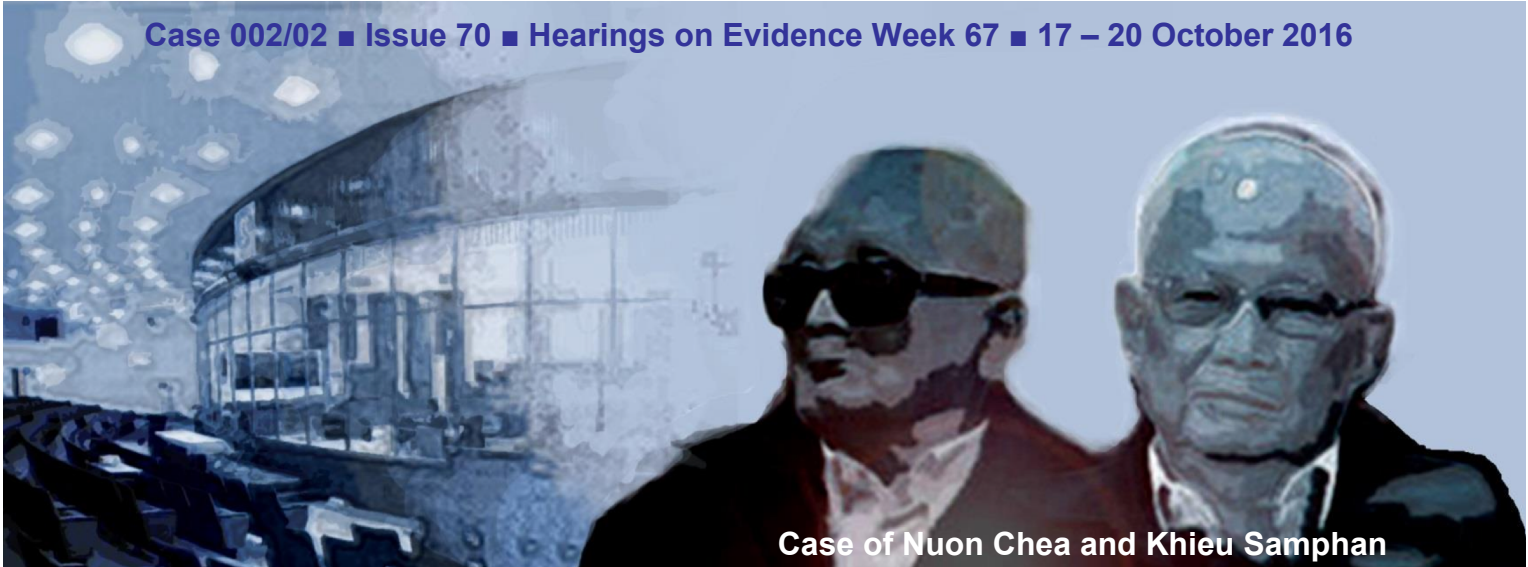


KRT TRIAL MONITOR

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Case of Nuon Chea and Khieu Samphan

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

*"These reports of conspiracy represented paranoia.
It is simply not credible that the CIA and KGB
collaborated to overthrow Democratic Kampuchea"*

- Expert Witness Stephen Morris¹

I. OVERVIEW

This week the Trial Chamber began by hearing two witnesses, Mr. Cheal Choeun and 2-TCW-1037, on purges in the Northwest Zone.² In addition to information on purges, 2-TCW-1037 was able to provide testimony on the regulation of marriage and treatment of the ethnic Vietnamese and Cham populations. On Tuesday afternoon the Court began hearing the Expert Witness for the next segment on the nature of armed conflict. Australian academic Mr. Stephen Morris testified about what he called "Vietnamese imperial ambitions," and the "paranoia" and "irrationality" of the Democratic Kampuchea (**DK**) regime.³ On Thursday afternoon Civil Party Preap Sokhoeun began her testimony on the regulation of marriage, telling the court about being forced to marry a man who then raped her. Like last week, a number of objections were raised about questions pertaining to topics seen as falling outside the scope of Case 002/02.

II. SUMMARY OF EXPERT, WITNESS AND CIVIL PARTY TESTIMONY

This week the Trial Chamber heard from four individuals on three different trial segment topics. First, two fact witnesses testified in relation to internal purges, then one Expert was heard on the nature of armed conflict and finally a Civil Party testified on the regulation of marriage.

A. Summary of Testimony by Cheal Choeun

64-year-old Cheal Choeun from Bakan District, Pursat Province, began his testimony last Thursday. Although initially proposed as a witness by the Nuon Chea Defense, they later sought to remove him from their witness list after reading potentially "inculpatory" evidence in his Written Record of Interview (**WRI**).⁴ Last week Cheal Choeun was only questioned by Judge Lavergne, and this week the Defense for Khieu Samphan declined to question him on the grounds that they did not consider his knowledge relevant to the case. He was, however questioned by International Co-Prosecutor Nicholas Koumjian and by international Co-Counsel

for Nuon Chea, Victor Koppe.⁵

1. Treatment of Buddhists

As a former monk, Cheal Choeun was able to provide testimony on the treatment of Buddhists during DK. He explained that he had become a monk in 1970 and lived at a pagoda at Boeung Kna. He left the monkhood in 1975 after the Khmer Rouge's Ministry of Religion came to his pagoda and announced that all monks had to work in rice fields. He did not recall any monks refusing this order, and confirmed that no religious practice, whether Buddhist, Islamic, or other had been permitted after this time.

2. Execution of Lon Nol soldiers

Cheal Choeun was asked for more detail concerning the execution of around 50 former Lon Nol soldiers in Phnom Tipadey, about which he had spoken in his testimony last week. He confirmed that he had been sent to guard the soldiers, who were wearing Lon Nol regime uniforms, were untied, unarmed, and all male. He was not told why he was guarding them. Of the group of around 50, he estimated only around 3 had survived by fleeing the scene. The Witness reaffirmed that he was kicked because he hadn't shot at the group, which caused him to "shake" with fear. Afterwards he asked Doeun why these soldiers had been shot, however Doeun only responded by asking why he wanted to know. Shortly after this, Cheal Choeun was transferred to work on the railways.

