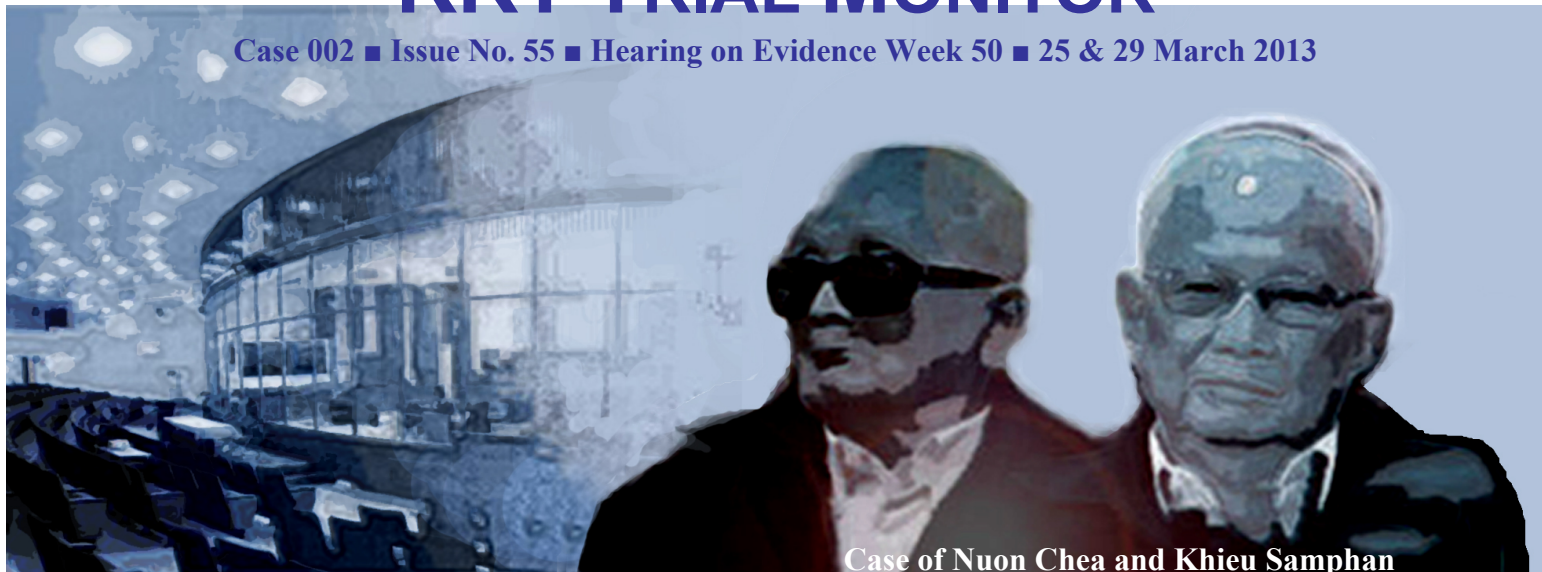


KRT TRIAL MONITOR

Case 002 ■ Issue No. 55 ■ Hearing on Evidence Week 50 ■ 25 & 29 March 2013



Case of Nuon Chea and Khieu Samphan

Asian International Justice Initiative (AIJI), a project of East-West Center and UC Berkeley War Crimes Studies Center

*Death is something we have no control over,
but I believe there are other things happening here than the death of the Accused.
We should not forget that.*

- CPLCL Elisabeth Simonneau-Fort

I. OVERVIEW

On 25 March, in the first hearing after Ieng Sary passed away on 14 March 2013 and the subsequent termination of the proceedings against him,¹ the Trial Chamber heard the joint testimony of two court-appointed medical experts regarding the medical assessment of Nuon Chea.² Once the testimony concluded, the Parties gave final remarks on the medical experts' findings. The Chamber also provided the Parties with an opportunity to present comments about the severance of Case 002. The Parties' positions on this matter were similar to their presentations in the week of 18 February 2013.³ The Chamber adjourned until Friday, 29 March, when the President announced two oral decisions—one finding Nuon Chea fit to stand trial, and the other describing the new severance order.

