



Prosecutor v Kaing Guek Eav,  
alias 'Duch'

## The KRT Trial Monitor

Asian Justice Initiative: a Collaboration between the UC Berkeley War Crimes Studies Center and East-West Center

Report Issue No. 20:  
Week Ending Sept. 4, 2009

### In This Week's KRT Trial Monitor Report...

***Experts' testimony on mental capacity (p.2); Past Acquaintances testify on the Accused's Character (pp.3-4); Duch's statement on his character continues (pp.5-6); Civil Parties boycott proceedings in protest of Chamber's recent decision (pp.6-7); Concerns arise over the efficiency of the personnel rotation practice of OCP (p.7)...***

#### I. SUMMARY

"I was regretful for him, as a man of virtue and he became a criminal"<sup>i</sup>

"[I] appeal to the world...to provide me with any treatment or any path to follow for people to see me as a human being again."<sup>ii</sup>

As scheduled, the examination of witnesses testifying about the Accused Person's Character commenced this week. The proceedings saw the attendance of expert psychologists as well as former friends and colleagues of the Accused. The psychologists explained that the analysis they had employed when examining Duch utilized a "geopolitical method" of assessment, which took into account the social and political context at the time the alleged crimes were committed. Through the application of this approach, they found that the Accused strategically adopted a non-empathic approach to ensure his own survival. He also employed tight psychological compartmentalization in dealing with different aspects of his life. They provided this as an explanation as to why Duch could be both a good family man and the director of a Security Office under whose supervision thousands had been tortured and murdered. Aside from these tendencies, which the experts attested were also found in many of the survivors of the regime, they found the Accused was not suffering from any mental disorder. This indicated that he was competent to stand for trial.

The subsequent character witnesses that testified included former schoolmates and students from the pre-1975 period as well as former colleagues from the period after Democratic Kampuchea. All of them testified that Duch had been a man of a good character. They described him as a gentle, generous, and quiet person. All the character witnesses were surprised to find that the man they knew had served as the Director of S-21.

The remainder of the week's proceedings comprised further testimony from the Accused regarding his own character. Duch described his movements after the Liberation Day (6 January 1979), as well as reiterating his meticulous choice to convert to Christianity – a decision made based on his assessment of the religion's utility in the post Khmer Rouge era. Duch again took this opportunity to further convey his remorse, and expressed his desire to be reformed and reintegrated again within the Cambodian community.

It should be noted that none of the Civil Parties attended the proceedings this week. Their absence signified a protest against the Chamber's decision to preclude their lawyers from questioning both the Accused and certain witnesses on the Accused's character. During the press conference held on Monday, the Civil Parties stated that they would continue to boycott the trial until their status as full-fledged parties was recognized and given proper effect. Their lawyers, however, continued to represent them in court this week, and took every possible opportunity to draw the Chamber's attention to the stance their clients had taken with regard to this matter.

Finally, this week, the ECCC made two noteworthy announcements – namely, the appointment of Mr. William Smith as the interim Co-Prosecutor (until Mr. Robert Petit's replacement is appointed) and the failure of the Pre-Trial Chamber to reach a super-majority decision on the prosecution of additional suspects. The latter signifies the possibility for the OCIJ to pursue further suspects aside from the defendants in Case 001 and 002. It should be noted that it was the National Co-Prosecutor who had filed the objection for prosecutions beyond the two initial cases. Thus it will be interesting to see whether, after the Pre-Trial Chamber failure to decide upon this matter, the National Co-Prosecutor will cooperate with her International counterpart in carrying out his intention to bring forth further indictments.

## II. LEGAL AND PROCEDURAL ISSUES

### A. Summaries of Testimonies on Duch's Character

Summaries of this week's testimonies are set out below. For a more detailed account of the experts' testimony and the continuance of Duch's testimony from last week, please refer to Annexure A to this report. Please note Annexure A comprises monitors' notes from the proceedings. The six character witnesses who appeared before the Chamber this week testified and were examined briefly by the Chamber and the Parties (except for the Civil Parties). Therefore the summary of their accounts shall be provided in full below.