3. Work at the Railroad

The Witness said that the railway he worked on stretched from Au Sralao to Battambang, and from Battambang to Kbal Kmouch, and that his team was tasked with building both railways and bridges. He said he saw trains running on a daily basis, and that they held cargo, not passengers. He did not recall ever seeing anything loaded onto the trains, however he did remember seeing salt, rice, and cement being unloaded, although it is unclear how he knew this, as he said he did not participate in the offloading process himself. Sometimes workers had to pause work on the railroad because a "special train" was passing. Cheal Choeun said his team had to wake up at 4:00AM and cook a breakfast of rice with pumpkin leaves for themselves. A main reason for this Witness's appearance was the content an audio clip in which he is heard to say: "at that time I made bombs and my group was in charge of that." However, just as he did last week, the Witness repeatedly asserted that he had said the word "railroad" not "bomb," words that sound similar in Khmer (bomb is *krob baek* and railway is *prov daek*) and would be hard to distinguish due to the poor quality of the recording.

4. Regulation of Marriage

The Witness was not questioned in much depth about his DK-era marriage, however he did confirm that he had been married during the regime and had not wanted to. He said: "At that time I did not want to [marry] because it was easier to live a single life and I did not want to look after someone else."⁶

5. Witness Demeanor and Credibility

Cheal Choeun continued to be a cooperative witness this week. He consistently explained the perceived discrepancy in his testimony between saying "bomb" and "railroad" as a language error, which seems plausible. He did not appear to struggle with his memory and was able to differentiate between information he knew and information he had heard from others.

B. Summary of Testimony by 2-TCW-1037

The second witness to testify this week did so under a protective pseudonym due to his role in ongoing investigations.⁷ In addition to his knowledge about alleged coup plots in the Northwest Zone, the Witness was also quizzed on the treatment of the ethnic Vietnamese and Cham Muslim minority, as well as his own marriage.

1. Background and Positions Held During DK

Previously a rice farmer, the Witness testified that he had joined the revolution in 1970 as a member of the army. In 1973 he joined the military logistics and economy unit for Division 2 in Sector 2 of the Northwest Zone. His responsibility was to distribute food, uniforms and ammunition to soldiers in the battlefield. In 1975 he was promoted to deputy chief in charge of military economics under Ta Sum. The Witness told the Chamber that his direct commander in Division 2 was Ren, and his other superiors were Ta Khleng, chief of military staff of the Northwest Zone, and Ta Khleng's deputy in charge of logistics, Ta Ham.⁸ In 1976, 2-TCW-1037 was transferred to the fishing unit, although he still held the position of deputy chief of economics and was the deputy under Ta Sum, chief of both the fishing unit and military economics. His unit was made up of 300 to 400 people in charge of catching fish to make fermented fish for soldiers in Divisions 1 and 2. In 1978 the army of the Southwest Zone dismantled the fishing unit, and the Witness was sent away to live in a cooperative in Anlong Tradah Village, Salah Trahong Commune. He testified that after leaving the fishing unit his living conditions declined significantly, and he received significantly less food.

2. Arrests of Northwest Zone Cadres

The Witness said that when arrests began to take place in the Northwest Zone, it was initially the Northwest Zone troops who carried them out, and later Southwest Zone troops. According to the Witness, all high-ranking cadres in the Northwest Zone, including Ta Ham, Ta Khleng, Ta Sum, and Ta Vanh from the Sector 2 Committee, were accused of being traitors and arrested in 1977. Ta Sum told the Witness about the arrest of Ta Vanh. According to the witness, Ta Vanh had been arrested because he illegally equipped the mobile force. Ta Sum himself was arrested in around April 1978. A driver named Sang had reportedly told the Witness that Ta Ham had been accused of transporting military equipment to Phnom Rey Chap Mountain in order to carry out a secret attack. The Witness said that he heard from Southwest Zone forces that both Division 1 and 2 of the Northwest Zone had planned to enact a plot against Pol Pot, but that this plan had been leaked to agents of the Center and then the plotters were arrested. 2-TCW-1037 confirmed he did not know about this plot until told about it by the Southwest Zone forces.

3. Arrival of Southwest Zone Troops

In late 1978, when Southwest Zone forces arrived in the Northwest Zone, the Witness said some members came to work and live with him in his fishing unit. Recalling their arrival, the Witness said the arriving forces had control over "life and death," and that if anyone was arrested by a Southwest Zone member, they would be beheaded. When the Southwest Zone troops arrived to "supervise" his fishing unit, they lived and worked with his unit for three or four months before accusing them of trying to "sabotage" the nation and the army by dumping fuel into the river. After this accusation, which the Witness claimed was entirely false, Ta Sum was arrested and the fishing unit disbanded. Most members were sent to join other cooperatives, but some fled to join the *Khmer Sor*, or White Khmer, movement.⁹ Although the Witness said he did not know why his unit had been accused of sabotage, he speculated that it was perhaps because the Southwest Zone wanted an excuse for the shortage of fuel in the region. 2-TCW-1037 said that everyone else linked to Ta Sum was arrested, however he managed to hide amongst other villagers and survive: "if it had been revealed that I was Ta Sum's deputy in the

fishing unit, I would not have a chance to come here [to the ECCC].”

4. Sightings of Ruos Nhim and Sao Phim

The Witness testified that Ruos Nhim was present at a political study session he had attended in late 1975 or early 1976. He said that the study session concerned strengthening “revolutionary spirit” to “struggle against feudalism and capitalism.” The session was run by Ta Khleng. The Witness also said he once saw East Zone Secretary Sao Phim travelling with Ruos Nhim by speedboat on the Tonle Sap from Psa Leu, although he did not know where they had been going. He heard they had both been arrested around the same time. He did not know who had ordered the arrest of Ruos Nhim, however he reported having seen Ta Mok and Ta Tith in Battambang afterwards.