II. SUMMARY OF EXPERT TESTIMONY

On Monday, the Trial Chamber heard the joint testimony of geriatrician Dr. John Campbell and psychiatrist Dr. Seena Fazel. The two were previously appointed in the Trial Chamber's order of 18 December 2012 to review the physical and mental health of Nuon Chea. The Chamber announced a decision on Friday that, in light of the experts' findings, Nuon Chea was fit to stand trial.⁴

A. Testimony of Medical Experts John Campbell and Seena Fazel

Dr. Campbell, a geriatric expert from New Zealand who has examined the health of the Accused three times before, presented his findings on the physical health and fitness of Nuon Chea. Dr. Fazel, a forensic psychiatrist from the United Kingdom who has given testimony to the Court four times, instead focused on the mental health of the Accused.⁵ In

response to questions from the Judges and the Parties,⁶ the experts explained various findings of their report.⁷ Prior to their testimony, the President first relayed the chronology of examinations of Nuon Chea's health and fitness,⁸ and explained that Nuon Chea's lawyers asked for further examination of certain symptoms, which included dizziness, fatigue, irregular urination, concentration and short-term memory problems, and poor eyesight.

1. Physical Condition of Nuon Chea

According to Dr. Campbell, 86-year old Nuon Chea is a frail elderly man, due partially to his age and chronic conditions, but also his lack of physical activity. While Nuon Chea does not suffer from ischemic heart disease or heart failure, he continues to have hypertension and "severe, underlying cardiac disease," and he has become weaker with diminished muscular strength due to his tendency to sit or lie down for most of the day. Regarding Nuon Chea's recent bout of acute bronchitis, Campbell explained that he has recovered, and shows no signs of chest infection. Nevertheless, the hospitalization demonstrates his weakened health, low physical reserve, and vulnerability "to inter-current illness." Campbell explained that Nuon Chea had experienced a moment of delirium – an acute state of confusion – when he was suffering from bronchitis, but he has not experienced it since the illness. Nuon Chea's stroke in 1995 left him with some weakness but no cognitive impairment, and he shows no signs of having had any further strokes. Campbell noted Nuon Chea's problems with dizziness, unsteadiness, and degenerative back problems, which are mostly the "result of wear and tear." Nuon Chea also suffers from bilateral cataracts in his eyes, but Campbell explained that his physical condition would not preclude a relatively easy operation on them.

Dr. Campbell strongly recommended that the Chamber find a physiotherapist to implement a physical exercise program to sustain Nuon Chea's muscle bulk, maintain or improve his strength, and slow down cognitive changes. He also explained that the Accused requires laxatives for his constipation, minor analgesics for his back pain, and inoculations for influenza. Nuon Chea also requires reading materials with large lettering or audio-recordings, and ought to remain in the holding cell rather than the courtroom. Campbell explained that Nuon Chea "lasted very well through the sessions we had with him," and did not require shortened court sessions due to fatigue or concentration. However, the expert explained that the transfer from the detention center to the holding cell fatigues the Accused, so Campbell recommended that he receive more time after the journey to recover before proceedings begin each morning. When Judge Cartwright prompted him to give a prognosis on Nuon Chea's physical health, Campbell responded that life is unpredictable at Nuon Chea's age and warned that any disease will disproportionately impact his health. Although he recognized the Accused's fitness to continue the trial, Campbell noted that, "We have to ask, 'Would we be surprised if this person would not be alive in six months?' In Nuon Chea's situation, we would not be surprised."

International Prosecutor Dale Lysak later returned to this comment multiple times, explaining that the comment "would be picked up," ostensibly by the Media. His questions prompted Campbell to qualify his previous statement, explaining: "I am not saying there is a six-month prognosis, but he is 86 with underlying diseases. Life is precarious," and, in a final moment of seeming irritation: "Would I be surprised if he is not alive in six months? No. Would I be surprised if he is alive in six months? No."

