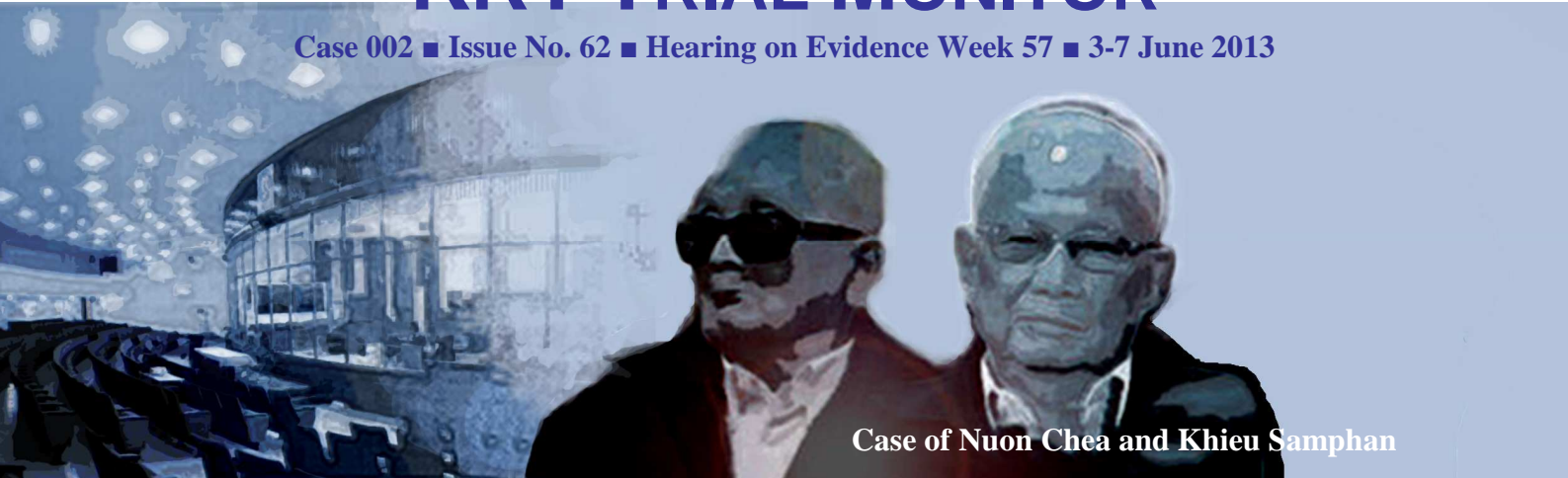


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Case of Nuon Chea and Khieu Samphan

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

"Wars are not sane occupations. They are insane. They are bestial."

- Witness Sydney Schanberg

I. OVERVIEW

After a one-day break to observe Child's Day, the court resumed the hearing on Tuesday this week. The Chamber efficiently heard the impact of crimes at trial in Case 002 from Civil Parties Sophany Bay, Soeun Sovandy, Seng Sivutha¹ and the testimonies of Witnesses Sidney Schanberg and Sok Rœur, as well as Expert Witness Chhim Sotheara. Sok Rœur was summoned as a character witness for Khieu Samphan. The Civil Parties recounted their pains and suffering they endured during the regime, while providing factual evidence in particular on what transpired in the population movements they experienced and the situation in cooperatives. Sidney Schanberg, a journalist who was present in Phnom Penh in the period before and during the evacuation of Phnom Penh until foreigners who had taken refuge at the French Embassy were expelled from Cambodia, testified to the condition of the country during the period of his stay. Chhim Sotheara, the Executive Director of Transcultural Psychosocial Organization Cambodia (**TPO Cambodia**), provided his expertise as an academican and practitioner in the field of psychiatry, as well as experience in assisting victims of Khmer Rouge. There were a few significant legal and procedural issues this week, which included the Chamber establishing that questions posed by the Civil Parties to the Accused could go beyond the scope of case 002/01. There remained to be no standard practice on to what extent witnesses could offer their opinion, enforcing the appearance that this issue stayed at the discretion of the Chamber. As to trial management, the proceedings generally went well, with the Chamber showing determination to ensure all witnesses and civil parties scheduled this week would testify as planned.

II. SUMMARY OF CIVIL PARTY AND WITNESS TESTIMONIES AND ACCUSED STATEMENT

This week, the Chamber continued to hear the statements of suffering from Civil Parties Sophany Bay, Soeun Sovandy, and Seng Sivutha, who also testified on the population movement under the DK regime. The Civil Parties, all of whom were evacuees of Phnom Penh, described how the Khmer Rouge drove them out of the city using coercion and misinformation. They also confirmed that children, as well as adults, were subjected to grueling work without sufficient food. Like last week, the Co Accused responded to questions posed by the Civil Parties; Nuon Chea continued to provide his answers via video link from his holding cell.