5. Treatment of the Ethnic Vietnamese

The Witness testified that there had been ethnic Vietnamese people living in the Northwest Zone on 17 April 1975, and that mixed families with a Khmer wife and ethnic Vietnamese husband were sent away by boat in July or August of 1975. He was not sure how people identified the families to be taken away, as he said some ethnic Vietnamese people had been born in Cambodia and spoke Khmer clearly. He recalled that when the situation became “chaotic” more Vietnamese families were arrested while attempting to flee to Vietnam. He also remembered some members of his fishing village being arrested and killed because they had Vietnamese relatives, although it was unclear how he knew they had been killed. Ultimately, the Witness said, all people with a Vietnamese family member were “swept clean,” arrested and taken by boat and killed by the Tonle Sap lake. He believed this was in about July 1978, when the river was flooding. The Witness said that once he had tried to conceal a mixed Vietnamese family, but soldiers found them and took them away.

6. Treatment of the Ethnic Cham

The Witness told the court there were “no remarkable actions” against the ethnic Cham who had lived in the Northwest Zone after 17 April 1975. He conceded that the Cham were forced to change their lifestyle, including eating pork, and if they refused they would be killed. Although some Cham were killed for refusing to follow instructions, the Witness said he believed the majority survived the regime. He also said that those Cham people who worked in the same fishing unit told him they would be spared as long as they followed orders.

7. Regulation of Marriage

The Witness testified that, during the regime, marriages were organized differently to how they are today in Cambodia. The Witness was married in December 1975. Although he had known his wife already, there were other couples who had never seen each other before: “Some people loved each other, others were forced.” Describing the ceremony, 2-TCW-1037 said couples were required to hold hands and make commitments to each other to follow *Angkar*. The ceremonies were arranged by the zone, including Ta Khleng, Ta Ham, and Ta Sum. He said that he had heard of couples forced to consummate their marriage, however said this did not happen to those married on the same day as him. He also testified that those who divorced were taken away and killed. After marriage, couples would stay together for two or three days before being separated and sent back to their work units. The Witness said that if the couples wanted to meet each other again, they had to ask for permission.¹⁰

8. Witness Demeanor and Credibility

The Witness was generally cooperative with the court. On occasion he had trouble with his memory, particularly with remembering names and dates, however this could be attributable to

his advancing age and the amount of time that has passed since the events in question.

C. Summary of Testimony by Stephen Morris

Expert Stephen Morris was the first person to appear to testify on the segment on the nature of armed conflict.¹¹ Stephen Morris is an Australian historian and academic who has studied relations between Vietnam, the Soviet Union, United States, China and DK extensively. He testified for two full days.¹²

1. Academic Background

Expert Witness Mr. Stephen Morris was born on 10 January 1949 in Australia and is currently based in Silver Spring, Maryland, United States of America. The Expert works as a researcher, author and professor in both international politics and history. He has a doctoral degree in political science from Columbia University and has been a research fellow with Harvard, Columbia and John Hopkins School of Advanced International Studies. He has been published by Stanford University Press, as well as in newspapers such as the *Washington Post*, the *Wall Street Journal* and the *New York Times*.

2. Research Methodology

Stephen Morris began his work on his PhD thesis, *The Origins of the Soviet-Vietnamese Alliance* in around 1979 or 1980. His interest was prompted by his experiences in South Vietnam from 1970 to 1972. He began researching his book *Why Vietnam Invaded Cambodia* in about 1988. His research included important interviews with His Royal Highness the late King Norodom Sihanouk in Thailand in 1985 and Ieng Sary, former DK Minister of Foreign Affairs.¹³ Aside from these high-profile interviews, Dr. Morris's research stands out because of his access to historical files from Soviet archives. Dr. Morris gained access through the Cold War International History Project of the Wilson Center in Washington DC. He said he was granted widespread access to the files, and testified that he believed the archivists only "very lightly screened" material before allowing him access. Dr. Morris primarily took handwritten notes in Russian (which he later translated), as he was limited in his permission to photocopy.¹⁴ He was partially assisted by Dmitri Mosyakov, who helped him sort through the high volume of documents, while also conducting his own independent research.¹⁵ During the course of his research, the Expert did not consult contemporaneous DK or Chinese documents, but he did use contemporaneous American newspapers, among other sources.

3. "Vietnamese Imperialism"

Dr. Morris told the Court that the desire to form an "Indochinese Federation" shaped the long-term attitude of Vietnamese communists towards Cambodia. The concept of this Federation was consistent with Marxist-Leninist modes of thought and was modelled on the Soviet Union; where one major political-ethnic group (Russia) provided leadership and control over other ethnic groups (other Soviet states). As Russia was dominant over other ethnic groups in the Soviet Union, so Vietnam intended to be dominant in the Indochinese Federation of Laos and Cambodia, the Expert told the Court. When Ho Chi Minh sought to create the Vietnamese Communist Party in October 1930, he was told by the Comintern that it had to be renamed the Indochinese Communist Party, despite there being no Cambodian or Laotian members.

The Nuon Chea Defense asked Dr. Morris numerous questions related to the "imperial ambitions of Vietnam," a large part of their defense. Dr. Morris told the Court that "the history of Vietnam is the history of a long march south." According to Dr. Morris, this "imperial ambition" stemmed from the long-held view of Vietnamese elites that Cambodia is "inferior culturally." He said that, unlike the Thai occupation of Cambodia, the Vietnamese occupation in the Nineteenth Century was characterized by the humiliation of the Cambodian people. Dr. Morris also

testified that: “Nationalism is part of Vietnamese culture. Vietnamese nationalism has been expansionist.” He explained that Hanoi had planned to control the rebellion against the Lon Nol government by two main methods; “liaison committees” between Vietnamese and Cambodian communists, which were controlled by Vietnam, and establishing what he called the “Khmer Viet Minh” - a group of Hanoi-trained Cambodian communists – within the Cambodian Communist Party.¹⁶ Despite these attempts to control the Cambodian communist revolution, the Expert explained, the Khmer Rouge came to power two weeks before the Vietnamese Communists secured their own victory over the South. This ability of the Khmer Rouge to come to power without assistance from Vietnam greatly undermined their ability to influence the regime, and was a set back to realizing a Soviet Union-like Indochinese Federation.