2. Mental Health and Cognitive Status of Nuon Chea

In response to questions from Judge Silvia Cartwright, Dr. Fazel explained the various sources he used to evaluate the mental capacity of Nuon Chea. He conducted three lengthy interviews with the Accused in order to gauge his short and long-term memory, finding that Nuon Chea was able to remember and concentrate well over the course of three interviews.

He also interviewed all medical personnel and detention facility staff who have come to know Nuon Chea for over two years. At no point did Fazel find that the Accused showed any sign of depression, mood disorder, or mental illness. The expert stated that he additionally conducted a test, the Mini-Mental State Exam, on which Nuon Chea consecutively scored a 28 out of 30, a good score for an 86-year old and demonstrating no problems with short-term memory or concentration. Fazel explained that a score of 23 or below indicates cognitive impairment, but he placed little importance on the decrease in score from two years ago, when Nuon Chea received a 30 out of 30. The doctor conducted another test to measure attention, and Nuon Chea scored well with a five out of six. In a third test, Frontal Battery Screening, the Accused scored well, showing no sign of dementia affecting his frontal lobe.

During the expert's attempts to analyze the functioning of the Accused's memory, they discussed Nuon Chea's childhood and schooling, his career, the period during and after the DK regime and the Accused generally provided "a great deal of details." In doing so, the experts utilized the *Strugar* case⁹ to consider criteria for Nuon Chea's fitness to stand trial, as well as a particularly applicable "Competency to Stand Trial Instrument" to develop questions or topics. Judge Cartwright asked Fazel to assess the Accused on each of the *Strugar* criteria, to which the expert confirmed Nuon Chea's cognitive functioning and understanding of his trial. Fazel explained that the Accused understood the difference between "guilty" and "not guilty," and he repeatedly denied the charges against him; he also understood that he was accused of genocide, war crimes, and crimes against humanity. When asked about genocide, he defined it as the "killing of one's own race," and he understood torture to include "beatings and imprisonment, us[ing] the term 'maltreatment.'" Regarding Nuon Chea's understanding of court procedures, Fazel explained that he demonstrated knowledge of the rules as well as a capacity to follow the proceedings, instruct counsel, and present his own view of the charges against him. He also understood evidentiary details and provided examples of specific types of defenses that he planned to raise. When asked about Nuon Chea's ability to testify, Fazel stated that he understood he would receive questions from all Parties and that he would be willing to speak in Court, as he understood its mission "to find the truth." Throughout the lengthy interviews, one of which lasted for two hours and twenty minutes, Nuon Chea was able to concentrate and remain actively engaged in the dialogue. Overall, the medical expert stated that he found no change in Nuon Chea's mental capacity and concluded that Nuon Chea is fit to stand trial and has sufficient cognitive functioning to observe and take part in the proceedings.

3. Witness Examination by Nuon Chea's Defense Team and Parties' Responses to the Medical Expert's Testimony

Counsels for Nuon Chea both asked a number of questions concerning the circumstances of his physical examination. Victor Koppe suggested that Campbell should have examined his client after the transfer from the detention center, because that has a tendency to make Nuon Chea especially tired. He also asked if the active participation in medical interviews made it easier to concentrate than the passive experience of listening to testimonies in the courtroom. The experts responded that Nuon Chea had shown no sign of difficulty concentrating in his lengthy all-day interviews, let alone for less demanding activities. Koppe then referred to Nuon Chea's month-long experience with acute bronchitis, revealing that his client seriously thought he was going to die, and asked family members to pay their final visits. Son Arun suggested that a recent fall left Nuon Chea with lasting injuries, but Campbell explained that there was no sign of damage other than a loss of confidence in his walking. As Son Arun continued to describe his own observations of Nuon Chea's condition, International Prosecutor Dale Lysak objected to the counsel's attempts to provide his own testimony. Son Arun responded with a request that the treating physicians be called to testify on his client's fitness.