Three Witnesses also took the stand this week. Witness Sydney Schanberg, testifying remotely from the USA, spoke of his experiences as a journalist present before and after the fall of Phnom Penh. Notably, the Accused Nuon Chea provided a statement on CPK's reason behind the evacuation of Phnom Penh during Schanberg's testimony. Expert Witness Chhim Soetheara also took the stand to testify about the psychological impact of Khmer Rouge's crimes to victims, in particular the Civil Parties. The week concluded with the hearing of character witness Sok Roeur's testimony, Khieu Samphan's former bodyguard after Phnom Penh fell to the Vietnamese.

A. Sophany Bay's Testimony

Cambodian-American Civil Party Sophany Bay began her testimony on the morning of 4 June 2013, in which she gave her statement of suffering.² Currently, Sophany Bay works as a mental health counselor at the Gardner Family Health Network in San Jose, California. She detailed the loss of her three children during the evacuation of Phnom Penh, which began on 17 April 1975, and posed questions directly to the Accused Nuon Chea and Khieu Samphan regarding their knowledge of the mistreatment of children during Democratic Kampuchea.

1. Evacuation from Phnom Penh and Conditions in Cooperative

On 17 April 1975, Sophany Bay was residing in Phnom Penh with her three young children while her husband, a military official in Lon Nol's army, was pursuing his studies in the United States. On that day, the Khmer Rouge chased her neighbors out of their houses, declaring that everyone had to leave under threat of American bombing. The Civil Party and her young children left their residence with no assistance and little provisions.

The Civil Party, who had to witness the deaths of her three children, attributed her loss to the conditions of the evacuation and the cooperatives. Her journey to Treuy Sla took seven days, during which she and her children became sick with fever after getting caught in the rain. Her children later developed dysentery and would not eat anything. When she brought her baby daughter to a Khmer Rouge medic, the medic injected a medicine into the child's skull, and subsequently, the baby had a seizure and passed away.

Sophany Bay explained that she bartered items on several occasions. She used a diamond ring given to her by her sister-in-law to initially attain 25 cans of rice, which were later exchanged for aspirin and other medicine. She also traded a Seiko watch for medicine and vitamin B1 tablets. Despite this bartering, her two remaining children passed away from sickness and starvation. Sophany Bay noted that food rations were scarce, with adults receiving one cup of gruel and children receiving one-half cup.

The Civil Party escaped from Treuy Sla (phonetic) and took a truck delivering Chinese people to plant vegetables in Phnom Penh. At Tuol Sleng Pagoda near Kampong Kantuot, the Civil Party and the others were forced to engage in farm work, such as ploughing fields without animal assistance. Sophany Bay stated that the Khmer Rouge would beat the lazy. The Civil Party was later moved to Military Base 320 where she had to carry earth to build a dam.

2. Purging of Lon Nol's Officials and Relatives

The Civil Party's husband was not only a lieutenant colonel under Lon Nol, but also the younger brother of Her Excellency Kheng, Lon Nol's first wife. During evacuation, she hurried to leave before Khmer Rouge soldiers entered her house, worrying that they would find photos of her husband with Lon Nol, and photos of her extended family, who were associated with Lon Nol as well.

While evacuating the city, Sophany Bay saw dead Lon Nol soldiers and corpses of elderly people, children, and pregnant women. Though not sure whether the Khmer Rouge chased and killed Lon Nol officials in particular, the Civil Party claimed that few who worked under Lon Nol survived. Her husband's family members were executed when they returned to their native village because everyone knew their association with Lon Nol. Her parents were also killed in their native village because they were "the in-law[s] of Lon Nol's in-law". The villagers informed her of this after the fall of DK regime.

3. Discrimination Against 17 April People

The Civil Party explained that there was a difference in how the Khmer Rouge treated "17 April people" and their treatment of base people. At Treuy Sla, Sophany Bay was prohibited from living with base people and was told to build her own shelter. Villagers were not allowed to give her food because her social class was different from that of the base people. Furthermore, there was a difference in food rations; the base people from the liberated zone received sufficient rice while 17 April people received only watery gruel with salt or little dried fermented fish. At one point, the Civil Party was not given food for two days, an incident that led to the death of her son.

She added that the Khmer Rouge used the term Prisoner of War for 17 April people, who were put under constant supervision and whose children were beaten by the Khmer Rouge in efforts to uncover their parents' identity and transgressions prior to 17 April 1975 .

In the Civil Party's last location prior to Vietnamese invasion, the 17 April people were moved to a separate village called "17 April Village." Upon the imminent arrival of Vietnamese troops, the chief of the village told each 17 April family to dig a pit. Because all of her children had passed away, she was forced to dig her own, which she did not complete before Vietnamese arrival.

4. Question to the Co-Accused and the Response

The Civil Party had the opportunity to directly question the Accused Nuon Chea and Khieu Samphan, and asked three questions in particular. She first inquired whether they were aware that the Khmer Rouge was killing children, including her own, and whether they ordered such an action. Secondly, she asked if they knew that Khmer Rouge soldiers interrogated children and forced them to disclose information about their parents. Lastly, she asked who made such orders if not them.