#### 1. Joint Expert Testimony of Ms. Francoise Silboni-Guilbaud and Mr. Kar Sunbunna<sup>iii</sup>

On Monday through Tuesday morning, psychological experts Ms. Francoise Silboni-Guilbaud and Mr. Kar Sunbunna testified jointly before the Chamber. This followed their submission of a joint experts report to the Office of Co-Investigating Judges, who had asked them to answer specific questions concerning Duch's character.<sup>iv</sup>

***Duch's Mental Capacity/Health.*** Both experts' unequivocal opinion was that Duch did not suffer from any psychological disorders. They confirmed that Duch had not had problems perceiving reality at any time. These conclusions make clear that Duch is fully responsible for his actions during the period of Democratic Kampuchea.<sup>v</sup>

***Impact of Psychological Factors on Duch's Actions at S-21.*** The experts' testimonies were significant in that they elucidated the likely psychological motivations behind Duch's actions at S-21. Their testimony also offered explanations for reconciling seemingly contradictory aspects of Duch's testimony.

***Recognition of Responsibility.*** The experts found in Duch a complete absence of a sense of 'guilt' - at least so far as the term is understood in Western psychoanalytical discourse. They stated that feelings of guilt were inaccessible to Duch, unless he acquired a capacity for empathy. Significantly however, the experts repeatedly stated

that Duch was undergoing a *process* that would lead to his full acceptance of this emotion: according to the psychologists, Duch was moving beyond his state of apathy and had gained an increased awareness of the feelings of S-21 victims. He was much less in denial, and was able to express remorse than he had been previously. They asserted that this sense of remorse and his desire to repair the damage caused were real and genuine. Notably, his trial was said to have contributed to this process.

## **2. Character Witnesses**

As scheduled, six character witnesses took the stand on Tuesday and Wednesday. A former schoolmate, two former students, and three former colleagues of Duch's each discussed their relationship with the Accused and his characteristics during the period of their acquaintance. There were two categories of Character Witnesses testifying: firstly, those who had known Duch before his imprisonment in 1968; and secondly was those who had known him as 'Hang Pin' after the Khmer Rouge period and prior to the discovery of his true identity and subsequent arrest in 1999. They are as follows:

- Sou Sat (former classmate in Kampong Thom College, year 3 and 4, 1959-1961)
- Tep Sem (former student in Cheung Prey School, Kampong Cham, 1965-1968)
- Tep Sok (former student in Cheung Prey School, Kampong Cham, originally claimed to have been taught by Duch in 1968-1969 and later asserted that perhaps he had been taught by the Accused in 1966-67)
- Chou Vin (former superior and colleague in the Education Department in Svey Chek district, 1995-1997)
- Hun Smien (former superior and colleague in Svey Chek High School, 1996-1997)
- Peng Poan (former superior and colleague in Pukhoam High School, 1993-1995)

The Accused was given leave to provide comments on all of the Character Witnesses' accounts after Peng Poan's testimony was completed. He expressed no objection to any of them.

### **Character Witnesses for the Period Prior to the Accused's Imprisonment by Lon Nol's Regime**

*Relationship with the Accused.* Sou Sat, Tep Sem and Tep Sok took the stand on Tuesday. 66 year-old Sou Sat is a retired teacher who had been Duch's classmate. They also belonged to the same study group for two years. Tep Sem claimed to have been taught by Duch for three academic years. Tep Sok initially asserted that he had been the Accused's student in 1968-1969, but after both the International Co Prosecutor and Duch's Defense counsel pointed Duch was imprisoned from 1968-70, the witness said he might have been confused about the dates, asserting instead it might have been 1967-1968. Both of Duch's former students had worked as teachers prior to their retirement, and Tep Sem attributed this choice of career to the example set by the Accused.

*Character of the Accused.* The three witnesses described Duch as a kind person, committed to imparting knowledge to others. They all agreed that the Accused had been a gentle person who did not engage in conflict or commit violent acts. Sou Sat noted, however, that Duch did not have many friends, despite his supportive nature.

She described him as “docile, not very animated”. Duch’s two former students recalled that their teacher as being egalitarian, and someone who treated and spoke with students as equals. They claimed that they had never heard anyone criticise their former teacher. In fact, they affirmed that all the students and staff they knew in Cheung Prey School had liked Duch.

With regard to the Accused’s work ethics, all witnesses described Duch as a very competent person, both when he was a student and a teacher. They noted that he was disciplined and punctual as well as meticulous. His former students noted that he had never resorted to violence when dealing with poor performing students, instead endeavoring to communicate with them and to provide extra classes free of charge to assist them in strengthening their grades.