When given a final opportunity to make comments, Son Arun rejected the report of the experts and asked that the Court send his client to the hospital “to have his ailments and diseases treated before proceeding.” To this, the Prosecution and Lawyers for the Civil Parties called it groundless to reject the report, and they held that “nothing changed since [the Chamber’s] prior decision that would warrant finding him unfit.” Additionally, National Civil Party Lawyer Hong Kim Suon and International CPLCL Elisabeth Simonneau-Fort emphasized the need to ensure Nuon Chea’s more active participation in the proceedings. Both recalled the Accused’s statement in the medical report that he wished to participate in the trial. Simonneau-Fort further emphasized the need of the public and the Civil Parties to see the presence of the Accused in the Chamber.

4. Witness Demeanor and Credibility

Both of the expert witnesses exhibited a wide range of knowledge concerning the health of the elderly Accused, and they confirmed that they were in full agreement on everything discussed in their report. On multiple occasions, one witness added some details to the testimony of the other, helping to fully clarify any issues for the Parties. At no point in their testimony did either witness ever demonstrate a reason to doubt their credibility.

III. LEGAL AND PROCEDURAL ISSUES

In the final session of the 25 March 2013 hearing, the Chamber allowed the Parties to make final comments regarding the possibility of a new severance order for Case 002, especially in light of the medical experts’ prior testimony. The Chamber issued an oral decision on the severance of Case 002 on Friday, 29 March 2013.

A. Submissions Related to the Issuance of a New Severance Order

Koppe impressed upon the court that Nuon Chea’s health status was precarious. Rather than filing any submissions at that time, however, Koppe held a view that “We have to cross that bridge when we get there.” Because this statement differed from that of Koppe’s national counterpart (see II.A.3), Judge Jean-Marc Lavergne sought clarification of the Defense Team’s unity on this matter. Koppe assured the bench that he and Son Arun “are never disharmonious.”

Speaking on behalf of Khieu Samphan’s defense, national counsel Kong Sam Onn echoed the previous statements of his international counterpart,¹⁰ explaining that his team did not want the case severed, out of concern that such an order would unduly prolong the proceedings. He further emphasized that severance is allowed only to settle a conflict in the case or to pursue the interest of justice. He opined that, because there was no conflict in Case 002, the Court should only consider severance in the pursuit of justice. However, he cautioned the Chamber that severance risked prolonging the case, and he underlined the need to secure his client’s right to a speedy trial. Kong Sam Onn also reminded the Court that the Defense Team had already filed a motion to provisionally release their client, and he clarified that this motion depended on the Court’s decision related to severance.

In a rare appearance before the Trial Chamber, the International Co-Prosecutor, Andrew Cayley, noted that, while the medical experts’ testimony showed that 86-year old Nuon Chea was physically and mentally fit to stand trial, the Accused was frail. This finding, in Cayley’s view, further supported the suggestion by the Supreme Court Chamber, in its 8 February 2013 decision, that the Trial Chamber pursue a smaller yet representative scope of charges.¹¹ Judge Cartwright recalled that the inclusion of S-21 in a severed case would also entail the allegation of war crimes and a related discussion of armed conflict. In response to estimates made by the OCP about additional time and evidence needed, Cartwright

expressed doubt that the addition of only three witnesses and 200 documents could properly address international armed conflict and substantiate an allegation of war crimes. Lysak restated his previous explanation that documents already included and witnesses already questioned in Case 002/01 had substantiated the existence of international armed conflict and grave breaches of the Geneva Conventions. Lysak also stated that there was no need to call additional expert witnesses, such as Nayan Chanda, to clarify issues such as the timing of the armed conflict during the DK regime.

On behalf of the Civil Parties, the National CPLCL Pich Ang first referred to the testimony of the medical experts, which showed that Nuon Chea was fit to stand trial. This, Counsel argued, made it unnecessary to sever him and Khieu Samphan into two different cases. He also asked the Chamber to proceed expeditiously, but to avoid covering only small portions of the facts at trial. His international counterpart, Simonneau-Fort, clarified the Civil Parties' stance, explaining that they did not oppose severance, as long as it was "fully representative of the crimes." This was even more important, she opined, because it became more likely that Case 002/01 would be the last trial at this Court. She also warned the Chamber that the prospect that the co-Accused might die should not dictate the Court's decision at the expense of the victims' and Civil Parties' interests. In response to further questions from Judge Lavergne, Pich Ang stated that the Civil Parties stood by the Prosecution's position on severance. Nonetheless, he also requested that the second trial segment proceed immediately after the conclusion of the first, because his clients would want to see the trial of other crimes that had affected them, such as forced marriage or forced labor. Simonneau-Fort added that she did not wish the Court to proceed on "severance of legal characterizations of crimes," but supported the severance of "factual allegations" that the Prosecution advocated.