4. Character of DK Regime

As an academic who has studied authoritarian, Marxist-Leninist regimes, Dr. Morris gave his expert opinion on the extent to which the character of the DK regime was reflective of broader trends in such regimes globally.

a. Attitude Toward Vietnam

While acknowledging the long-term desire of Vietnam to take-over or at least control Cambodian territory, the Expert described DK’s position towards Vietnam as “bizarrely aggressive.” He gave examples of what he saw as “irrational” aggression by Cambodia: for instance in April 1977 when DK attacked a Vietnamese village and intentionally caused a lot of civilian casualties.¹⁷ He explained that this first April attack was timed to coincide with the anniversary of the 30 April conquest of North Vietnam over the South. As Cambodia had a significantly weaker military than Vietnam, the Expert referred to these attacks as “irrational.” He explained further that even if the attacks had been in response to a Vietnamese military advance, responding by attacking Vietnamese villages that housed civilian populations rather than the military was not an appropriate response. The Expert stated that he did not believe it possible that these border attacks had been going on without the Center’s knowledge and approval. He opined that such theories were an attempt by inner circle party members, including Nuon Chea, to remove blame from the central command of DK.

b. Hyper-Maoism

He also stated that the attitude of the DK regime to Thailand in the later part of the regime was further evidence of the leadership’s irrational approach to foreign relations, as the DK leaders were causing conflict with Thailand when they already had clashes with Vietnam to manage, which should have been their priority. The Expert interpreted this as indicative of Phnom Penh having a confrontational attitude to foreign relations, one of the characteristics of “hyper-Maoist” political movement. Dr. Morris explained that the Cambodian Communist Party was Maoist in its orientation, as the DK domestic policies were modeled on China’s Great Leap Forward; moving people from cities to countryside, emphasizing manual labor as a way to achieve liberation. He also characterized hyper-Maoism as having a “frantic need to go faster” and achieve goals in a very limited time frame with limited resources. Counsel Koppe noted that Nuon Chea would be “very upset to be called a Maoist” however Dr. Morris did not change his position. He also referred to his interview with Ieng Sary in which he had asked the former DK Foreign Minister about who he was most influenced by politically. Ieng Sary’s answer was Chairman Mao.

c. Paranoia

The Expert believed that the hyper-Maoism of the DK regime was the main cause of its political paranoia, manifested in purges and other attacks on its own population. Dr. Morris explained that it was a paranoid fantasy on the part of Pol Pot to believe that people who had held a long-

standing loyalty to the party could be agents of Vietnam. Further evidence of this paranoia was Pol Pot's apparent belief that there were agents of the CIA and KGB working together inside Cambodia to bring down his regime.¹⁸ However, according to the Expert, these theories were without basis in reality, and more likely served as an excuse for DK's inability to defeat Vietnam militarily. The Expert explained that the personality cult and the "delirium of grandeur" which surrounded the isolated, conspiratorial inner circle of leaders and particularly Pol Pot, there was a resulting paranoia and anxiety due to this alienation from society. In this context, Dr. Morris argued, it is easier to understand the ease with which the regime believed others were hatching conspiracies against them. According to his research, the concept of the enemy is central to dictatorial totalitarian regimes. In DK, therefore, Vietnam was identified as the enemy, even when the regime had other, more rational enemies such as the United States.¹⁹ In this context, otherwise irrational and unjustified attacks towards Vietnam became the norm. Dr. Morris also contrasted the decisions made by the DK regime with the approach of King Sihanouk and what the expert described as his 'rational approach to Vietnam,' which included acceptance of Vietnamese military strength and expansionist ideals, and a subsequent caution in dealings with Vietnam.

5. Why Did Vietnam Invade Cambodia?

While acknowledging Vietnamese "imperial ambitions" early on in his testimony, the Expert explained that the reasons Vietnam ultimately invaded Cambodia in December 1978 are much more complex than this. After DK came to power before the Vietnamese communists had control over their whole country, their plans for an Indochinese Federation were shelved. However, after DK forced began attacking Vietnamese border villages in 1977, the Vietnamese leadership became more determined to intervene.²⁰ Dr. Morris provided evidence of Vietnam making steps to launch negotiations with DK to end the border conflicts as early as the middle of 1977. However, after repeated refusals by DK to participate in diplomatic negotiation, Vietnam proclaimed that it was no longer able to avoid retaliating against the DK regime. Due to the refusal of Pol Pot and the DK regime to negotiate, Vietnam severed diplomatic relations with Cambodia and began launching an offensive. Dr. Morris described initial Vietnamese attacks on DK as intending to serve as a warning and demonstrate to the DK that Vietnam had the capability to attack and beat Cambodia militarily. The Expert did not believe that Vietnam had definitely decided to invade by the beginning of 1978, as Vietnam waited for confirmation of Soviet support in such an eventuality, to counter China's expected support of Cambodia.

6. View of Other Scholars on Cambodia

Counsel Koppe asked Mr. Morris whether it was true that he was "not a big fan of Ben Kiernan," Australian director of the genocide studies program at Yale University, and author of *The Pol Pot Regime* who has been cited extensively in court, particularly in segments related to the exact number of people who died as a result of the regime. Mr. Morris confirmed that Counsel's characterization of their relationship was "fair," and said he believed Ben Kiernan to be "a very politicized person who has always had a strong political agenda." He criticized Mr. Kiernan for having supported the DK regime initially, saying he had only changed his public view after Vietnam turned against the Cambodian regime. He said he believed the appointment of Ben Kiernan to lead the genocide studies program at Yale was "a tragic mistake" because there were other more "objective" academics who could have been appointed and who did not have a "political agenda." Asked by the international Co-Prosecutor who else he considered "coming late to speak about the atrocities of the Khmer Rouge regime," the Expert also listed Gareth Porter, George Hildebrand, Malcolm Caldwell, and Richard Dudman,²¹ who he said "suggested things were not as bad as people thought." Sydney Schanberg, he said, was also late to criticize the regime "from the point of view of a reporter," however he did note that Schanberg had reported accurately on the evacuation of Phnom Penh and immediate aftermath. He said overall there were a large number of people on the far left who changed their view of DK after the Vietnamese withdrew their public support of the regime. For his own part, Stephen Morris

made it clear that he had supported American and Australian involvement in the war in Vietnam, and was not biased towards Vietnam.

