

KRT TRIAL MONITOR

Case 002/02 ■ Issue 62 ■ Hearings on Evidence Week 59 ■ 11 – 12 August 2016



Case of Nuon Chea and Khieu Samphan

A project of East-West Center and the WSD HANNA Center for Human Rights and International Justice at Stanford University
(previously known as the UC Berkeley War Crimes Studies Center)

*“I never thought that my country would
plunge into that situation of perpetual quietness.”*

- Civil Party Ros Chuor Siy

I. OVERVIEW

This week, the postponement of key document hearings originally scheduled to begin on Monday, resulted in a break in proceedings until Thursday. Over two days of proceedings this week, the Trial Chamber heard statements from three Civil Parties as part of the victim impact hearings for the fourth segment related to security centers and internal purges, in addition to commencing documentary hearings with the presentation of key documents for this segment of Case 002/02 from the OCP and LCLCP.¹ On Thursday, Mr. Che Heab testified first about the loss of five of his eight siblings during the purges in Division 310, particularly the death of his elder brother Che Heay, whose family was also executed. Next, Ms. Phoung Yat testified about the loss of her sister, whom she learned after the regime had been killed at S-21. Finally Civil Party Ms. Ros Chuor Siy testified via video-link from Paris about the suffering she experienced as a result of the death of her husband Ros Sarin at S-21.² Next week the victim impact hearings will conclude on Monday with the hearing of three further Civil Parties,³ followed by the conclusion of the key document hearings on Tuesday with responses from the Defense.

II. SUMMARY OF VICTIM IMPACT HEARINGS

This week the Trial Chamber began its fourth set of victim impact hearings in Case 002/02, covering the segment on security centers and internal purges. All three Civil Parties this week appeared in relation to the harm they suffered as a result of crimes allegedly perpetrated at S-21.

A. Summary of Testimony of Civil Parties related to S-21

The first Civil Party to testify this week was 55-year-old Che Heab, who recalled being sent to work in a children's unit in DK's Division 310 and the suffering caused by the deaths of five of his eight siblings, particularly his brother Che Heay who died at S-21.⁴ Secondly this week, 56-year-old Civil Party Phoung Yat, from Trapeang Russei Village, Kralah Commune, Kampong Siem District, Kampong Cham Province, testified about the loss of her older sister Phoung Im,

whose photograph the Civil Party discovered at the Tuol Sleng Genocide Museum after the fall of the DK regime.⁵ Finally this week, Ros Chuor Siy testified from France about the loss of her husband, the former director of Pochentong Airport, Ros Sarin.⁶ She described the couple's return from France in 1976 and her subsequent detention at both Boeung Trabek and Dei Kraham camps, as well as her sadness at learning that her husband had died at S-21.

1. Arrests and Deaths of Family Members at S-21

All three Civil Parties testified about losing family members at S-21. First, Che Heab testified that after the fall of Phnom Penh in April 1975 he and his family were instructed to live in Kamreang Village, Srayov Commune. He had 8 siblings, but after 17 April, they became separated and he lived with his parents and three other siblings. Visibly distressed, the Civil Party told the Court about the deaths of five of his siblings: "You can ask my surviving family members that every time we think of it our tears fall. We feel so much pity for the loss and that we were so unfortunate to be born and live through such a regime." He said that his older brother Che Heay and his family were arrested because he was accused of being a traitor.⁷ Che Tok was arrested in 1977 because his biography incorrectly stated that he had been a policeman before the regime. The Civil Party never learned why his siblings Che Hul, Che Hat or Che Mon were taken away. After the regime, the Civil Party visited the Tuol Sleng Genocide Museum, where he found a photograph of his brother and realized he must have died there.⁸

Phoung Yat, also testified about family members who had died at S-21. She told the court that after 17 April she and her eight siblings were "drafted into soldiers" and were separated: two "disappeared" and her sister Phoung Im was sent to Phnom Penh. The Civil Party said that she was told Phoung Im had undergone an arranged marriage and worked in a factory however after their initial separation she never saw her again. Similarly to Che Heay, after the regime Phoung Yat visited Tuol Sleng and discovered a photograph of her sister, saying: "From her appearance she was very tortured. You could see that through her eyes." She said she had heard from a friend called Ret that her sister had given birth to two daughters in Phnom Penh however she had never heard from them and had no knowledge of them. In addition to her sister's photo, the Civil Party also found photographs of three other siblings: Phoung Phy, Phoung Vein and Phoung Phy.⁹ The Civil Party described her suffering on seeing photos of her siblings, saying she "Wept to point that [she] almost lost consciousness," and explaining that this suffering continues today as she feels lonely during traditional ceremonies not to have her family around.