While Tep Sem recalled the moral support he had attained from his former teacher, Tep Sok claimed to have received more tangible assistance from the Accused. According to Tep Sok, Duch had been a very generous man, who had provided school supplies for poor students free of charge and even took impoverished students under his roof. The witness also recounted how the Accused had established a School Cooperative in order to enable students to access school supplies at lower prices.

The three witnesses each described their surprise when learning that the man they had known as Kaing Guek Eav became the chairperson of the notorious S-21. They held on to the opinion however, that during the period they had known him, the Accused had attained the great qualities as described in their accounts. Sou Sat even expressed her desire to meet Duch after the day’s proceedings ended, which the Chamber granted.

***Indication of Political Ideology.*** Sou Sat could not recall any discussion with the Accused that indicated his fascination with Communism. This was also the case with Tep Sok, who only remembered Duch promoting greater cooperation and support between students. Tep Sem however remembered that Duch often remarked on the different classes in Cambodian society at the end of his lessons. The Accused had ‘imparted his insights about the ideology of Communism’, the witness claimed, but ‘had never attempted to recruit students to the revolutionary movement’.

#### **Character witnesses for the period between 1995 and 1999**

The testimony of Mr. Chou Vin, Hun Smien, and Peng Poan shed light on Duch’s activities and character after the end of the Khmer Rouge regime. These witnesses knew of Duch by the name of “Hang Pin”, and identified the Accused as the person they had known by that name. All of these witnesses claimed that they had not been aware of Duch’s former position during the Democratic Kampuchea era until his arrest was made public in 1999.<sup>vi</sup>

***Relationship with the Accused.*** Mr. Chou Vin was the first of the three witnesses to testify. He came to know the Accused most recently, namely between 1995 and 1997. At that time, he was the Deputy Director of The Education Department in Svey Chek District. He received Duch as his assistant and allowed him to stay in the office after the Accused came to him, pleading for protection. This had occurred, according to the witness, after Duch had been robbed. During the course of this robbery his wife had been killed, and the Accused at that time expressed that he felt his security was under threat.

The subsequent witness, Mr. Hun Smien, had served as the Headmaster in the Svey Chek High School. Mr. Chou Vin had testified that the Accused was recruited to

teach there, which was confirmed by Hun Smien when he took the stand. Duch, the witness testified, had taught between 1996 and 1997, after which time he had disappeared without notice. Only later on Mr. Hun Smein received news that the Accused had relocated himself to Somlout.

The last character witness to testify was Mr. Peng Poan. He had known Duch in a period prior to the other two witnesses, namely between 1993 and 1995. At that time the witness was the temporary custodian of the newly established in Pukhoam High School, 1993-1995.

**Character of the Accused.** The witnesses recalled Duch as a very competent worker. Chou Vin remembered the Accused as a very capable assistant who completed all tasks satisfactorily and punctually. As a teacher, the witnesses described Duch as humble and meticulous in his work. Besides working hard, Duch was well-prepared, gentle and reticent. Respect for him as a teacher was evident from the nickname given to him of “Grandpa Teacher”, denoting a person who was well-known and popular.

Although claiming that they had known the Accused well, all witnesses displayed little knowledge about his personal life. They could only attest that Duch had been a quiet person of unknown political affiliation. Mr. Hun Smien recalled that even during political discussions in teacher meetings, the Accused would “listen and never used an inappropriate word”. While Mr. Chou Vin and Mr. Hun Smien were aware that the Accused was a Christian, they could not shed light on the motives for his conversion or his views with regards to his faith.

The three witnesses declared that they had been surprised at learning of Duch’s true identity when he was arrested and professed wonderment at his ability to conceal his past for such a long period of time. However, each of the witnesses maintained their positive opinion of the man they knew as Hang Pin.

**The 1995 Robbery.** On the matter of the 1995 robbery that resulted in the death of Duch’s wife, the first two Character witnesses from the post-Khmer Rouge era claimed not to know the details of the incident; Mr Peng Poan, who had known Duch at the time of the incident, was the only one of the three to shed little light on this matter. He stated that the Accused himself had been injured when his house was robbed and had to be hospitalized for a period of time. After his discharge from the hospital, the Accused sought Poan’s advice on how to avoid the recurrence of such an incident. This led to his moving to the Svey Chek District Department of Education. With regard to the prevailing speculation that the incident politically motivated, no witnesses confirmed this. All three witnesses emphasized that during that period, there was little security and stability and crimes were a common occurrence. Poan acknowledged, however, that robberies in that period seldom involved murder.