Judge Lavergne also asked the Parties what would be the most effective manner to proceed with the trial, should Case 002 be severed again. Koppe reiterated that holding one trial inclusive of the complete content of the Closing Order would be preferable. He noted that allowing one Trial Chamber to adjudicate a number of mini-trials with the same defendants could prejudice the Judges for each subsequent trial. Koppe also referred to the media coverage of Ieng Sary's death, which often mentioned the former Accused's alleged involvement in genocide. Koppe argued that the public had predominantly internalized this media inference, so the prosecution of genocide was crucial to the trial. Kong Sam Onn supported Koppe's stance. On the issue of concurrent mini-trials, he reminded the Chamber that this might give rise to future appeals claims from the Parties, who might allege judicial bias.

Cayley admitted that he did not know how to overcome the legal ramification of moving on the next trial before the verdict of the first was still pending. However, he reminded the Chamber that appointing a second Trial Chamber panel was not possible given the financial difficulties faced by the ECCC, and, in any event, it was highly probable that the ongoing trial would be the last one of the Court. Cayley also underscored the Prosecution position that the inclusion of the crimes in S-21 would provide a reasonable representativeness of the trial. He conceded Koppe's point that genocide was the most serious charge, but he emphasized that most of the killings during the period affected Khmers. The legal definition of genocide would only allow convictions for this crime based on killings of the Vietnamese and Chams, not Khmers.

Simonneau-Fort seconded Cayley's stance, while asserting that the legal characterization of crimes should be considered as its own topic. Pich Ang voiced the Civil Parties' concern that, in case of severance, the judgment for the first mini-trial would not pass expeditiously, delaying the commencement of further mini-trials. Pich Ang also stated that facts pertaining to the Civil Parties should be prioritized, and he requested time before the Chamber to bring

forward the crimes their clients considered most important to represent their sufferings, including but not limited to forced marriage, crimes committed in cooperatives, and forced labor.

In the oral decision rendered on Friday, 29 March 2013, the Court maintained the original scope from the amended Severance Order, namely forced population movement phases 1 and 2, and executions at Tuol Po Chrey. President Nil Nonn firstly reiterated the Supreme Court Chamber's decision, which annulled the Trial Chamber's severance order due to the misinterpretation of its discretion to sever a case based on Internal Rule 89~~ter~~ and its failure to sufficiently hear the Parties prior to the issuance of the severance. The SCC decision also sought to ensure adequate legal consideration to show that the charges listed in Case 002/01 were representative. President Nil Nonn stated that the Trial Chamber had already responded to one of the grounds of the annulment by scheduling hearings on the issue of severance on 18-21 February 2013 as well as 25 March 2013. He also mentioned that the Trial Chamber reached its decision after considering not only the factors listed in the Supreme Court's decision, but also the recent death of Ieng Sary. The legal reasons for the decision to maintain the scope of Case 002/01, according to President Nil Nonn, would appear in the written decision to be released as soon as possible.

IV. TRIAL MANAGEMENT

In the wake of the national staff's strike, which kept the proceedings at a standstill for three weeks, the Court was able to resume proceedings, and concluded two separate hearings on Nuon Chea's fitness to stand trial and the effects of severance. The death of Ieng Sary apparently sent a strong message, and the Court seemed to be making an effort to expedite the proceedings by providing oral rulings within days after the last hearing on the two issues to enable the resumption of evidentiary hearings. In addition, the Court also asked Parties not to file submissions on additional witnesses or scheduling issues for Case 002/01. Before adjourning, President Nil Nonn announced that evidence hearings would recommence on 8 April 2013 with the resumption of the testimony of TCW-100,¹² followed by that of TCW-536.