Khieu Samphan responded to Sophany Bay, stating he was unaware that Khmer Rouge soldiers killed children. He further claimed that, to his knowledge, there was no order to interrogate and mistreat children. He concluded by stating that he is not the type of person to engage in such deeds and that he would "oppose such a cruel and crazy act."

Nuon Chea responded via video link from his holding cell, claiming that Democratic Kampuchea had no policy to kill its own people; on the contrary, it was determined to mold its people into good citizens and compatriots. He stated that Democratic Kampuchea had no policy to kill young children, and "express[ed] [his] sorrow on the loss".

5. Civil Party's Harms and Suffering

The Civil Party's traumatic experiences under the Khmer Rouge, particularly the deaths of her children, remain with her to this day. Her family life was completely altered after the fall of Democratic Kampuchea. She did not have more children afterwards because her sexual

health did not permit it. In her capacity as mental health counselor, Sophany Bay counseled other Khmer Rouge victims residing in the USA. She stated that, like her, they have experienced trauma and nightmares.

6. Demeanor and Credibility

During her testimony, the Civil Party wanted to provide as much detail as possible on her suffering. When discussing the deaths and sicknesses of her children, she seemed to have a difficult time continuing her statement.

B. Testimony of Soeun Sovandy

Civil Party Soeun Sovandy, a 57-year-old rice farmer, testified before the Chamber on his evacuation of Phnom Penh³. Soeun Sovandy is part of the Kampuchea Krom sub-ethnic group, who were suspected to be Vietnamese spies and therefore targeted. He survived by concealing his identity. Responding to the Civil Party questioning, Khieu Samphan stated that, “as far as he knew,” leaders never intended to kill the Kampuchea Krom. Nuon Chea confirmed that there was no policy to segregate people.

1. Evacuation of Phnom Penh

Soeun Sovandy and his oldest sister stayed in Phnom Penh to look after their family’s property after their parents were evacuated a week earlier. Soeun Sovandy testified that in April 1975 they were forced to evacuate, as those who resisted evacuation had rocket launchers shot at their houses. The Khmer Rouge announced that everyone had to leave the city for fear of American bombing, and that evacuation would be temporary in order to restructure the city. Soeun Sovandy walked through Kbal Thnol, Chbar Ampov, and finally reached Angkor Toch, where he was separated from his sister. During his journey, Soeun Sovandy relentlessly searched for his parents, but only saw dead bodies along the riverbank. When he asked people about his parents, he heard that his parents were sent back to Phnom Penh to welcome “Samdech Sihanouk”. He was told he could not return, and that people sent back would die.

2. Targeting of Khmer Krom People

Soeun Sovandy testified that the Khmer Rouge discriminated against and targeted the Kampuchea Krom because they were seen as feudalistic, Vietnamese, or CIA spies. The Civil Party stated that his parents were not Vietnamese; they had resided in Cambodia for a long time, but since they carried surnames following Vietnamese tradition, they were viewed as spies. Soeun Sovandy explained that his uncles were part of Kampuchea Krom, and they were soldiers of Khmer Rouge.

3. Escape to Vietnam

Soeun Sovandy stated the Khmer Krom people were killed every day, and he believed that he would be killed as well. He therefore swam across the river into Vietnam, where some Vietnamese fishermen, who were spies, rescued him. He said the fishermen took a pity on him seeing his frail state. According to Civil Party, Cambodia was extremely different from Vietnam at the time. The Vietnamese had markets and food to consume, while in Cambodia there was only work, starvation, and a lack of liberty.

4. Civil Party's Suffering and Harm due to Crimes in Case 002

Soeun Sovandy stated the suffering he endured is beyond words. He described the hard work during Democratic Kampuchea period and said he ate virtually anything, including insects. The Khmer Rouge soldiers would beat anyone trying supplementing their watery gruel, even with tree leaves. Soeun Sovandy recounted how he almost lost his life because he tried to eat a mango. He explained that he served as a soldier to look for his relatives, but once he arrived at his hometown, his parents had disappeared. Soeun Sovandy wanted immediate justice. He acknowledged that his suffering gradually lessened with time and that he was pleased with the tribunal's progress. He hoped that when justice is achieved, his suffering will subside.

5. Questions to the Accused and the Response

Soeun Sovandy questioned the Accused regarding Khmer Rouge policies. The Civil Party asked about the Khmer Krom's perceived affiliation with the Vietnamese and their purging. He also inquired about the Co-Accused's complicity in the policies that led to the suffering and death in the country. The Civil Party also asked how, if given the chance, the Co-Accused would have led the country differently. Khieu Samphan responded that, to the "best of his knowledge," the leaders of the Khmer Rouge planned to mobilize forces nationally, including the Krom, to defend Cambodia from Vietnamese aggression; therefore, there was no policy to segregate the people. He impressed that he would never take part in forming a policy to kill anyone, especially Cambodian people. Khieu Samphan responded that if it were possible, he would emphasize the Communist party's original plan to ensure independence, peace, and prosperity.