Finally this week, Ros Chuor Siy testified about the suffering she experiences as a result of the death at S-21 of her husband Ros Sarin, the former director of Pochentong Airport before DK. She explained that she and her husband had returned to DK in 1976 and were immediately taken to Office K-15, where they had no freedom of movement, and narrowly avoided being sent to Tuol Sleng Prison for the reason that they could not all fit in the small car that was meant to transport them. In December 1976 her husband was separated from them and sent on a "secret assignment" and she never saw him again. She said that after Phnom Penh was liberated in 1979 she visited Tuol Sleng Prison, where she went into the room that held photos of prisoners, and stated, "My pulse was racing. I tried to screen every photo. I saw people that I knew. And finally I saw a photo of my husband. I wanted to cry out loud. I almost fainted."

2. Purges in Division 310

Che Heab testified that after the disappearance of his brother, other members of the North Zone's Division 310 also began to disappear. Deputy Division Commander Ta Oeun, he stated, disappeared and was replaced by Ta Ngor, who announced that Division 310 would be turned into Division 207. The reason given for the arrest was that "the Division betrayed *Angkar*" and that they "were alleged to have prepared themselves to rebel." He said that members of Division 310, including Oeun, were sent for reeducation near Wat Phnom, although the source

of this information was unclear. The Civil Party said he believed it likely his brother was arrested for his links with other Division 310 cadres, however he had no specific knowledge on this. He also was unaware of any relationship his brother may have had with Koy Thoun, and was unaware of any stockpiling of weapons that was alleged to have been going on in Division 310.

3. Treatment of the Cham

Only one Civil Party testified briefly on the topic of the treatment of the Cham this week. Phoung Yat said she had a friend named Kas who was ethnic Cham who lived in Koh Svay Village with her. The Civil Party recalled that one night Kas was taken out of the village and the next day Phoung Yat was given a new scarf. She described her reluctance to take the scarf as she recognized it as having belonged to her friend Kas, however after she was "threatened" she accepted the scarf. She said she did not know what happened to Kas.

4. Regulation of Marriage

Civil Party Phoung Yat testified about the arranged marriage of two of her sisters. First, she spoke of her sister Phoung Im, who moved to Phnom Penh from the family's hometown and was never seen again. The Civil Party said that another woman from their village named Ret informed their family that Phoung Im had been married to a cadre who was an electrical mechanic and had two children. The Civil Party also testified about another sister who had refused to undergo an arranged marriage and successfully fled. She said this sister was to be married in Preah Tateng but ran back to their hometown because she "did not like the man they had arranged for her." The woman then hid in their village; villagers covered for her when soldiers came asking for her whereabouts. After this, the woman stayed and cooked for the villagers, only telling her family and the village chief what had happened for fear she would be killed. Phoung Yat said that she learned about this while she was working in a mobile unit saw her sister on one of her visits home.

5. Ros Chuor Siy's Return to Phnom Penh and Detention

Ros Chuor Siy testified that on 17 April 1975 her family was living in France, however after a request from Ieng Sary for Cambodian expatriates to return to help "rebuild" the country, she returned with her family on 6 August 1976. When they arrived at Pochentong Airport, she was disappointed not to see any family come to receive them. She described feeling concerned at how quiet it was as they travelled from the airport to Office K-15 where they were first taken. On arrival she met two older men whom she had first met a few months before returning to Cambodia. She noticed they had lost weight, wore old, torn clothes and their appearance was upsetting to her. She also found her sister at the office, who had returned to DK six or seven months before the Civil Party. She said her family spent about one month at K-15 and then were relocated to a camp at Ta Ley, where children worked separately to adults. One day the Chief of Ta Ley Camp told her family to prepared to leave the camp with some others, however the group did not all fit inside the car and so the Civil Party's family remained in the camp while the others left. Later, she found out that the other group had been taken to Tuol Sleng and died. In mid-November 1976 Angkar relocated her family to Boeung Trabek, where her husband's health deteriorated. In mid-December 1976 while attending a study session, Ros Sarin ran to his wife to tell her he had been assigned by Angkar to perform a secret mission, telling her not to worry and that they would meet each other soon. She never saw her husband again.