Although the Chamber announced that funding had been secured for the court's national staff through April, Judge Cartwright clarified that the Court was not ready for hearings on 1 April because the Court previously felt "very unclear" as to the availability of essential national staff. Cartwright further explained that the Court only just received notification from the United Nations Assistance to the Khmer Rouge Tribunal (UNAKRT) coordinator that the pay freeze was settled until April and "discussion is underway to stabilize the condition from that point on."

A. Attendance

Nuon Chea observed the proceedings remotely from the holding cell on Monday, but he was absent on Friday due to his frail health. For the Monday hearing on the impact of severance, Khieu Samphan was granted permission to waive his right to be present, in order to rest in the detention facility, but he was present in the courtroom on Friday.

Civil Parties Attendance. There were roughly 30 Civil Parties attending the proceedings for the whole week. Ten sat in the courtroom, while the rest sat in the public gallery.

Parties Attendance. All Parties were represented throughout the week. Notably, national counsel for Khieu Samphan, Kong Sam Onn, was voluntarily present in the courtroom during the hearing on Nuon Chea's fitness to stand trial. International defense counsel for Khieu Samphan, Arthur Vercken, was absent the whole week due to a personal commitment.

Attendance by the Public:

DATE	MORNING	AFTERNOON
Monday 25/03/13	<ul style="list-style-type: none"> 250 villagers from Samraong District, Takeo Province 20 foreign observers 	<ul style="list-style-type: none"> 150 villagers from Samraong District, Takeo Province 10 foreign observers
Friday 29/03/13	<ul style="list-style-type: none"> 20 Civil Parties from Chhouk District, Kampot Province 25 foreign observers 	<i>(No court proceedings.)</i>

B. Time Management

This week, the Trial Chamber concluded two separate hearings on Nuon Chea's fitness to stand trial and on the impact of severance on Monday earlier than the allocated time. The hearing on severance took less than one session, owing to the fact that the Defense Teams made brief submissions. The Nuon Chea defense, in particular, reserved the right to provide their position only after the Judges made a decision on Nuon Chea's fitness. The Court concluded Monday with an oath-swearing ceremony to recognize a new investigator, Julie Plante. At the end of the day, the Court announced that it would resume proceedings on Friday to pronounce its oral decisions. Friday's hearing took about 20 minutes. Before the week's adjournment, the Chamber announced that it would resume evidentiary hearings on 8 April 2013, rather than the following week, due to lack of clarity on the availability of the Court's national staff that week, as well as to allow sufficient time to summon the scheduled witnesses.

C. Time Table

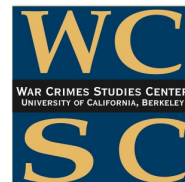
DATE	START	MORNING BREAK	LUNCH	AFTERNOON BREAK	RECESS	TOTAL HOURS IN SESSION
Monday 25/03/13	9:04	10:35-10:57	12:11-13:35	14:25-14:44	15:59	4 hours and 50 minutes
Friday 29/03/13	9:00	9:20	-	-	-	20 minutes
Average number of hours in session				2 hours 35 minutes		
Total number of hours this week				5 hours 10 minutes		
Total number of hours, days, weeks at trial				688 hours 58 minutes		
160 TRIAL DAYS OVER 51 WEEKS						

Unless specified otherwise,

- the documents cited in this report pertain to *The Case of Nuon Chea, Ieng Sary, Ieng Thirith 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; and
- photos are courtesy of the ECCC.