**Duch’s ability to reintegrate into post-KR society.** Mr. Chou Vin asserted that he came to know Duch in a political context, as fighting continued between rebel factions and the Government. However, Svay Chek was not a Khmer Rouge-controlled area, and at the time Duch was well-integrated into the community. The other two witnesses echoed this sentiment, confirming that to their knowledge, the Accused had never had any conflict with other colleagues or community members. Mr. Peng Poan highlighted the fact that for the two years of his tenure as a teacher in Pukhoam High School, the Accused had served on a voluntary basis and received no remuneration for his services. This however, did not affect his performance as a teacher.

### 3. Kaing Gek Eav *alias* Duch

The Chamber resumed its questioning of Duch on Wednesday, but was again interrupted as proceedings adjourned for a week-long court recess for the judicial plenary. Ensuring that the presumption of innocence was seen to be maintained, Judges Cartwright and Lavergne were at pains to make clear to Duch that although facts concerning his character would go towards the issue of sentencing, he had not yet been convicted, and the present inquiry was useful only in the event that he was.

***Duch's work ethic at S21.*** When Judge Cartwright drew Duch's attention to commentators' suggestions that he did more than was necessary to survive at S21, Duch pointed out that there was no yardstick he could use to determine if his work was acceptable or not: the Khmer Rouge was a paranoid regime who viewed everyone as a potential traitor. His fear was further compounded by the fact that despite his efforts, he was apparently unable to keep up with all his responsibilities.

***Recognition of Responsibility.*** Duch admitted that he had been aware that killing people without reason was a crime. However, he believed he was a prisoner carrying out his superior's orders. He also testified in greater detail on his attempts to leave his post.<sup>vii</sup>

Other questions put by Judges Cartwright and Lavergne to Duch highlighted the apparent inconsistency between Duch's reputation as a devoted and committed teacher, and his implementation of CPK policies that undermined childrens' education and development.<sup>viii</sup> Duch's consistent reply was that while reluctant, he had no choice. Similarly, although opposed to violence and killing, Duch had felt compelled by the CPK to accept them as politically justified.

Echoing the psychological experts who testified on Monday, Duch agreed that his feelings of remorse had progressively developed over the course of the trial, particularly after being confronted by testifying victims in the Courtroom. He was now able to see how they felt. Alluding to a desire to be rehabilitated and reintegrated into society, Duch "appeal[ed] to the world... to provide [him] with any treatment or any path to follow for people to see [him] as a human being again. "

### III. VICTIM PARTICIPATION AND WITNESS AND VICTIM PROTECTION AND SUPPORT

***Attendance of Civil Parties.*** Civil Parties did not attend this week's proceedings in protest against the Chamber's decision on 27 August 2009 limiting Civil Party participation (see section on 'Civil Parties Protest' below).

***Attendance of Civil Party lawyers.*** Civil Party Lawyers for Groups 2 and 4 were absent for the entire week. On the last day of the proceedings, the Chamber was informed that they were absent as they were locating further documentary evidence to support their clients' applications.

A new international lawyer for Civil Party Group 3, Ms. Martino, was recognized by the Chamber on Monday. National lawyer for Civil Party Group 1, Ms. Ty Srinna, presented Ms. Martino for the Chamber's recognition on behalf of the national lawyer for Group 3, who was absent that day.

***Civil Parties Boycott Proceedings.*** The Civil Parties' boycott was to make public their strong objections to the Chamber's decision that Civil Party lawyers have no standing to question the Accused and certain witnesses on the Accused's character.<sup>ix</sup> During a press conference they held in front of the Court compound on Monday, spokespersons Chun Sirath and Chun Mei reiterated the Civil Parties'

demands that their status as full-fledged parties be recognized and given proper effect. They also issued an open letter addressed to the Chamber.<sup>x</sup> The Civil Parties also made clear that their actions were entirely of their own volition and uninfluenced by their lawyers, who would still be representing them in the proceedings.