Ros Chuor Siy remained at Boeung Trabek. One day a motorbike arrived at the camp and she heard it was Ieng Sary's secretary driving. The man told her not to worry, that she would be reunited with her husband after he fulfilled his assigned duty. She continued to work hard, and in February 1977 she and her children were relocated with others to Dei Kraham. Still believing

her husband must be working at Pochentong Airport on his “secret mission,” the Civil Party said. She said that sometimes the Chief at Dei Krahom would call women whose husbands had been taken away to be relocated, saying they were to be reunited, and at the time she was hopeful her turn would come. Her children were also anxious to meet their father. While she was at Dei Krahom her younger sibling contracted malaria while pregnant and suffered greatly. Her sister gave birth via cesarean in unhygienic conditions or equipment. In 1978 her family was transferred back to Boeung Trabek. Ros Chuor Siy described the living conditions as “miserable” and she regretted leaving France. After 7 January 1979, she remained living in Phnom Penh with her children and younger sister, however, not knowing where her husband was, she lived “like a widow.” While attending classes in Khmer language run by the Ministry of Education their instructor took them to Tuol Sleng Museum. While there she walked around each room, particularly the rooms of photos. She said she saw some people she knew, and then finally the photo of her husband. From that day onwards she told herself that she “could not live in such a country in such a condition” so she moved her family back to France.

6. Defense Counsel Examination of Che Heab

Counsel Victor Koppe, international Defense for Nuon Chea, asked questions of Che Heab. The majority of questions were directed towards his position in Division 310 or whether his brother had been involved in a rebellion in the North Zone, potentially involving Koy Thoun. For example, he asked whether Che Heab knew about meetings of Division 310 soldiers near Wat Phnom, or if his brother, who had allegedly been killed, knew Koy Thuon and been involved in plans to attack a radio station. The Civil Party did not have any information about any of those topics. Counsel Koppe also asked if the Civil Party knew Ta Yim, Ta Ban, Sen Huong, and Khorn Brak, to which the Civil Party replied that he heard the names during a meeting in the division in 1975 however he could not elaborate because he was only young at the time.

7. Defense Counsel Examination of Phoung Yat

Both Defense Teams questioned Civil Party Phoung Yat. National Counsel for Nuon Chea, Liv Sovanna, brought up an apparent inconsistency between the Civil Party’s previous statements and her in court testimony that her brother had been a generator repairman, and not a soldier, during DK. Civil Party Lead Co-Lawyer Pich Ang interjected twice to say he saw no such contradiction between her two statements, and the Civil Party herself reiterated that her brother had been a repairman and then became a soldier after 1975, however Liv Sovanna stressed that the discrepancy must be noted “for the record.” The national counsel also asked the Civil Party three times how she was able to recognize her brothers’ faces in the S-21 photo archives. National Defense Counsel for Khieu Samphan followed up with brief questions about the situation surrounding her sister’s decision to run away from a marriage that had been arranged for her.

8. Defense Counsel Examination of Ros Chuor Siy

Both Defense Teams questioned Ros Chuor Siy this week. Counsel Koppe asked her about her husband’s alleged support for Lon Nol and statements by Soung Sikhoen to this effect. He also asked about whether Hor Namhong was at Boeung Trabek while she was there and whether she knew his status at the camp.¹⁰ The Civil Party confirmed that Hor Namhong, former Foreign Minister who retired in had been “a chief” at Boeung Trabek and not a prisoner, saying he “divided assignments amongst groups” however she did not know more detail about his position. Anta Guissé, Defense Counsel for Khieu Samphan, briefly questioned the Civil Party about the identity of Ieng Sary’s Secretary although the Civil Party was unable to provide any further detail.

9. Civil Parties' Final Statements of Suffering and Questions to the Accused

Che Heab chose to be questioned by the Civil Party lawyers rather than provide a statement of suffering due to difficulties reading the Khmer language, however he did ask questions of the Accused. He asked why people had to live communally, why cooperatives were established, and why soldiers couldn't visit their home villages; finally, he asked why the regime was established at all, and why they banned money and pagodas. Phoung Yat also chose not to give a statement in favor of being questioned by Civil Party lawyers, however she too asked questions of the Accused. She asked why her siblings, who had helped in the war against Lon Nol, were taken away and killed, adding: "I feel great pity for my siblings, that's all I want to ask."