Glossary of Terms

Case 001	<i>The Case of Kaing Guek Eav alias “Duch”</i> (Case No. 001/18-07-2007-ECCC)
Case 002	<i>The Case of Nuon Chea, Ieng Sary, Ieng Thirith and Khieu Samphan</i> (Case No. 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
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
ICCPR	International Covenant on Civil and Political Rights
ICTR	International Criminal Tribunal for Rwanda
ICTY	International Criminal Tribunal for the former Yugoslavia
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
RAK	Revolutionary Army of Kampuchea
VSS	Victims Support Section
WESU	Witness and Expert Support Unit



* AIJI is a collaborative project between the East-West Center, in Honolulu, and the War Crimes Studies Center, University of California, Berkeley. 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 South-East Asia. The Program is funded by the Open Society Foundation, the Foreign Commonwealth Office of the British Embassy in Phnom Penh, and the Embassy of Switzerland in Bangkok.

This issue of **KRT TRIAL MONITOR** was authored by Pheakdey Chum, Daniel Mattes, Aviva Nababan, Kimsan Soy, and Penelope Van Tuyl, as part of AIJI's KRT Trial Monitoring and Community Outreach Program. KRT TRIAL MONITOR reports on Case 002 are available at <www.krtmonitor.org>, and at the websites of the East-West Center and the War Crimes Studies Center.

¹ Trial Chamber. “Termination of the Proceedings Against the Accused IENG Sary” (14 March 2013). E270/1.

² Trial Chamber. “Posponement of Expert Testimony” (6 March 2013). paras. 2-3. The testimony of the medical experts was originally to address the issue of the fitness to stand trial of the Co-Accused Ieng Sary and Nuon Chea, however due to the former's passing, the hearing on 25 March focused only on the latter's health.

³ See **CASE 002 KRT TRIAL MONITOR**, Issue 53, Hearing on Evidence Week 48 (18-21 February 2013), [hereinafter **ISSUE 53**].

⁴ Trial Chamber, “Second Decision on accused NUON Chea’s fitness to stand trial” (2 April 2013), document E256/5.

⁵ The President specifically noted Fazel’s most recent testimony on 8 November 2012 and Campbell’s appearance on 29 August 2011 and 30 August 2012. Campbell also appeared in November 2012, see **CASE 002 KRT TRIAL MONITOR**, Issue 42, Hearing on Evidence Week 37 (4-8 November 2012).

⁶ The experts were examined in the following order: Judge Silvia Cartwright; international counsel for Nuon Chea, Victor Koppe; national counsel for Nuon Chea, Son Arun; National Prosecutor Seng Bunkheang; International Prosecutor Dale Lysak; National Civil Party Lawyer Hong Kim Suon; and, International Lead Co-Lawyer for the Civil Parties, Elisabeth Simonneau-Fort.

⁷ “Expert Medical Report – Mr. NUON Chea Prepared in Response to Trial Chamber Request (E256)” (20 March 2013), document E256/4.

⁸ In a November 2011 decision, document E115/3, the Chamber noted that Nuon Chea was fit to stand trial; the medical experts made their first reassessment on 13 June 2011, document E62/3; the Chamber also discussed matters concerning Nuon Chea’s health condition on 13 August 2011.

⁹ *Prosecutor v Pavle Strugar*. IT-01-42-T. ICTY Trial Chamber. “Decision re the Defense Motion to Terminate Proceedings” (26 May 2004), para. 36. 11. For information on the use of the criteria in determining the fitness of the Accused Ieng Thirith, see **CASE 002 KRT TRIAL MONITOR**, Issue 4, Hearing on Fitness to Stand Trial II (19-20 October 2011).

¹⁰ See **ISSUE 53**, 8.

¹¹ Supreme Court Chamber. “Decision on the Co-Prosecutors’ Immediate Appeal of the Trial Chamber’s Decision Concerning the Scope of Case 002/01” (8 February 2013). E163/5/1/13. Andrew Cayley quoted from paras. 43 and 50 of the decision.

¹² For summary of the first portion of his testimony, see **CASE 002 KRT TRIAL MONITOR**, Issue 48, Hearing on Evidence Week 43 (8-11 January 2013) II.C. TCW-100 has been identified as Chhaom Se, the former director of Au Kanseng Security Center in Division 801 of the country’s Northeast Zone. Nuon Chea previously did not waive his right to be present for Chhaom Se, delaying the conclusion of his testimony.