In the Courtroom, the Civil Party Lawyers present were committed to carrying out their clients' instructions, and ensured that their clients' protests were brought directly to the Chamber's attention. On Monday and Tuesday, at some point during or after every witness' testimony, at least one Civil Party Lawyer sought leave to address the Chamber. Each time, the same request was made: the Civil Parties wanted the Chamber to explain to the witness testifying the reason for their clients' absence and why Civil Party lawyers were not involved in the questioning. The Chamber sternly stated that it was under no obligation to explain its decisions to witnesses and had no intention of reversing the decision in question. Despite warnings from the Chamber that Civil Party lawyers would not be allowed to make the same request again, they boldly continued to make the same request on behalf of their clients on Tuesday. However, they did not repeat this on Wednesday.

Despite the controversial nature of the Chamber's decision, the written reasons for the decision are yet to be issued. Civil Party Lawyers for Groups 1 and 3 had requested the Chamber to issue this promptly, emphasizing that without it they will be unable to assist their clients to comprehend the rationale behind the Court's decision. The Chamber assured the Parties that their written reasons would be issued 'in due course', although delays would be inevitable due to the required translation process.

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

**Judicial Management.** Abrupt interruption of testimony appears to be a worrying emerging trend. Although Duch began his testimony on his character last Thursday, this was interrupted to accommodate the scheduled hearing of the 2 psychological experts. Continuation of Duch's testimony will now take place as and when there is time in between the remaining witnesses. Previously, Civil Party Chum Neou's testimony had likewise been interrupted to accommodate a scheduled video-conference.<sup>xi</sup> While ensuring that proceedings end soon is undoubtedly an important concern, such interruptions significantly disrupt the testimony's coherency, and should only be resorted to when necessary. In both the above situations, the necessity of the arrangement adopted is not beyond question.<sup>xii</sup>

**Policy of Rotating International Co-Prosecutors Called Into Question.** The extent to which the Office of Co-prosecutors is acting as a cohesive unit was somewhat called into question this week, as submissions made by Deputy International Co-Prosecutor Mr. Vincent de Wilde on Tuesday appeared unfounded. Mr de Wilde raised observations and objections to what he thought were requests that the Defense had made the day before, which in fact, they had not made. Mr. de Wilde's observations were clearly misguided and did not correspond to the actual requests made by the Defense, calling into question the extent to which his colleagues present the day before had properly briefed him.<sup>xiii</sup> International Defense Counsel Francois Roux cuttingly submitted that Mr. de Wilde had been "poorly updated" on what had in fact transpired.

While this may have been as a result of misrepresentation by members of the OCP regarding what had happened the previous day, it could also indicate inadequate communication within the OCP. Monitors have noted that throughout the trial, the International Co-Prosecutor have been represented by various Deputies in a rotating

manner.<sup>xiv</sup> Incidents like the one that occurred on Tuesday call into question the desirability of such practice or, at least, its effectiveness of its execution. These problems should also be seen in light of the significant turnover in the international part of the OCP during the course of the trial, with the recent departure of International Co-Prosecutor Robert Petit, and earlier, of two Deputy Co-Prosecutors.

**Scheduling.** On Monday, the Chamber laid out the hearing schedule from the beginning of this week to the anticipated end of trial on 23 September 2009.<sup>xv</sup> Questioning on the last factual topic – i.e. the Accused’s character - is to wrap up by Thursday, 17 September 2009. If not completed by that date, questioning may continue the week after. Parties may then use the remaining time to put documents before the Chamber, if necessary.

While oral closing submissions are presently scheduled to begin on 23 November 2009, the Co-Prosecutors have submitted a request to the Chamber to postpone this to 30 November 2009. Both the Civil Party lawyers and Defense had no objections to this, and requested only that the Chamber’s decision on the matter be made known as soon as possible for them to make arrangements accordingly.

Date	Order of hearing of witnesses and the Accused
Mon, 31 Aug, 09	Mr. Kar Sunbunna and Francoise Silboni-Guilbaud (psychological experts)
Tue, 01 Sep, 09	Ms. Sou Sat; Mr. Tep Sem, Mr. Tep Sok; Mr. Chou Vin (character witnesses)
Wed, 02 Sep, 09	Mr. Hun Smien; Mr. Peng Poan (character witnesses)
Mon-Tue, 14-15 Sep, 09	Mr. Richard Goldstone (to testify via video-conference); Mr. Christopher Lapel; Mr. Stephane Hessel; D8; Mr. Raoul Marc Jennar
Wed-Thur, 16-17 Sep, 09	Kaing Gek Eav alias Duch
Tue-Wed, 22-23 Sep, 09	22 Sep 09 reserved for Duch’s testimony if necessary. Parties to put documents before the Chamber if necessary.