At the end of the testimony of Ros Chuor Siy, the Civil Party gave a statement and asked questions of the Accused. In her statement she said that she had also wanted to ask questions of leng Sary, who had asked Cambodians living abroad like herself to return to DK, but that the Court proceeded "rather slowly and the Accused died before he was even tried." She continued by explaining that one of her reasons for wanting to testify was that she wanted to teach the younger generation not to be fooled by politicians. She criticized the current regime, saying: "Murderers, allow me to say murderers, can travel freely within the country and some even hold senior positions in the government. This culture of impunity obstructs the peaceful living of the general population." From there she went on to mention the recent assassination of political analyst Kem Ley, however was interrupted by the President who asked her to restrict her comments to the DK period. Finally, Ros Chuor Siy asked whether leng Sary knew when he called Cambodians to return from abroad that they would be killed at S-21, and how Nuon Chea and Khieu Sampan felt about their responsibility for "killing millions of people."

III. SUMMARY OF KEY DOCUMENT PRESENTATIONS

This week both the Office of the Co-Prosecutors and the Civil Party Lead Co-Lawyers presented the key documents they are relying on concerning the charges related to security centers and internal purges. Neither Defense Team chose to present key documents, and the Khieu Samphan Defense will respond to the OCP and LCLCP presentation next week.¹¹

A. Documents Presented by OCP

The OCP presented a range of documents related to this segment, ranging from academic works to contemporaneous telegrams and reports, video interviews with the Accused and prior testimony of Witnesses. The majority evidence presented related to S-21 and the role of the Accused.

1. Au Kanseng

National Deputy Co-Prosecutor Srea Rattanak presented documents for the OCP related to Au Kanseng Security Center in Ratanakiri Province. He presented telegrams and prior testimony of Chhaom Se about the capture and execution of a group of Jarai soldiers at Au Kanseng.¹² Srea Rattanak also presented documents concerning arrests made of those working at a Ratanakiri rubber plantation, including telegrams about the arrests, reports and the prior in-court testimony from Witnesses Phan Thol and Moeung Chandy, who worked there and claimed to have been arrested.¹³ The OCP submitted that confessions at S-21 were used as the basis of arrests in the district, citing the testimony of Chhaom Se; cover pages of S-21 confessions with annotations that they were sent to the Accused and other DK leaders; and the OCIJ prisoner list from S-21 which shows people entered the Center one week after they were implicated in confessions.

2. Phnom Kraol

Assistant Prosecutor Joseph Andrew Boyle then presented documents related to the Phnom Kraol Security Center in Koh Nhek District, Mondulkiri Province. To describe the situation of arrests and purges in Mondulkiri, the Prosecutor presented the book “Khmer Rouge Purges in the Mondulkiri Highlands” by Sarah Colm and Sorya Sim; the OCIJ S-21 Prisoner list showing people sent to S-21 from Sector 105 in Mondulkiri; OCIJ statements from Civil Parties Wong Dos and Sok El who alleged to have been detained at Phnom Kraol but who passed away before they were able to testify. Mr. Boyle also presented eight telegrams from Sector 105 Secretary Laing to either Office 870, “beloved and missed brother Nuon” or “brother Khieu,” the alias of Son Sen. The OCP argued the telegrams addressed to Nuon Chea demonstrate his knowledge and complicity in the workings of Phnom Kraol Security Center as well as the centralization of the DK regime more generally.

3. S-21

International Prosecutor Nicholas Koumjian took over the OCP’s document presentation when the topic turned to S-21. Mr. Koumjian presented various books by academics and journalists in relation to the Security Center, including “Brother Number One: A Political Biography of Pol Pot” by David Chandler; “Pol Pot: Anatomy of a Nightmare” by Philip Short; “When the War Was Over” by Elizabeth Becker; “Cambodia: 1975-1982” by Michael Vickery; “Eyes of the Pineapple” by Roeland Burgler; “Behind the Killing Fields” by Thet Sambath and Gina Chon. The Prosecutor cited Nicholas Dunlop’s “The Lost Executioner” as evidence that a large number of documents and prisoner lists from S-21 were lost after the Vietnamese arrived on 7 January 1979. He also argued that interviews with Nuon Chea in Behind the Killing Fields which indicated that high ranking cadres did not believe the content of confessions. An interview with Van Nath, a prisoner at S-21 was used to demonstrate the situation at S-21 while he was detained there.¹⁴ The OCP also presented the Choeung Ek forensic evaluation study which they argue demonstrates the number of people executed there, as well as telegrams about S-21 detentions being ordered by the Standing Committee, showing knowledge by the upper echelon of what was going on on the ground. Mr. Koumjian also drew the court’s attention to the role of Khieu Samphan, who has claimed not to be aware at the time of the existence of S-21, however this was inconsistent with some prior statements he had given. The Prosecutor also emphasized that from the documents presented it was clear Nuon Chea had been fully aware of torture taking place at S-21.