7. Response to Criticism of David Chandler

The Expert was also asked to comment on a review of his book written by David Chandler, an Australian-American academic and author of *A History of Cambodia* and *Voices from S-21*.²² The Expert was familiar with Mr. Chandler's review, published in the *Journal of Asian Studies*, which he described as "mixed" and said that "like many historians who criticize my book, their criticisms were not to do with history but with political science," meaning they do not contest his historical claims but only his interpretation of the "irrationality" of Vietnam and DK's actions at the time. Mr. Chandler also pointed out that some documents that had come to light since the publication of Mr. Morris's book undermined his argument, to which the Expert responded: "Well, I won't apologize for not having read documents which surfaced after the book was completed."

8. Witness Demeanor and Credibility

Dr. Morris was an engaged Witness, who did not speculate on knowledge beyond the scope of his research. For example, he declined to answer questions about Lon Nol and his perspective about Cambodia-Vietnam relations, explaining that he is not sufficiently expert on Lon Nol's thinking to contribute reliable information. While he was regularly confronted by all Parties with excerpts from other people's work, Dr. Morris repeatedly declined to comment if he was unfamiliar with the work or the author's position. When Dr. Morris was read quotes from DK party documents without being provided with background information and context, he articulated this and stated that he could not properly assess the meaning of a conversation if he did not have the required context. He would acknowledge if he did not remember a quotation that was read to him, and in such cases, he declined to comment. He did not appear to have reviewed his work recently, as in a few cases the Expert was confronted with excerpts of his own work that he could not recall. In these cases he pointed out that it has been 17 years since his book was published. Dr. Morris often gave short, even one-word responses to the lengthy questions posed to him. When confronted with testimony or evidence that appeared to contradict his research, he would either explain how Counsel had misinterpreted his work, or say that the evidence was not supported by his research.²³ He did not appear to become defensive when queried, and responded calmly when confronted with David Chandler's critique of his work.

D. Summary of Testimony by Preap Sokhoeun

After concluding the testimony of the Expert Witness, the Trial Chamber started hearing a new civil party, Ms. Preap Sokhoeun on the regulation of marriage.²⁴ She began on Thursday afternoon, and will conclude her testimony next week, at which time she will have the opportunity to give a statement of suffering and question the Accused.

1. Background

Preap Sokhoeun lived in Andong Tapay Village, Thma Pun Commune, Prey Chhor District, Kampong Cham Province in the early to mid 1950s.²⁵ Living in a cooperative before 1975, the Civil Party was first part of an art performance group, and later was assigned to carry supplies to the battle field in Kampong Cham. After 17 April 1975, she was sent to work in a union at a cotton plantation in her home commune in Kampong Cham.²⁶ In that union, she was given two cans of rice per day, and was assigned to clear the forest to plant cotton trees.

2. Marriage

The Civil Party's testimony centered on her marriage. She said that it took place on a day like most others, when she was sent to clear the forest as usual. In the late afternoon, a messenger came to call her, and took her to see Comrade Ly, who asked her whether she respected *Angkar's* orders. Preap Sokhoeun said yes, and that, "If *Angkar* instructed me to go into a crab hole I would do that." The next morning at 6:00AM she went to the plantation as normal, however a little before noon a messenger came and asked her why she was not at Comrade Sol's office. The Civil Party was taken by the messenger to Comrade Ly's office, where she was given pants, a shirt and a scarf to wear for the ceremony. She said she was the only one called from the plantation at that time. She said her marriage was organized by the big unit and chief on the union. Men and women sat in separate rows, and the chief would read out names, then couples would stand up together and they would become husband and wife. There was one representative couple who made the commitment on behalf of all the couples in the Civil Party's marriage that they would obey *Angkar* and have children for *Angkar*. At her own wedding Preap Sokhoeun estimated there were 15 couples including herself and her husband-to-be, Keo, but she also remembered attending other ceremonies with between 30 and 50 couples present. She only realized at her ceremony that her husband was handicapped: he had one disabled leg, three "crooked" fingers and was blind in one eye. She heard later from others that soldiers who had been injured fighting for DK were "allowed to marry beautiful women." After her wedding ceremony, she and her husband were told to stay in a room that was one of many in a long building. During the night she believed they were monitored through the window, as they were told to stay together and consummate their marriage. She and her new husband had to sleep in the room together for three nights, after which time they each returned to work and were allowed to meet each other once a month.

3. Rape by Husband

Preap Sokhoeun told the court that she did not want to have sex with her husband after their wedding because she "did not love" him, so she refused to consummate their marriage on the first three nights they were together. Later, she received advice from Ta Ham and Yeay Kim that she had to have sexual intercourse with her husband or they would be killed. At a later date, when sleeping next to her husband, she woke to find his hands on her body. It was unclear from her testimony when exactly this occurred. She said her husband tore her clothes; her shirt, trousers and bra and then her husband raped her. She was shouting, but he told her not to because they husband and wife now. Further exacerbating her pain, her husband told her that now that she had lost her virginity, no other man would want her. She explained that:

As a woman in Cambodian society, I should only give my virginity to a man to whom I was married with my parents present at the wedding. I should not have lost my virginity to a man my parents did not know.

Her husband told her it was *Angkar's* instruction that they sleep together, and he had to follow *Angkar's* instruction. After this she wept: "I hurt physically and morally... there was nothing I could do, only weeping... I could not sleep. I could not eat. I became pale."

4. Birth of Child

Some time after her marriage the Civil Party's work unit was dismantled, and she went to live with her husband. About one month after this, Preap Sokhoeun began to experience morning sickness. She went to a hospital at Chea Lea Commune, where she stayed until she felt better, but she later returned to hospital again. They had no medicine and insufficient water, so she was referred to Kampong Cham hospital. There she was finally diagnosed as being pregnant, so she was put in the Sector Hospital. Her mother was granted permission by her unit chief to stay with her daughter. She was no longer living with her husband during this period. Ten days before she delivered her baby, her husband disappeared and she never saw him again. Her

father went to look for him but could not locate him.