Nuon Chea concurred with Khieu Samphan on the absence of CPK policy aimed to segregate people, adding that he considered Kampuchea Krom Cambodian. Finally, responding to the third question, he stated that he would have led the regime depending on the circumstances of the country.

6. Civil Party's Demeanor and Credibility

Soeun Sovandy, though accompanied by a supporter who sat next to him, maintained a composed demeanor throughout his testimony. The Civil Party seemed sincere attempting to provide his account, specifically on the victimization of Khmer Krom people.

C. Seng Sivutha's Testimony

Civil Party Seng Sivutha⁴ began her testimony in the afternoon of 4 June 2013, in which she gave her statement of suffering. She detailed the loss of her vision, her life in a "Children's Unit" under the DK regime, and the death of her younger sister. The Civil Party also described the evacuation of Phnom Penh, which began on 17 April 1975, and posed questions directly to the Accused Khieu Samphan and Nuon Chea regarding the policy of hard labor in Children Units and the constant food shortages during Democratic Kampuchea.

1. Evacuation of Phnom Penh

The Civil Party was nine years old when she was forced to evacuate Phnom Penh on 17 April 1975. While her family was being evacuated, the Civil Party's grandmother tied her to her younger sister to ensure they would not be separated in the massive throngs of residents evacuating the city. Seng Sivutha and her family traveled north until they reached National Road No. 3. The conditions during the trek towards National Road No. 3 were grueling. The Civil Party had to walk across many dead bodies strewn along the roadside, as well as

struggle with extreme thirst in the stifling heat. She also recalled a particularly gruesome scene of an elderly man she encountered who was dying and covered in ants. At National Road No. 3, Khmer Rouge soldiers ordered her and her family to board a truck for Sector 209 at Prek Tamak. Her grandmother asked the Khmer Rouge soldiers why they were being relocated if the “evacuation was temporary,” but they dared not protest the order out of fear.

2. Life in the Cooperative and Treatment in a Children Unit

The Civil Party stated that, during her time at Sector 209, “the situation was miserable.” She worked at night to transplant grass in the fields, while hunger drove her to consider eating leeches. Because of the bleak conditions, Seng Sivutha fled into the forest for six months, where she slept in trees and ate snails, leaves, and sand for nourishment. Eventually she was discovered and sent to Sector 105 in Tram Kok District, where she was forced to carry heavy water from a pond and collect pig excrement. In a horrifying incident, the Civil Party described how a Khmer Rouge soldier wrapped a scarf around neck and suffocated her, thinking she had picked an orange. Her life was spared thanks to a group of “base” children who begged the soldier to stop.

Seng Sivutha described the extreme difficulties children faced during the DK regime, stating, “We worked just as hard as adults, without sufficient food.” Children were not given soap to wash themselves, and she broke out in rashes all over her body as a result. Her feet swelled and she wrapped them in a scarf just to be able to walk.

At night, the Children’s Unit attended self-criticism meetings, and children were beaten if the criticisms were inaccurate. Despite constant sickness, she continued to work out of fear she would be killed.

3. Civil Party’s Suffering and Harm Due to Crimes in Case 002

The Civil Party holds the Khmer Rouge responsible for her blindness. When she fainted while working, another worker tripped over her, spurring a Khmer Rouge soldier to tie her to a tree and beat her with a rope, badly damaging her left eye. Just eleven years old and without medicine, Seng Sivutha stated that she “struggled to work with the extreme pain” in her left eye.

By 1980, she dropped out of school, humiliated by the other students’ jokes about her poor vision. By 2008, she became completely blind in both eyes. She continues to suffer lasting anguish due to the blindness inflicted on her by the Khmer Rouge. The Civil Party elaborated that her husband left her for another woman shortly after she lost her vision. Seng Sivutha explained, “It was hard to survive after going blind--I wanted to kill myself--but I had to continue living to raise my children.” Devastated, she lamented the fact that, since her blindness prevented her from working, all of her children had to work difficult jobs to provide for the family.

The Civil Party also detailed her other ailments caused by trauma she experienced in her Children’s Unit, such as poor hearing, difficulty breathing, constant nightmares, and mental trauma from the death of her family members. The Civil Party lost her sister who became emaciated and died without access to any medication. Her parents and grandparents also passed away during Democratic Kampuchea period. Seng Sivutha voiced her expectation that the tribunal “move forward expeditiously.”

4. Question to the Co-Accused and the Response

The traumatic experiences the Civil Party suffered through in the Children's Unit, particularly her loss of vision, continue to affect her. Seng Sivutha directly asked the Accused why regime leaders forced children to work as adults and why there was insufficient food if there was a rice surplus.