4. Purges

The OCP presented several books about Nuon Chea’s involvement with the purges and relationship with Vietnam, including “Behind the Killing Fields” by Thet Sambath and “The Khmer Rouge and the Vietnamese Communists” by Dmitri Mosyakov. They also presented video evidence, including an interview with Nuon Chea from Frontline Documentary “Pol Pot’s Shadow” and clips from “Enemies of the People,” directed by Thet Sambath and Robert Lemkin. They also presented a talk Nuon Chea gave to a Danish delegation in which Nuon Chea is quoted as saying “as long as there are leaders the Party will not die. There is no comparison between losing 2 or 3 leaders to losing 200 to 300 cadres.” In order to demonstrate the relationship between DK and Vietnam in the Mondulkiri region, Mr. Boyle presented reports from Division 920 Secretary Chin to DK leadership about plans to attack Vietnam; testimony from Bun Loeung Chauy and Sun Vuth about border negotiations;¹⁵ a telegram from Northeast Zone Secretary Ya to “respected brothers” including Pol Pot and Nuon Chea concerning good relations with Vietnamese; and Standing Committee Meeting notes discussing strategy towards Vietnam. These documents were used to demonstrate that the Northeast Zone did not have an unusually close relationship to Vietnam and that allegations that Zone Secretary Ney Saran, alias Ya, and others who had been purged in the sector, were not plotting any secret coups.

B. Documents Presented by Civil Party Lawyers

The Civil Party Lead Co-Lawyers Pich Ang and Marie Guiraud presented the Chamber with numerous Civil Party Applications (**CPAs**) and related documents concerning three security centers and purges in the East Zone. Many of the concerned Civil Parties have passed away since applying to be part of the Civil Party process, and thus cannot now be called by the Chamber. The LCLCPs also presented a number of contemporaneous S-21 documents, such as entry and execution lists from the Center. Ms. Guiraud explained that the recently updated OCIJ prisoner list had enabled them to locate a good deal more information than was previously thought available.

1. Au Kanseng

Only one document was presented by the Civil Party lawyers concerning Au Kanseng Security Center. This document was the CPA of Mr. Seu Lim, who alleged that he was taken to Au Kanseng Prison in 1978 and interrogated. He wrote in his application that he was electrocuted every two to three days until he was taken to be executed on 6 Jan 1979, along with hundreds of other detainees, however he fainted and thereby managed to survive. Pich Ang read from his CPA: "I fainted and the Khmer Rouge threw me on the piles of bodies. I lay on the corpses and a day later I became conscious and walked away."

2. Phnom Kraol

LCLCP Pich Ang presented two documents on Phnom Kraol, both related to prior statements given by Civil Party Om Mon, who has passed away. The first was a victim information form that stated that during the regime she was sent to Koh Nhek District to fight. She was transferred to Office 105 under Ta Sophea and was ordered to marry a man of Pnong ethnicity, however she refused three times and subsequently married a man from Takeo. She became pregnant within three months and during the final stages of her pregnancy she was taken away with other pregnant women, "accused of trying to run away and working with the CIA and KGB." She said she was imprisoned at K-11, the office linked to Phnom Kraol, while the other women were killed. She lost her baby after a fall at work. The second document explained the Civil Party's time as a combatant and her progression to different sectors throughout the regime, up until her time at K-11 under Ta Sophea where she was forced to witness a nine-year-old child being beaten by guards.

3. S-21

Pich Ang presented six CPAs related to S-21. The first was related to Kung Peah, who lost her husband at S-21. The second and third were Ms. Claude Yeo and Ms. Nuon Nieng, both of whom also lost their husbands, the fourth was Chean Chun Ean, who lost his elder sister, her husband, and younger sister, the fifth was Mao Chay Ken *alias* Mao Chun, who lost a number of relatives, and the sixth was Ms. Ruos Main, whose brother died at S-21. Also presented were a series S-21 prisoner lists, that related to six Civil Parties: Sien Tan, Keo Kimhong, Sien Vandy, Chun Nuo, Martine Lefevre, and Ou Yat. Ms. Guiraud explained that these prisoner lists had only been discovered after the release of the newly updated OCIJ prisoner list.