The Civil Party said that a short while after she had delivered her baby, she was visited by Comrade Yeng, who asked her whether she would comply if *Angkar* requested that her baby be smashed. Preap Sokhoeun responded that if her baby died she would there would be “nothing for [her] to live for.” Yeng asked the Civil Party why she wanted to keep the baby, she replied at the time that the baby did not know anything about politics, and that if Yeng wanted to kill her baby she should kill her too. After this encounter the Civil Party was terrified and wept. She said because her husband was arrested and killed, she “could not live a happy life” and sometimes people said to her: “You betrayed *Angkar*, you should not be kept.”²⁷ After giving birth she was given work to do, carrying palm leaves with older women. It was a difficult task, made more difficult by her weakened state. At that time she was unable to produce enough breast milk for her child and she became very thin. She sought out gruel to feed child, who also became weak and pale.

III. LEGAL AND PROCEDURAL ISSUES

This week proceedings were interrupted on a few occasions over now-familiar issues related to the scope of Case 002/02 and the use of potentially torture-tainted evidence. Counsel Koppe’s casual use of references also led to some pointed comments from Parties and the Bench.

A. Objections Related to Scope

On Tuesday the OCP questioned 2-TCW-1037 briefly about Koh Kor, which he identified as a “refashioning center.” When the topic was first raised, international Counsel for Khieu Samphan objected, as this center is not mentioned in the Severance Order.²⁸ Andrew Boyle clarified that he was only asking about the center in relation to the treatment of purged Northwest Zone cadres, many of whom were sent there, and was not seeking to establish it as a separate crime site. The assistant prosecutor was allowed to continue his line of questioning.

B. Torture-Tainted Evidence

When Counsel Koppe confronted Stephen Morris with an excerpt of a book by Nayan Chanda which cited the Khmer Rouge’s Black Book as a source, Judge Lavergne intervened to point out that the Black Book was based on S-21 confessions and was therefore prohibited in court under the Trial Chamber’s decision on the use of torture-tainted evidence. Nuon Chea’s international counsel tried to argue that since he was quoting Chanda and not the Black Book directly then the question should be permissible. The international Co-Prosecutor agreed that there was a real chance the information cited by Chanda had originated in an S-21 confession, to which Counsel Koppe responded “Whatever, Mr. Prosecutor,” before moving on.

C. Objections over Citations

International Defense Counsel for Nuon Chea was repeatedly interrupted by both the LCLCP and OCP to ask him to provide sources and page numbers for claims he made during his questions. In the second objection of the day, Marie Guiraud interrupted Counsel Koppe after he listed eight main ways the Vietnamese planned to implement their “imperial ambitions” in Indochina, which he said was based on Morris and Nayan Chanda’s work. After listing the eight points, Ms. Guiraud rose to say there was “a problem in the method,” and she asked Counsel to provide quotations or sources with which he could confront the Expert, rather than his own opinions. Judge Fenz agreed, saying that after two years of the trial, Counsel should know by now to cite his sources beforehand. Counsel Koppe replied by saying, “don’t be so fetishist on the little rules Judge Fenz!”

Later that day, when the international Co-Prosecutor began questioning the Expert, Counsel

Koppe rose to ask for the page numbers in Khmer and French page numbers of a book, saying “I have been interrupted all the time.” Shortly afterwards, when quoting from Nayan Chanda and only providing the English page numbers, Counsel Koppe rose again to point out that since this book had been translated into Khmer he would appreciate being provided the Khmer page numbers too, “On behalf of [his] national colleague.” The international Co-Prosecutor provided them, however Judge Fenz also pointed out to Counsel Koppe that: “We have given you a lot of leniency concerning references.... We expect you to be held to this same standard in the future.”

IV. TRIAL MANAGEMENT

This week the Trial Chamber concluded testimonies of two witnesses and one Expert Witness, and began the partial testimony of on Civil Party over the course of four days. This week also marked as beginning of new segment on the nature of armed conflict in Case 002/02 with the testimony of Expert Witness Stephen Morris (2-TCE-98).

A. Attendance

This week Noun Chea continued to waive his right to be present in the courtroom and observed proceedings via video link from the holding cell due to his poor health, while Khieu Samphan was present in the courtroom throughout the week. Duty Counsels Sok Socheata and Moeun Sovan were present in the courtroom this week to counsel with their clients, Cheal Chouen and 2-TCW-1037, in relation to their privilege against self-incrimination.

Judge Attendance. All Judges of the Bench were present in the courtroom all week.

Parties: All Parties were properly represented in the courtroom throughout the week. Monitors noted Ms. Marie Guiraud, international Lead Co-Lawyer for Civil Parties, was absent in the afternoon on Monday 17 October, however her national colleague Mr. Pich Ang was present in the courtroom to represent their clients.

Attendance by the public: This week ECCC proceedings continued to exclude public participation due to the continuing high water level inside the compound. Proceedings were streamed live on line for the public to access and members of the media were permitted to access the court via the staff entrance.

DATE	MORNING	AFTERNOON
Monday 17/10/2016	<ul style="list-style-type: none"> No public attendance Three foreign observers Nine Civil Parties 	<ul style="list-style-type: none"> No public attendance Two foreign observers Nine Civil Parties
Tuesday 18/10/2016	<ul style="list-style-type: none"> No public attendance One foreign observer Nine Civil Parties 	<ul style="list-style-type: none"> No public attendance Two foreign observers Nine Civil Parties
Wednesday 19/10/2016	<ul style="list-style-type: none"> No public attendance Six foreign observers Eight Civil Parties 	<ul style="list-style-type: none"> No public attendance Two foreign observers Seven Civil Parties
Thursday 20/10/2016	<ul style="list-style-type: none"> No public attendance Four foreign observers Eight Civil Parties 	<ul style="list-style-type: none"> No public attendance Four foreign observers Six Civil Parties

B. Time Management

Over the course of four days this week, the Trial Chamber successfully concluded hearing testimony of two witnesses, one Expert Witness and partial testimony of a Civil Party, covering internal purges, the nature of armed conflict and the regulation of marriage. On Wednesday 19 October the Nuon Chea Defense requested an additional half an hour to question Stephen Morris, however, the Chamber granted them an extra 15 minutes only, allowing Counsel Koppe to question the Expert into the lunch break until 11:45AM.