After recounting the Civil Party's testimony, which seemed to demonstrate his attentiveness, Khieu Samphan expressed his shock upon hearing the conditions that Seng Sivutha experienced as a minor during the DK. He stated that he did not understand why so many people died due to rice shortages. Counsel to Nuon Chea Victor Koppe notified the Chamber that his client would not address the Civil Party's questions due to exhaustion.

5. Demeanor and Credibility

During her testimony, the Civil Party appeared to want to provide as much detail as possible on her suffering. When discussing the events following her loss of vision, she appeared emotional, but maintained her composure.

D. Sidney Schanberg's Testimony

Sidney Schanberg, a 79-year-old Pulitzer winner journalist, took the stand on Wednesday to testify on his experience in Cambodia in the period before and after the fall of Phnom Penh.⁵ He provided his accounts via video link from the United States of America (**USA**). Due to time differences between Cambodia and the United States, Schanberg could only testify during the morning sessions of the proceedings. His testimony lasted for three days. The Witness detailed his experiences on 17 April 1975, the efforts of the Khmer Rouge to block the delivery of humanitarian aid to Phnom Penh prior to the city's fall, and the Khmer Rouge's hunt for high-ranking officials of the Khmer Republic in the days following 17 April 1975. Schanberg was part of the group of foreigners⁶ who took refuge at French Embassy and later was expelled by Khmer Rouge to Thailand. Some of the Parties' questions posed to him were based on his unpublished diary on the events that transpired in Cambodia in January to May 1975 as well as his articles on situation in Cambodia during the period in question.

1. Situation Prior to 17 April 1975

Schanberg testified that from January until Phnom Penh fell to the Khmer Rouge on 17 April 1975, the population of the city had reached more than 2 million people. "The war had expanded very quickly and people washed into the cities from rural areas," the Witness described, while there was overall shortage of rice, fuel, and food in the city. The availability of oil decreased until at one point there was only enough to keep electricity on for a few hours every day. There were sights of children with red hair and bellies, which were the symptoms of beriberi and other forms of starvation. When Victor Koppe, Nuon Chea's international defense counsel, questioned Schanberg on the effects of American bombing in Cambodia from 1970-1973, the Witness described harrowing scenes of destruction in villages he visited. However, none of the refugees Schanberg interviewed in Phnom Penh stated that they fled to the city because of them, but rather did so because of the advancing Khmer Rouge. When examined by International Civil Party Lawyer Christinne Martinneau, however, the Witness described that while there were reports escapees from KR liberated zones that people were not fed very well, worked hard, and suffered from lack of food and deaths, but malnutrition was also prevalent in areas Lon Nol's government controlled. Schanberg also conceded to Koppe that there may have been refugees in Phnom Penh who

fled USA bombing, and other people such as Francois Ponchaud may have met and interviewed such persons, but during that period he did not.

The decreasing amount of supplies was largely because at the time the Khmer Rouge was gradually taking complete control of Mekong River. The Witness's diary entries from 25 January to 29 January 1975, cited by International Prosecutor Tarik Abdulhak, described river convoys delivering supplies into the city. In his 9 February 1975 New York Times article entitled "Battle for Mekong River Critical for Phnom Penh," however, Schanberg wrote on Khmer Rouge's attacks on supply barges from South Vietnam. The Witness explained before the Chamber that he had learned that the Khmer Rouge had sunk 19 of these vessels within a period of 10 days. The Mekong was eventually completely blocked that no one could get through on a boat. As KR troops advanced, they also disrupted supplies delivery by air, attacking Phnom Penh's airport whenever supply planes landed.

The city was also under constant attack by Khmer Rouge. Prosecutor Abdulhak referenced the Witness's 6 February 1975 diary entry, in which he described a rocket killing at least ten and wounding twenty to thirty people. The Witness confirmed this and described how the Khmer Rouge used Chinese-made rockets "here, there, and everywhere." The shelling "never stopped," and was not targeted to avoid civilian areas because the Khmer Rouge had no launchers that could secure accuracy, but rather used self made tools made out of wood.

Schanberg disagreed that the evacuation of Phnom Penh was necessitated by humanitarian purposes, a reason at times forwarded by the Defense Teams previously during the proceedings. The Witness held that if KR had considered the welfare of the city's inhabitants, they should not have completely blocked the supply route in the Mekong.

2. Evacuation of Phnom Penh and Situation on 17 – 30 April 1975

On 17 April 1975 Khmer Rouge entered the city, and Schanberg was covering what was happening when he and his companions were detained by Khmer Rouge soldiers. Their release was negotiated by Schanberg's assistant Dith Pran, and they went from their place of detention to the Ministry of Information, which was being used as a temporary headquarters for the Khmer Rouge. After observing the situation there, he proceeded to Hotel Le Phnom, which at the time was declared as a neutral zone. He found out that the KR had annulled the status and he proceeded to the French Embassy along with other foreigners.