4. Purges

Pich Ang presented three CPAs concerning internal purges in the East Zone, all concerning Civil Parties who have now passed away. First was Ms. Kunh Mao, who lost her younger brother during the regime, then Ms. Lap Lein who lost her eldest son at Ta Sophea's office, and finally Var Son, who lost her eldest brother who was a subordinate of Sao Phim.

IV. LEGAL AND PROCEDURAL ISSUES

This week did not experience many interruptions due to legal or procedural issues, however during victim impact hearings, his international counsel explained a new qualification to Nuon Chea's decision to remain silent and not respond to questioning.

A. Change to Nuon Chea's Position on Maintaining His Silence

After the conclusion of Che Heab's testimony on Thursday this week, acting President Ya Sokhan informed the Civil Party that the two Accused maintained their right to remain silent and would thus not be responding to the questions he had put to them, as is standard procedure. Having heard this, Counsel for Nuon Chea arose to draw the Chamber's attention to a recent filing that updates Nuon Chea's intention to exercise his right to silence.¹⁶ The document is redacted and maintains that Nuon Chea wishes to participate in proceedings however he feels unable to do so unless the Chamber summonses a certain individual, as the Defense Team views this person as integral to the ascertainment of truth in this case. Until this person is called as a Witness, Nuon Chea argues, he considers the Chamber "is still failing to assess evidence critically, is disinterested in fully understanding the CPK and the reasons and justifications for Nuon Chea's conduct, and is instead focused on substantiating his guilt."¹⁷

IV. TRIAL MANAGEMENT

This week during the proceeding, all Parties were properly represented in the courtroom. Nuon Chea continued to waive his right to be present in the courtroom due to his health and followed proceedings from the holding cell downstairs, while Khieu Samphan attended all sessions this week.

A. Attendance

Judge Attendance: President Nil Nonn continued to be absent throughout the week this week and was replaced by Judge Ya Sokhan. National reserve Judge Thou Mony took the place of Ya Sokhan on the bench.

Parties: All Parties were present in the courtroom during proceedings this week. Victor Koppe was absent on Friday for the key documents hearings, however he was replaced by his international colleague Doreen Chen.

Attendance by the public:

DATE	MORNING	AFTERNOON
Thursday 11/08/2016	<ul style="list-style-type: none">▪ Approximately 100 villagers from Sout Nikom District, Siem Reap Province▪ 4 foreign observers▪ 7 Civil Parties attended inside the courtroom	<ul style="list-style-type: none">▪ No public attendance

Friday 12/08/2016	<ul style="list-style-type: none"> ▪ Approximately 50 students from Chhouk high school, along with approximately 30 villagers from Chhouk District, Kampot Province ▪ 2 foreign observers ▪ 7 Civil Parties attended inside the courtroom 	<ul style="list-style-type: none"> ▪ Approximately 150 students from Chhouk high school, Chhouk District, Kampot Province ▪ 3 foreign observers ▪ 7 Civil Parties attended inside the courtroom
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B. Time Management

Last week the Trial Chamber made a last minute announcement on Friday 5 August that the key document hearings scheduled to take place this Monday to Wednesday were postponed.¹⁸ No new hearings were rescheduled to take up this time and rather, the Court resumed hearings on Thursday with the previously planned victim impact hearings, which will be concluded next Monday. Compensating for time lost, the Trial Chamber convened on Friday to begin the key documents hearings, which will conclude next week. During the two days of hearings this week time was managed equitably between Parties and all testimony was concluded successfully.

C. Courtroom Etiquette

There were no significant breaches of courtroom etiquette this week.

D. Translation and Technical Issues

There were no notable problems in interpretation this week, although the interpretation unit requested the Prosecution slow down on a number of occasions on Friday during the key document hearings because Parties were talking too fast to interpret accurately. There were a few technical errors in displaying photos on screen during document hearings and some minor errors with the video during the live-stream testimony of Civil Party Ros Chuor Siy from Paris, France. Although these caused minor interruptions, the Chamber resolved the issues quickly.