C. Courtroom Etiquette

While Parties generally conducted themselves cordially this week, there were some moments of tension in the courtroom between the international Judges and Counsel Victor Koppe. When Counsel Koppe was advised to provide citations for documents referred to before he quoted from them, he responded: "Don't be so fetishist on little rules, Judge Fenzl!" Later on, international Judge Jean-Marc Lavergne explained Counsel's citing excerpt from Nayan Chanda's black book was not admissible; Counsel Koppe criticized the Judge, saying "That doesn't make any sense." Judge Lavergne told him to "refrain from making this kind of comment" however said he "Certainly will not." After being interrupted soon after by a comment from the international co-prosecutor, Counsel Koppe responded: "Whatever, Mr. Prosecutor," before moving on to another question.

D. Translation and Technical Issues

This week the Parties held a few brief debates over translation issues, including the difference between 'spying', 'monitoring' and 'investigating' in English. As noted above, during questioning of Cheal Choeun, the crucial factor of whether he had indeed been making bombs or building a railroad in the DK regime's Northwest Zone ultimately appeared to stem from an issue in translation. There were a few minor technical malfunctions but these were resolved quickly by Court officers, and overall proceedings ran smoothly this week.

E. Time Table

DATE	START	MORNING BREAK	LUNCH	AFTERNOON BREAK	RECESS	TOTAL HOURS
Monday 17/10/2016	9:03	10:09-10:31	11:23-13:29	14:39-15:03	16:10	4 hours 15 minutes
Tuesday 18/10/2016	9:00	10:10-10:29	11:32-13:30	14:40-15:00	15:58	4 hours 21 minutes
Wednesday 19/10/2016	9:00	10:11-10:31	11:45-13:33	14:43-15:00	16:00	4 hours 35 minutes
Thursday 20/10/2016	8:59	10:14-10:35	11:30-13:30	14:43-15:00	16:04	4 hours 27 minutes
Average number of hours in session				4 hours and 24 minutes		
Total number of hours this week				17 hours and 38 minutes		
Total number of hours, day, weeks at trial				919 hours and 56 minutes		
242 TRIAL DAYS OVER 70 WEEKS						

*This report was authored by Hanna Daych, Caitlin McCaffrie, Vuthy Nin, Louise Rettweiler, 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 Unless otherwise indicated all quotes in this report come from monitors notes taken during court proceedings. As of writing the official court transcripts of this week's hearings are yet to be published.

² Witness CHEAL Choeun began his testimony last Thursday 13 October 2016, for a summary of his testimony see CASE 002/02 KRT TRIAL MONITOR, Issue 69, Hearings on Evidence week 66 (10 – 13 October 2016).

³ Expert Witnesses are sought to provide insight and clarification on specific issues of a technical nature deemed necessary to the proceedings. (see Internal Rule 31(1)). An expert is appointed through a judicial order specifying their exact assignment (see Internal Rule 31(3)). The Chamber has decided that the role of Expert Witnesses is to enlighten the Chamber on specific issues of a technical nature, requiring special knowledge in a specific field. Experts are entitled to provide their opinions and may give speculative answers insofar as they are informed by the Expert's broader knowledge about a topic (see Trial Chamber, "Decision on Assignment of Experts" (5 July 2012), E215, [hereinafter **DECISION ON EXPERTS**]). However, this Decision also provides that "Expert Witnesses may not express opinions on ultimate issues of fact, as only the Chamber is competent to make a judicial determination on the issues in the case." The July 2012 Decision relied on international jurisprudence (for one example, see Trial Chamber, *Prosecutor v. Karemera*, Decision on Joseph Nziirorera's motion to limit the scope of testimony of expert witnesses Alison Des Forges and Andrew Guichaoua (21 August 2007), ICTR-98-44-T, para. 3). Previous Witnesses who appeared as Experts were Dr. Peg LEVINE; Ms. Kasumi NAKAGAWA, Mr. Henri LOCARD, Mr. Alexander HINTON, Mr. YSA Osman, Ms. Elizabeth BECKER, Mr. Richard DUDMAN. For summaries of their prior expert testimony please see: CASE 002/02 KRT TRIAL MONITOR, Issue 69, Hearings on Evidence week 66 (10 – 13 October 2016); CASE 002/02 KRT TRIAL MONITOR, Issue 67, Hearings on Evidence week 64 (13-16 September 2016); CASE 002/02 KRT TRIAL MONITOR, Issue 61, Hearings on Evidence week 58 (1-4 August 2016); CASE 002/02 KRT TRIAL MONITOR, Issue 60, Hearings on Evidence week 57 (26-29 July 2016); CASE 002/02 KRT TRIAL MONITOR, Issue 48, Hearings on Evidence week 45 (21-24 March 2016); CASE 002/02 KRT TRIAL MONITOR, Issue 47, Hearings on Evidence week 44 (14-17 March 2016); CASE 002/02 KRT TRIAL MONITOR, Issue 43, Hearings on Evidence week 40 (9 – 10 February 2016); CASE 002/02 KRT TRIAL MONITOR, Issue 15, Hearings on Evidence week 12 (30 March – 3 April 2015) CASE 002/02 KRT TRIAL MONITOR, Issue 8, Hearings on Evidence week 5 (9 – 12 February 2015).

⁴ The Trial Chamber ultimately found there was no legal basis to withdraw Cheal Choeun from the witness list and he began testifying last Thursday. For a longer summary of the arguments made to withdraw Cheal Choeun, see CASE 002/02 KRT TRIAL MONITOR, Issue 69, pp. 9-10.

⁵ Witness CHEAL Choeun (2-TCW-960) was questioned today in the following order: international co-prosecutor Nicholas KOUMJIAN; international co-lawyer for Nuon Chea, Victor KOPPE.

