. Pg 43, para 113

¹⁰ The Witness cited “The Craft of Intelligence” by Allen Dallas, former Director of the CIA as examples of books that he had read about torture and interrogation techniques.

¹¹ CHUM Mey testified as a Civil Party before the Chamber on 18 and 19 April 2016. For a summary of his testimony see CASE 002/02 KRT TRIAL MONITOR, Issue 51, Hearings on Evidence Week 48 (18-21 April 2016).

¹² Although DUCH did not address this allegation specifically, he did testify that Ke Koem Hout had been made to eat two spoons of his own excrement as part of his interrogation.

¹³ DUCH clarified that torture was still seen as necessary to obtain confessions from foreign prisoners.

¹⁴ IENG Sary was one of the four originally accused as part of the Case 002 Closing Order, however he passed away on 14 March 2013 at which time proceedings against him were terminated.

¹⁵ Huy Srae is a nickname meaning “Huy of the Rice Fields” – the rice fields being a reference to Prey Sar where he was chief.

¹⁶ Those arrested included Mun: the First Deputy of General Staff, as well as So, Thol, Sok, Thal, Sat and That

¹⁷ Last week DUCH testified that Thoy enjoyed torturing prisoners and he was usually careful who he assigned to be interrogated by Thoy in case he got carried away.

¹⁸ *Santebal* is the Khmer term for “security” and was used to refer to the DK secret police.

¹⁹ LACH Mean testified that there were no female interrogators at S-21, however Duch disputed his testimony, casting doubt on LACH Mean’s identity. PRAK Khan also testified that there were no female interrogators, although he said female prisoners were interrogated by the wives of guards. Duch also disputed this testimony, saying PRAK Khan was not reliable.

²⁰ The Khmer word *yuon* is mainly used in a derogatory way to refer to Vietnamese people.

²¹ DUCH said there were two parts to the film: one shot north of Street 163 and Mao Tse Tung near a pond, and the other shot at Street 95 near Duch’s own house. The part shot near the pond was a scene staging the arrest of the Vietnamese prisoners, who were all dressed in military uniforms and were instructed to raise their hands to salute the CPK. The part shot at Duch’s house on Street 95 were scenes showing those Vietnamese soldiers who usually hold their helmet on their hand, but Theng said that was not the rights posture.

²² LACH Mean testified that these videos were broadcast at S-21 for all staff to watch; see CASE 002/02 KRT TRIAL MONITOR, Issue 52, p. 4.

²³ It would seem that this refers to the Central Committee although the translation was unclear. Earlier, Duch also said that: “Khieu Samphan was a full member of the party center as well as a member of permanent committee” – using language that is unfamiliar to monitors. The Case 002 Closing Order states that Khieu Samphan was a member of the Central Committee and was present at meetings of the Standing Committee, without being a member.

²⁴ Duch clarified that Lach Dara *alias* Thorn survived the DK regime although died early in the 1980s “on the way she fled”

²⁵ YOU Vann (2-TCW-894) was questioned in the following order: President NIL Nonn; senior assistant prosecutor Travis FARR; international lead co-lawyer for Civil Parties, Marie GUIRAUD; international co-counsel for Nuon Chea, Victor KOPPE; international Judge Claudia FENZ; President NIL Nonn; 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. The redacted transcripts of her testimony are available at: Trial Chamber “Transcript of Trial Proceedings [Public Redacted]” (14 January 2016) Trial Day 357, E1/376.1 and Trial Chamber “Transcript of Trial Proceedings [Public Redacted]” (18 January 2016) Trial Day 358, E1/377.1.

²⁶ There was some uncertainty about the age of YOU Vann, who initially testified to being 55 years old. Previously she had testified to being born in 1952, 1957 or 1962 and was unsure of her age when pressed. Defense counsel KONG Sam Onn established that YOU Vann was born in the year of the rooster, and therefore was probably 57 or 58 years old.

²⁷ YOU Vann testified that Ta An was Sector 42 Secretary at the time and lived and worked in Prey Totueng District Office. There were three districts within Sector 41: Kampong Siem, Prey Chhor and Prey Totueng.

²⁸ YOU Vann said Ta Mok became Chief of the Central Zone at around this time.

²⁹ The Witness said PRAK Yut told her the study sessions were about the “work of the people” although she did not know what this meant.

³⁰ Counsel Victor Koppe asked the Witness whether she thought it was possible this policy was an attempt to increase the Cham population, however she said she was not in a position to respond.

³¹ Much of the information about forced marriages and forced consummation has been redacted.

³² YOU Vann said: “she issued orders only to male chief and I was a female chief.”

³³ Witness PRAK Yut previously testified in Case 002/01 on 25, 26 and 30 January 2012. A summary of her prior testimony is available in CASE 002 KRT TRIAL MONITOR, Issue 10, Hearings on Evidence Week 5 (23-26 January 2012); CASE 002 KRT TRIAL MONITOR, Issue 11, Hearings on Evidence Week 6 (39 January – 2 February 2012). The redacted transcripts of her testimony are available at: Trial Chamber “Transcript of Trial Proceeding [Public Redacted]” (19 January 2016) Trial Day 359, E1/378.1; Trial Chamber “Transcript of Trial Proceeding [Public Redacted]” (20 January 2016) Trial Day 360, E1/379.1; Trial Chamber “Transcript of Trial Proceeding [Public Redacted]” (19 January 2016) Trial Day 361, E1/380.1

³⁴ PRAK Yut had trouble recalling her year of birth and initially stated it was 1957, before correcting herself.