E. Time Table

DATE	START	MORNING BREAK	LUNCH	AFTERNOON BREAK	RECESS	TOTAL HOURS
Thursday 11/08/2016	9:00	10:04-10:22	11:33-13:29	14:28-14:47	16:09	4 hours 36 minutes
Friday 12/08/2016	9:00	10:11-10:31	11:31-13:28	14:43-15:02	15:47	4 hours 11 minutes
Average number of hours in session						4 hours and 23 minutes
Total number of hours this week						8 hours and 47 minutes
Total number of hours, day, weeks at trial						801 hours and 44 minutes
214 TRIAL DAYS OVER 62 WEEKS						

*This report was authored by Britni Olina Chau, Melanie Hyde, Caitlin McCaffrie, Vuthy Nin, Lina Tay, Sathapor Thom, Alina Utrata 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 HANNA 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

¹ Key Document Hearings and Victim Impact Hearings are held at the end of each trial segment. The key document hearings allow parties to present each other with the key documents that are relevant to each segment, whereas victim impact hearings provide Civil Parties who will not otherwise be testifying in Case 002/02 with an opportunity to share their experience of harm suffered during the DK regime. See Trial Chamber, “Information on (1) Key Document Presentation Hearings in Case 002/02 and (2) Hearings on Harm Suffered by the Civil Parties in Case 002/02” (17 December 2014) E315/1. For a summary of the first set of key document hearings in Case 002/02, on the Tram Kak District cooperatives and Kraing Ta Chan Security Center, see CASE 002/02 KRT TRIAL MONITOR, Issue 17, Hearings on Evidence Week 14 (27-30 April 2015). The next key document hearings were held at the end of the segment on three DK-era worksites; see CASE 002/02 KRT TRIAL MONITOR, Issue 28, Hearings on Evidence Week 25 (24-27 August 2015), and CASE 002/02 KRT TRIAL MONITOR, Issue 29, Hearings on Evidence Week 26 (1-3 September 2015). The third and most recent set of document hearings covered the treatment of targeted groups, see: CASE 002/02 KRT TRIAL MONITOR, Issue 44, Hearings on Evidence Week 41 (23-26 February 2016) pp. 1-4. For coverage of the first set of impact hearings towards the end of the first trial segment, on Tram Kak District cooperatives and Kraing Ta Chan Security Center, see Case 002/02 KRT Trial Monitor, Issue 15, Hearings on Evidence Week 12 (30 March - 3 April 2015), pp.1-7; For the second set of impact hearings at the end of the segment on DK worksites, see CASE 002/02 KRT TRIAL MONITOR, Issue 29, Hearings on Evidence Week 26 (1-3 September 2015), pp.1-4. For the third and most recent set of impact hearings on the segment on the treatment of targeted groups, see CASE 002/02 KRT TRIAL MONITOR, Issue 45, Hearings on Evidence Week 42 (29 February – 3 March 2016), pp.1-7.

² The Civil Party Application of ROS Chuor Siy was cited by the Civil Party lawyers during the testimony of Witness KAING Guek Eav, alias Duch. Civil Party Lead Co-Lawyer Marie Guiraud asked Duch about the Civil Party's husband, Ros Sarin, who is alleged to have died at S-21. Duch claimed not to remember Ros Sarin. See: CASE 002/02 KRT TRIAL MONITOR, Issue 56, Hearings on Evidence Week 53 (6-9 June 2016), p. 8. Monitors note that in our previous report the name was spelled in English Ruos Sarin, however we have chosen to use Ros Sarin for consistency with ECCC documentation.

³ The Civil Party lawyers indicated that the remaining witnesses will include: one indirect victim of Phnom Kraol Security Center, one further indirect victim of S-21 and one direct victim of purges in the East Zone, see Lead Co-Lawyers for Civil Parties, “Lead Co-Lawyers Submission on the List of Civil Parties to testify during the Hearings of Harms Suffered” (1 August 2016) E315/1/6.

⁴ Civil Party CHE Heab (2-TCCP-275) was questioned in the following order: Acting President YA Sokhan; Civil Party lawyer HONG Kimsuon; international assistant prosecutor Vincent DE WILDE D'ESTMAEL; defense counsel for Nuon Chea, Victor KOPPE.

⁵ Civil Party PHOUNG Yat (2-TCCP-1047) was questioned in the following order: Acting President YA Sokhan; Civil Party Lead Co-Lawyer PICH Ang; deputy prosecutor SENG Leang; national defense counsel for Nuon Chea, LIV Sovanna;

⁶ ROS Chuor Siy (2-TCCP-1049) was questioned in the following order: Acting President YA Sokhan; international Civil Party lead co-lawyer Marie GUIRAUD; international assistant prosecutor Vincent DE WILDE D'ESTMAEL; international defense co-counsel for Nuon Chea, Victor KOPPE; international defense co-counsel for Khieu Samphan, Anta GUISSE.