⁶ In her testimony as an expert witness, Kasumi NAKAGAWA discussed the impact on men who were forced to marry during the DK regime at a time when they were unable to fulfil stereotypical gender roles of being the "provider" for their family, causing them much distress according to her research, see CASE 002/02 KRT TRIAL MONITOR, Issue 67, p. 16.

⁷ Witness 2-TCW-1037 was questioned in the following order: President NIL Nonn; international co-lawyer for Nuon Chea, Victor KOPPE; assistant prosecutor Joseph Andrew BOYLE; Civil Party lawyer LOR Chunthy; international co-lawyer for Khieu Samphan, Anta GUISSSE.

⁸ Counsel Koppe confronted 2-TCW-1037 with an image from Toat Thoeun who testified as a Witness before the Supreme Court Chamber in Case 002/01. Toat Thoeun said that he also went by the alias of Ta Ham, however the Witness did not recognise the man in the photograph. A summary of his testimony is available *here*: CASE 002/01 KRT TRIAL MONITOR, Appeals Issue No. 1. First Set of Appeal Hearings (2-6 July 2015) 7, pp. 7-9. During questioning, Andrew Boyle read from S-21 entry lists a number of people whose alias was Ham who worked in the Northwest Zone.

⁹ The Witness believed the White Khmer Movement was formed in 1978 and had only a small number of members, some of whom came from his sector. He could not identify their leader.

¹⁰ 2-TCW-1037 added: "At that time mostly the husband wanted to go and visit the wife. Not the wife wanted to visit the husband."

¹¹ Expert Witness Stephen MORRIS (2-TCE-98) was questioned in the following order: President NIL Nonn; international co-counsel for Nuon Chea, Victor KOPPE; international co-prosecutor Nicholas KOUMJIAN; international lead co-lawyer for Civil Parties Marie GUIRAUD; international co-counsel for Khieu Samphan, Anta GUISSSE.

¹² On Monday the Chamber issued an oral ruling on last week's Rule 87(3) and (4) request to admit eight documents into evidence related to the testimony of Expert Stephen MORRIS. The Chamber chose to admit all except the last document, one concerning the Late King Father Sihanouk's view of DK relations with Vietnam, with written reasons to follow in due course. For a summary of the discussion held by Parties over the request to admit these documents, see CASE 002/02 KRT TRIAL MONITOR, Issue 69, Hearings on Evidence week 66 (10-13 October 2016), p. 11. The OCP also made a request to admit notes taken during interviews with the Late King Sihanouk and Ieng Sary, however as the Expert was already in country and did not have access to these notes.

¹³ Ieng Sary was a charged person in Case 002 however proceedings against him were terminated on 14 March 2013 when he passed away.

¹⁴ Dr. Morris said he was not fluent but could read and speak Russian well.

¹⁵ Dr. Morris said he found documents dating from the 1930s when Ho Chi Minh formed the Indochinese Communist Party and was also able to read documents which were stored in Moscow but written by Vietnamese Communists and pertaining to Cambodia; including interviews between Viet Cong leaders and Soviet officials discussing 'the problem of Cambodia.'

¹⁶ The Expert explained that the 'Khmer Viet Minh' had mostly all left Cambodia by 1974.

¹⁷ A similar attack took place in September 1977 also killing many Vietnamese civilians, according to the Expert. Dr. Morris said he was unaware of any military targets in the areas targeted along the border in An Giang and Chao Doc Provinces.

¹⁸ Counsel Koppe argued that it is “very well known” that the terms CIA and KGB were used during the regime as “code words” and did not mean literally the CIA and KGB organizations. The international Co-Prosecutor responded that this was “unfounded” and said that if Counsel wished to testify they would “love to cross examine him.”

¹⁹ He also described it as an indication of their hatred of the Vietnamese that DK identified Vietnam as the number one enemy of the Khmer Rouge movement in 1970-1975, when it seemed to him clear that the main enemy should be the Lon Nol regime which they were attempting to overthrow.

²⁰ Dr. Morris confirmed evidence from his book where he wrote that the DK forces had carried out systematic attacks on Vietnamese border villages in April/May 1977 which made it impossible for Vietnamese civilians to work in this area.

²¹ Richard DUDMAN testified as an expert witness in Case 002/02, see CASE 002/02 KRT TRIAL MONITOR, Issue 8, Hearings on Evidence week 5 (9 – 12 February 2015).

²² Professor David CHANDLER also acted as the thesis supervisor of Dr. Peg LEVINE, who testified as an expert last week. Mr. CHANDLER testified as an expert witness in both Case 001 and Case 002/01. For summaries of his prior testimony, see CASE 001 KRT TRIAL MONITOR, Issue 16, Week ending August 10, 2009; CASE 002/01 KRT TRIAL MONITOR, Issue 28, Hearings on Evidence week 23 (18-20 July 2012); CASE 002/01 KRT TRIAL MONITOR, Issue 29, Hearings on Evidence week 25 (23-26 July 2012).

²³ For example, when confronted with an excerpt from Chanda pertaining to alleged coup plots, Dr. Morris acknowledged that he had found evidence of attempted insurgency, but not a coup d’etat, explaining ‘that’s not to say it didn’t occur, I can just say that I did not read about attempted coup d’etat.

²⁴ Civil Party PREAP Sokhoeun (2-TCCP-1064) was questioned in the following order: President NIL Nonn; Civil Party lawyer LOR Chunthy.

²⁵ There was some confusion about the Civil Party’s exact age. When questioned by the President about her age, Preap Sokhun explained that her official identity card gives her date of birth as 12 October 1951, however she had always been told she was born in the Year of the Monkey, which would be 1956. She told the court she is 62 years old, which would make her born in 1954.

²⁶ During DK ‘union’ was the term used to denote a village based at a plantation.

²⁷ The Civil Party consistently said her husband had been arrested and killed without explaining how she knew of his fate.

²⁸ Trial Chamber, “Decision on Additional Severance of Case 002 and Scope of Case 002/02” (4 April 2014) E301/9/1.