Schanberg described the frantic nature of the evacuation of Phnom Penh on 17 April 1975. The general attitude of people in the city that day changed from one of joviality, where Lon Nol and Khmer Rouge soldiers celebrated together, to one of fear. Everybody was "driven out of the city like you drive cows" and almost all of the city's two million people were taken out on that first day. Teams of insurgents from the Khmer Rouge army fired rifles in the air, while "there was an air of panic in the city" because people were told that the United States was going to bomb the city. Sick patients were forced to leave city hospitals and join the evacuation. Schanberg witnessed thousands of wounded people, including amputees and people pushed in wheelchairs and hospital beds, among those who were forced out of Preah Ket Mealea Hospital. The Witness was told the patients were to be moved to a hospital south of Phnom Penh, which he knew was a former mental institution without the medical facilities required to treat the conditions the patients had.

The French Embassy at the time was full of foreigners, along with many Cambodians who had climbed the embassy fence. The Khmer Rouge demanded that Embassy officials turn over any Cambodians who took refuge there, and afterwards three officers conducted an inspection of the compound to ensure no more Cambodians were hiding out there. In an attempt to save more Cambodians, French Consul Jacques Dyra arranged quick marriages

between Cambodian women and foreign men, a practice that soon was ordered to stop by KR. When the Cambodian citizens were forced to leave the embassy, some of them relinquished their babies to foreigners to be cared for.

When Koppe confronted Schanberg with an account from two foreigners who was favorable towards Khmer Rouge regime, the Witness described how the people came to Cambodia to work for the KR, apparently agreeing with their political philosophy. However, when they were sent to the French Embassy because KR could not guarantee their safety, they refused to help with basic chores in the compound.

On 30 April 1975, KR loaded the remaining French Embassy inhabitants to a number of trucks and escorted them to Cambodian-Thailand border. Francois Bizot, Schanberg recounted, managed to stow away some Cambodians on the Witness' truck prior to departure. The convoy went from Phnom Penh to Pursat, Battambang, and Poipet to Thailand. Every village and town they passed along the way was empty, with no one except for Khmer Rouge soldiers. Despite the harsh reputation of the Khmer Rouge, Schanberg said they behaved civilly toward him and others in their convoy during the three day trip.

Addressing the issue of the quality of Khmer Rouge's forces at the time, Prosecutor Abdulhak cited Schanberg's NY Times article that was republished by Chicago Tribune in May 1975 "Cambodians Flee Red Invaders- It is Clear Some Won't Survive." The article described how "USA officials has described communists as indecisive and not coordinated but they are trained, tough and determined" based on the journalist's observation on the troops in countryside and Phnom Penh. Schanberg clarified that on the way to the border of Thailand, the trucks convoys made stops, during which he mingled with Khmer Rouge soldiers as well as observed the situation around him.

3. The Policy behind Phnom Penh Evacuation

As to the reason behind the evacuation of Phnom Penh, Nuon Chea volunteered to speak before his counsels examined the Witness. The Accused explained that the motivation for this policy was fear of a United States bombing and subsequent Vietnamese intervention. The fear of the bombing was based on the fact that the United States was "unpredictable" and had previously bombed Cambodia for 330 days. Thus the KR entertained the possibility that United States may bomb the city in retaliation of KR's overtaking Phnom Penh. The Accused furthered that if this happened, the Vietnamese may make this as an excuse to invade Cambodia under the pretext of saving the country. Therefore the Standing Committee issued a policy to evacuate the city, and ordered North Zone, which had more agricultural capacity, to receive one and a half million of evacuees while the other Zones would accommodate the remaining five hundred thousands. Nuon Chea also maintained that the Standing Committee's order was clear, namely for all cooperatives to maintain "positive attitude toward the evacuees" and "be friendly to one another." However the order was not uniformly implemented.

Schanberg acknowledged the devastation of the United States bombings in Cambodia. The bombing, which originally was done in secret during Sihanouk's regime and specifically targeted to the North Vietnamese supply line that passed Cambodian territory, subsequently became widespread once Lon Nol came to power. This was because at that point, the bombing was aimed to root out Khmer Rouge soldiers. However, the United States Congress has eliminated the budget for such measure in mid 1973 to support Lon Nol's regime. While he had heard rumors that the bombing may resume after that point, Schanberg never believed that it would happen, nor did he think that the USA's decision to finally withdraw all aid to Cambodia was due to prevalent corruption during Lon Nol's regime. He put this to the anxiety in the USA during that period to completely withdraw from Vietnam War. While

conceding that what happened in Cambodia was interlinked with Vietnam War, Schanberg inferred that no one could predict whether or not without USA's bombing campaign the civil war in Cambodia would have happened anyway.