**Appointment of Acting International Co-Prosecutor.** Mr. William Smith has been appointed Acting International Co-Prosecutor with effect from 1 September, 2009. This interim appointment was made pending decision on the permanent replacement for Mr. Robert Petit, the former International Co-Prosecutor.<sup>xvi</sup>

**Parties’ Attendance.** On Monday, the Prosecution was represented by Mr. Tan Senarong (National) and Mr. Anees Ahmed (International). Mr Senarong continued to represent the national side of the Prosecution for the entire week. On Tuesday, Mr. Anees Ahmed completed the questioning of the experts on Duch’s character in the morning, after which time he was replaced by Mr. Vincent de Wilde. Mr. de Wilde remained in the courtroom until late Wednesday morning. He was replaced by Acting International Co-Prosecutor Mr. William Smith shortly after Duch resumed his testimony. The Defense was represented by Mr. Kar Savuth (National) and Mr. Francois Roux (International) throughout this week.



**Public Attendance.** Thanks to arrangements by the Outreach and Public Affairs Section of the ECCC, about 200 people each from the Pursat and Kandal provinces were able to visit the Court on Monday. On Tuesday, there were about 350 people from Takeo and Kandal provinces and 27 trainees from the Swedish International Development Agency. On Wednesday, there were about 50 civil parties from Case 002 whose visit was arranged by DC-Cam, as well as about 350 Khmer Muslims from Kompong Cham province.

**Time Management.**

<b>DAY/ DATE:</b>	<b>START:</b>	<b>MORN. BREAK:</b>	<b>LUNCH:</b>	<b>AFT. BREAK:</b>	<b>RECESS:</b>	<b>TOTAL HOURS IN SESSION</b>
MON. 31/08/09	9.05AM	10.30 – 10.55 AM	12.10- 1.30PM	3.00- 3.20PM	4.15PM	5HOURS 5MINS
TUE 01/09/09	9.00AM	10.10- 10.33 AM	12.10- 1.32PM	2.40- 3.05PM	4.15PM	5HOURS 6MINS
WED 02/09/09	9.05AM	10.45- 11.05 AM	12.05- 1.33PM	2.45- 3.05PM	4.20PM	5HOURS 7MINS
THU 03/09/09	-	-	-	-	-	-
<b>AVERAGE NO. OF HOURS IN SESSION : 5HOURS 6MINS</b>						
<b>TOTAL NO. OF HOURS THIS WEEK : 15HOURS 18MINS</b>						
<b>TOTAL NO. OF HOURS, DAYS, AND WEEKS AT TRIAL: 288 HOURS AND 2 MINS OVER 64 TRIAL DAYS OVER 19 WEEKS</b>						

<sup>i</sup> Tep Sok's explanation of his feelings upon encountering the fact that the man he knew as Hang Pin had been the Chairperson of S-21, September 2, 2009

<sup>ii</sup> Duch, in his statement on September 2, 2009.

<sup>iii</sup> Mr. Kar Sunbunna, a professor of psychology, is the Dean of Medicine at the University of Phnom Penh and a director at the Ministry of Health. Ms. Francoise Silboni-Guilbaud is a psychologist and lecturer at the University of Paris. Having studied the means of treatment of torture victims and the psychological consequences of torture, she has from 2004 acted as an expert witness at the Paris Court of Appeal in relation to torture victims. Ms. Silboni-Guilbaud has contributed to the founding of a centre for torture victims in France, with a focus on victims of torture, genocide and mass murder, and worked with former soldiers who fought in the war of Algeria. She has also established a rehabilitation center in Russia, assisting war veterans of wars in Afghanistan and Chechnya.

<sup>iv</sup> Based on President Nil Nonn's summary of the 31 March 2008 experts' report, as delivered on Monday, the experts had been tasked by the OCIJ to provide their opinion on the following: (1) the character of Duch, his personality, level of understanding, and ability to make judgments; (2) whether Duch is a person prone to be influenced by others, and his ability to empathize with others; (3) whether he is affected by any psychological factors; (3) the extent of these factors' impact on Duch's involvement in and actions at S-21; and (4) their impact on his life, based on the social and revolutionary context from 17 April 1975 to 6 January 1979, and until the present date. The experts were also instructed to

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respond to the Defense's request that they determine whether Duch is capable of being reintegrated into society or rehabilitated.