⁷ CHE Heab testified that Che Heay was also a member of Division 310. He said he learned Che Heay had been arrested from Ta Hom, and inferred that he had been accused of being a traitor because another man told him he was “the brother of a traitor.” The Civil Party said that after this he hid his family background out of fear. He said that it was not long after the arrest of Che Heay that Che Heay's wife and children were also arrested, adding: “Ta Hom told me that when the husband was accused of being a traitor, the wife and children would be arrested.”

⁸ Senior Assistant Prosecutor Vincent de Wilde d'Estmael presented a document indicating Che Heay had been arrested on 12 February 1977 and entered S-21 on 13 February.

⁹ National Deputy Prosecutor Seng Leang showed documents indicating that Phoung Im was taken to S-21 in December 1978 and executed on the 11th, Phoung Pon entered on 5 March 1977 and was executed on 6 July 1977.

¹⁰ Hor Namhong served as Cambodia's Foreign Minister from 1990 until 1993 and then from 1998 to April 2016. The role of Hor Namhong at the Boeung Trabek site has been the subject of several defamation suits and continues to be controversial today. Indeed, in response to an article in the Cambodia Daily covering the testimony of ROS Suor Chiy this week, Hor Namhong responded with a letter to the editor in which he said: “In the August 12 edition of this newspaper, you published a very gloomy article, beginning with distorting the truth and slandering me.” See: Hor Namhong, “Khmer Rouge Prison Claims Have Been Refuted by Court” *Cambodia Daily*, (15 August 2016) <https://www.cambodiadaily.com/opinion/defamatory-khmer-rouge-prison-claims-refuted-courts-116675/>. The article Hor Namhong is responding to was: George Wright, “Hor Namhong was Khmer Rouge Prison Chief, Tribunal Told” *Cambodia Daily*, 12 August 2016: <https://www.cambodiadaily.com/news/hor-namhong-khmer-rouge-prison-chief-tribunal-told-116587/>.

¹¹ The key document hearings have been cause for some debate to date in Case 002/02. During the first set of hearings, all Parties participated, however a number of objections were made to the type of evidence being presented, particularly evidence of the OCP and LCLCP. During the second set of hearings in August 2015, both Defense Teams walked out over the Trial Chamber's acceptance of Written Records of Interview as key documents. In the most recent set of hearings the Nuon Chea Team continued not to participate in the hearings, however the Khieu Samphan Team did present and respond to documents, although made their objections clear about the types of evidence presented as key documents. For summaries of these hearings, see Footnote 1. Issues related to the Trial Chamber's use of documents are also currently under appeal as part of Case 002/01.

¹² CHHAOM Se testified as a witness in Case 002/01 and has since passed away. He served as Chairman of Au Kanseng and a summary of his prior testimony can be found at: CASE 002/01 KRT TRIAL MONITOR, Issue 48, Hearings on Evidence Week 43 (8-11 January 2013), pp. 7-10.

¹³ Witnesses PHAN Thol (2-TCW-933) and MOEUNG Chandy (2-TCW-867) were the first two witnesses to testify in the segment on security centers and internal purges. They were husband and wife during the DK regime and were imprisoned together at Au Kanseng. For a summary of their testimony: CASE 002/02 KRT TRIAL MONITOR, Issue 45, Hearings on Evidence Week 42 (29 February – 3 March 2016) pp. 8-12; for the conclusion of the testimony of Moeung Chandy see CASE 002/02 KRT TRIAL MONITOR, Issue 46, Hearings on Evidence Week 43 (7-11 March 2016), pp. 2-3.

¹⁴ VAN Nath testified as a witness in Case 001. For a summary of his testimony see: CASE 001 KRT TRIAL MONITOR, Issue 1, Hearings on Evidence Week Ending 5 July 2009.

¹⁵ Witness BUN Loeng Chauy (2-TCW-838) and Civil Party SUN Vuth (2-TCCP-1017) testified between 28 and 31 March 2016 on the Phnom Kraol Security Center. A summary of their testimony can be found in: CASE 002/02 KRT TRIAL MONITOR, Issue 49, Hearings on Evidence Week 46 (28-31 March 2016), pp. 1-8/.

¹⁶ Defense Team for Nuon Chea, “Nuon Chea’s Notice of Current Intention to Exercise his Right to Remain Silent in Case 002/02” (1 August 2016) E421/1/2.

¹⁷ *Ibid*, p. 2.

¹⁸ Hearing on August 8-10, 2016 cancelled. The hearing will start again on August 11, 2016 [posted 5 August 2016, last updated 5 August 2016] <https://www.eccc.gov.kh/en/articles/hearing-august-8-10-2016-cancelled-hearing-will-start-again-august-11-2016>