4. Purging of Lon Nol's officials

Prior to the Khmer Rouge's arrival to Phnom Penh, the Witness already knew from KR radio broadcasts that were translated to him that those who were labeled as "Seven Traitors" would be killed⁷. On 17 April 1975 only two people in that list were still in Phnom Penh, namely Sirik Matak and Long Boreth. The Witness testified that on 17 April 1975 Khmer Rouge gathered Lon Nol regime officials at the Ministry of Information. He saw that the people who had gathered were surrounded by KR soldiers and they seemed very scared, including Long Boreth who arrived not long before Schanberg decided to leave the premises. Sirik Matak had taken refuge at the French Embassy but the Khmer Rouge did not recognize its extraterritorial status, and demanded the embassy turn over any Lon Nol regime officials seeking asylum there. This led to the turning over of Prince Sirik Matak, one of those included in the list of "Seven Traitors," whose departure from the embassy Schanberg described as dignified manner.

Abdulhak also cited an excerpt from Schanberg's diary that noted an account from a French businessman who had attended the meeting between KR and embassy personnel after the fall of Phnom Penh. The businessman had recounted KR taking the Cambodians who left French Embassy to a stadium where "important people" were weeded out while the rest were allowed to go. Schanberg, however, could not vouch for this account, citing that he did not know whether this indeed took place.

5. Demeanor and Credibility

Sidney Schanberg seemed alert and eager to testify before the Court, despite his age and the late hour at his location. He described the removal of Lon Nol regime officials from the embassy as being "hard to watch." He could go off-topic at times, speaking at length about his friendship with his assistant Dith Pran, which was the subject of the acclaimed film *The Killing Fields*. When being cross-examined by Nuon Chea's international defense counsel Victor Koppe, Schanberg became very agitated when Koppe suggested that the refugees who flooded Phnom Penh prior to 17 April 1975 fled American bombings and not the Khmer Rouge. He also became very defensive while being cross-examined by Khieu Samphan's international defense counsel Anta Guisse, who presented him with testimony from Francois Ponchaud that conflicted with some of his testimony. The journalist also acknowledged that his diary on events that transpired in January to April 1975 was written on his editor's request after his deportation from Cambodia and arrival in Bangkok. He however maintained that the diary was based on the notes he had taken during the period.

E. Chhim Sotheara's Testimony

Expert Witness Chhim Sotheara⁸ began his testimony in the afternoon session on 5 June 2013, in which he explained the psychological impact of crimes committed during the Khmer Rouge regime. He gave detailed descriptions of the symptoms many victims faced even after the fall of the regime, including Post Traumatic Stress Disorder, depression, anxiety, and paranoia. The Expert indicated these conditions would make it difficult to integrate into mainstream society and most severely affected children and "New People."

1. Expertise

The Expert Witness studied medicine from 1986 to 1992, and worked as a surgeon for two years, before completing a joint-degree with the University of Oslo and the Department of Health in Cambodia, where he engaged in the study of psychiatry while treating patients under close supervision of Norwegian experts. The Expert has over 19 years of experience in the field of psychiatry although this number includes his training period. He is one of the top ten accredited professionals in psychiatry in Cambodia, although he had yet to complete his PhD. He also serves as the executive director of the Transcultural Psychosocial Organization Cambodia (**TPO Cambodia**.) He stated that he has been working with Khmer Rouge victims, especially victims of S-21, since around 2006 up until the present. The TPO has been providing mental health services for victims who suffered trauma under the DK regime, particularly victims of torture and sexual violence. The TPO has worked with Civil Parties in Cases 001 and 002, and Chhim Sotheara has previously testified as an Expert Witness in Case 001.⁹

2. Impact of Trauma Suffered Under Khmer Rouge Regime

Although victims of trauma from the KR regime may appear outwardly normal, the effects of trauma persist nonetheless. These effects are measured by the existence of nightmares, Post Traumatic Stress Disorder (**PTSD**), depression, anxiety or paranoia. The Expert cited his research findings that Cambodians are more introverted than Western cultures due to the impact of the Khmer Rouge regime, which makes them more averse to discussing personal trauma. Under the regime they were taught to “grow as a Kapok Tree” and remain silent, therefore there is a deficiency in capacity to engage interpersonal communication. These conclusions were drawn from victims who have consulted with clinically the Expert or TPO Cambodia, and may not be representative of the Cambodian population.

Chhim Sotheara further testified that without treatment and counseling, the symptoms would persist and victims would have difficulty integrating into mainstream life. In response to hearing abridged synopsis of symptoms described by Civil Parties who have previously from the Civil Party Lawyer Pich Ang, the Expert stated that this transition to the mainstream was especially difficult for those who were subjected to torture and hard labor in Children’s Units, orphans, and “New People” who lost their sense of identity. Chhim Sotheara also underlined the possibility of cyclical violence, namely when victims were treated harshly when they were in Children’s unit, they may subject their own children to the same treatment.

The Expert further described that the loss of religious life has an adverse impact to the Civil Parties’ sense of identity and ability to have closure when faced with losing loved ones. Extreme starvation also brought about change of behavior, altering capacity to comply with moral obligations in order to stave off hunger. However, the expert stated that he did not know whether this would be an ever lasting impact or only during the period.