<sup>v</sup> See paragraph 171 of the Closing Order ("These experts concluded that Duch did not present any psychopathology. He is responsible for all of his acts.")

<sup>vi</sup> Author Nick Dunlop had stated in his book that in 1994, several teachers who were Duch alias Hang Pin's colleagues came to know of Duch's true identity as Chairman of S-21 after one visited Tuol Sleng and informed the rest of this. According to Dunlop, Duch's colleagues remained silent because they were fearful. The three witnesses claimed no knowledge of this incident.

<sup>vii</sup> See paragraph 170 of the Closing Order.

<sup>viii</sup> The policies mentioned were those that deprived children at S-21 of education, implemented a curriculum that excluded the fundamentals of reading and writing, and used children as guards, interrogators and executioners.

<sup>ix</sup> See KRT Monitoring Report, Week 19, at pages 5-6.

<sup>x</sup> This open letter was filed by the Civil Parties to the Greffier, but could not be put into the case file due to various procedural concerns. The Civil Party Lawyer for Group 1 on Tuesday offered to read the open letter before the Chamber, but this offer was rejected. The Counsel was asked instead to file the letter in accordance with the ECCC's filing procedures.

<sup>xi</sup> See KRT Monitoring Report 18 (Week 17) at page 5.

<sup>xii</sup> Chum Neou was made to begin her testimony, despite having only 15 minutes before the scheduled video-conference. While it appears that the Chamber was awaiting the Audio-Visual Unit's confirmation that the video-conference could proceed, this confirmation should have been provided earlier. Whether it was necessary to interrupt Duch's testimony is questionable, given the Chamber has allowed for additional time after the witnesses have appeared to hear the accused on this matter, notwithstanding the time limits the parties must already adhere to. Furthermore, the current schedule already allows for the trial to end a week earlier than previously anticipated.

<sup>xiii</sup> The Defense had suggested that character witnesses be allowed to begin their testimony with a spontaneous statement in order to save time. It also requested that it be allowed to screen selected clips from a video of the hearing of Erdemovic at the ICTY. The International Co-Prosecutor, Mr. de Wilde, mistakenly took this as a suggestion that character witnesses be allowed to read from a prepared statement, and a request that the Defense be allowed to read from the decision rendered in the Erdemovic case.

<sup>xiv</sup> It should be noted that recently this rotation appears to be increasing in frequency. Questioning of the expert witnesses was conducted by Mr. Anees Ahmed, questioning of the Defense's character witnesses was conducted by Mr. Vincent de Wilde, and it appears that Mr. William Smith, who turned up shortly after Duch resumed his testimony on Wednesday, will be questioning Duch. Although there were instances where more than one prosecuting attorney was at the bar, each acted alone most of the time.

<sup>xv</sup> The Chamber will hear the Defense's character witnesses D1, D2, D3, D4, D5 and D6 this week. Testimonies of remaining witnesses Richard Goldstone, Christopher Lapel, Stephane Hessel, D8 and Raoul Marc Jennar will be heard on 14 and 15 September 2009. Questioning of the Accused will then take place on 16 and 17 September 2009, and 22 September 2009 if necessary. Thereafter, parties will be given opportunity to put documents before the Chamber. Based on this schedule, trial will end on 23 September 2009.

<sup>xvi</sup> See ECCC Press Release available at [http://www.eccc.gov.kh/english/news.view.aspx?doc\\_id=307](http://www.eccc.gov.kh/english/news.view.aspx?doc_id=307).



**WSDHANDACENTER**  
FOR HUMAN RIGHTS & INTERNATIONAL JUSTICE  
*Stanford University*

This publication was originally produced pursuant to a project supported by the War Crimes Studies Center (WCSC), which was founded at the University of California, Berkeley in 2000. In 2014, the WCSC re-located to Stanford University and adopted a new name: the WSD Handa Center for Human Rights and International Justice. The Handa Center succeeds and carries on all the work of the WCSC, including all trial monitoring programs, as well as partnerships such as the Asian International Justice Initiative (AIJI).

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