³⁵ YOU Vann testified to working under PRAK Yut at the clothing factory, which she said made uniforms for soldiers.

³⁶ Counsel Koppe suggested the Witness's prior evidence put the time of her relocation to Kampong Siem at March/April or even mid-1977.

³⁷ The OCP confronted the Witness with the prior testimony of Pech Chim, saying he "was not a little girl, he was a district secretary". Pech Chim testified that Prak Yut had attended a meeting in Phnom Penh with Ta An, Pol Pot and Nuon Chea during this one night stop over, however she said that although she had seen Pech Chim at the time she had not attended any meeting as she was not of a high rank. Pech Chim testified in April 2015 and a summary of his testimony can be found at CASE 002/02 KRT TRIAL MONITOR, Issue 16, Hearings on Evidence Week 13 (21-24 April 2015).

³⁸ The Witness also added that the First January Dam and Trapeang Thma Dam had been discussed at at least one of these meetings, however the President interrupted her response to inform her she was in a segment on the treatment of the Cham and so should not speak about dams, which are part of another trial segment.

³⁹ According to Prak Yut neither were Chinese people

⁴⁰ Several witnesses have testified that Cham rebellions took place in the villages of Koh Phal, Svay Khleang and Trea in Krouch Chhmar District. This is also covered in Expert Witness Ysa Osman's book *The Cham Rebellion*.

⁴¹ The Nuon Chea Defense Team asked the Witness how Prak Yut could be so confident that there had never been a policy regarding the Cham, while at the same time expressing that it was possible a policy had existed targeting former Lon Nol soldiers even if she had not been aware of one, however the Witness could not explain this.

⁴² Interestingly, during his testimony as an Expert Witness, Alexander Laban HINTON testified about PRAK Yut. He said it was well known in Kampong Siem District at the time that she had denounced her husband and allowed him to be executed by the Party, saying that this had proven her revolutionary credentials.

⁴³ See Trial Chamber "Decision on Evidence Obtained through Torture" (5 February 2016) E350/8.

⁴⁴ The Trial Chamber recently issued a memorandum in response to Nuon Chea's request to use certain S-21 statements, namely those of KOY Thuon, YIM Sambath and CHEA Non. The request was rejected in accordance with the Trial Chamber's decision on torture, however full written reasons are yet to be released. Trial Chamber, "Decision on Nuon Chea's Rule 92 Motion to Use Certain S-21 Statements" (19 May 2016) E399/4.

⁴⁵ Trial Chamber's "Indication of Reparation Projects for Implementation in Case 002/02" (10 June 2016) E352/2. A separate proposal was proposed in Case 002/01 in October 2011, for a summary of this, see CASE 002 KRT TRIAL MONITOR, Issue 3, Specifications of Reparations (19 October 2011).

⁴⁶ Extraordinary Chambers in the Courts of Cambodia "Internal Rules, rev. 9" (16 January 2015) p. 26.

⁴⁷ Monitors noted mistranslations and simplifications from Khmer to English; for example, '1977' to '1978'; 'my sibling visited me' to 'my sibling who was released'; 'Lach Thorn who was Brother Nuon's niece' to 'Lach Thorn'; '170' to '107'; 'Bong Ya was called Maen Phan' to 'Bong Ya'; 'Khieu Samphan' to 'Pol Pot'; 'regiment 310' to 'Division 310'; 'Dy Phun alias Thuk' to 'Dy Phun'; 'her children with ex-husband named Hong was also smashed' to 'shy might have been smashed'; '200 heads of security office' to 'any heads of security of office'; 'upper echelon was Bong Nuon' to 'upper echelon'; '200-300 people' to '300-400'; 'he didn't use torture' to 'he used torture'; 'Chen Suon' to 'Chen Soeun'; 'Bong Nuon met at Borei Keila for only two or three times' to 'Bong Nuon met at Borei Keila'; 'chairman of military committee, S-21 and Hospital P-98' to 'chairman of military committee and S-21'; 'Brother Sophea' to 'Brother Phea'; 'Suon Sao' to 'Sao'; 'I found a map of mine and forward to Pang to superior' to 'Pang later on found a map'; 'General Staff' to 'Center Staff'; 'Thorn' to 'Another woman'; 'number 336' to 'number'; 'person was deputy of the security' to 'person was in charge of the guard unit'; Problems also existed from English to Khmer; for example, 'June 1978' to 'July 1978' and '15,000-20,000' to '150,000-200,000.' Monitor also noted some discrepancies between translation from French to Khmer and French to English; for example, '150' and '154', '1,120' and '1,100', '1979' and '1977'; 'S-24 Khor' and 'S-21 Khor'; '4292' and '4000'; '4373' and '4000'; 'Tiech' and 'Tach.'

⁴⁸ On Tuesday June 14, interpreter said sorry to recorrect Duch's response from "before study session with Pol Pot" to "before study session with Nat."