Specifically addressing psychological disorders suffered by KR victims who lived in diaspora, the Expert explained that Cambodians who migrated to a second country sustained their suffering, like those who remained in the country. They may be living in a more secure place, but they became detached to their home country and lost cultural relations and religious institutions, while having to struggle with cultural differences and language barriers.

Victor Koppe examined the Expert using a 2012 research report on intergenerational trauma transfer from transition from Khmer Rouge regime which stated that 14% of KR survivors suffer from PTSD while 11.5% suffered from major depression. Chhim Sotheara testified that while Koppe’s conclusion was correct that the remaining percentage of the population was not suffering from either PTSD or major depression, but traumatic events could manifest in

various mental diseases as well as vulnerability to such psychological issues. The Expert also referred to Professor De Young's comparative study of psychological impact of post war countries, which concluded that Cambodia had higher rate of PTSD than most countries he researched. However, Chhim Sotheara conceded that he did not know whether the research captured traumas that occurred before or after pre Democratic Kampuchea period, which is outside the temporal jurisdiction of the ECCC.

TPO has also conducted interviews with 250 selected respondents from Case 002 it provides treatment for, which yielded the finding that 22% of them were traumatized. When Kong Sam Onn questioned the Expert on this, Chhim Sotheara explained that the questions were specifically designed to measure the impact of traumatizing experiences related to Khmer Rouge. He however conceded that the organization never measured what percentage of the events actually happened in the period at issue in Case 002.

3. Victim Reparation

Chhim Sotheara explained what is required by the victims to recover from their psychological trauma. Firstly, they need medical treatment and counseling service. Secondly, there need to be measures that respect their identity and culture to satisfy their needs to find closure and move forward, such as the need for harmony, justice, and truth. The victims would also need to have their economic needs fulfilled. Drawing example from Case 001's victims for whom TPO provided service for, Chhim Sotheara described their need desire for justice and opportunity to participate in reparation, as well as sharing their truthful experience. The victims were also keen to be part of education to prevent the reoccurrence of Khmer Rouge crimes. Some victims had specific religious need to pay respect to their deceased parents. Studies conducted by TPO on Case 001's Civil Parties' experience in testifying before the Court showed that the process assisted them although in short term may trigger sleeplessness and anxiety. Testifying civil parties also show other victims, who might be too scared or hindered by avoidance, to testify may gain strength to do so.

4. Witness' Demeanor and Credibility

Throughout the testimony Chhim Sotheara exhibited a calm, professional demeanor and showed that he was well-read in the field of his expertise. The witness admitted that he has a strong negative view of the KR regime since he was also a victim of the regime, but maintained a professional code of conduct by consulting with his organization to reconcile himself and ensure there was no bias in his practice conducting his work.

F. Sok Roeur's Testimony

Character Witness Sok Roeur¹⁰ began his testimony in the afternoon session on 4 June 2013, during which he sought to elucidate the character of Khieu Samphan. After working manual labor and guard duty during the DK, the Witness served as the personal bodyguard to Khieu Samphan from 1989 until 1996. He testified that Khieu Samphan was a firm, but reasonable person who treated his subordinates well. During Prosecutor Raynor's cross examination however, Sok Roeur was challenged on multiple inconsistencies regarding Khieu Samphan's relationship with Pol Pot after the fall of the DK regime, the accused's role of giving direct orders at K18, and whether the Witness's social class had any bearing on his rise through the Khmer Rouge ranks.

1. Career in Khmer Rouge

Born in Rattanakiri, the Witness came from a humble peasant background. While in Treah Pele in 1973, he was recruited to join the Khmer Rouge insurgency. After the fall of Phnom

Penh, he was sent to the city by Angkar and assumed he was selected because he had “never refused any task, never complained, and came from peasant class.” Throughout the DK period, the Witness served as a vegetable farmer and guard for various offices. After the fall of the regime, he served as the personal bodyguard for Khieu Samphan from 1989 until 1996.

2. Character of the Accused

Sok Roeur recalled that Khieu was very firm person, but was not short-tempered. He mentioned the Accused was very meticulous and thorough, yet always regarded him as a reasonable person. The Witness attempted to portray Khieu Samphan as an understanding superior, who was well respected by his subordinates and generally guided them. Elaborating, the Witness stated the Accused never angered others or looked down on the poor or peasants. Coming from the Tampuan ethnic minority, Sok Roeur stated that he felt grateful to Khieu Samphan offering advice on how to make a living and how to get involved into the society.

3. Demeanor and Credibility

During his testimony, the Witness appeared somewhat nervous, but sought to provide complete answers to the questions posed by all parties. During the cross-examination Prosecutor Raynor attacked some potential incongruences in his testimony. After exhaustive questioning on Khieu Samphan leadership capabilities, he seemed to try to establish Khieu Samphan’s role, alongside Pol Pot, as the leader of K18. Following the Witness’s statement that his promotion was easier “because he was the “son of peasant class,” Raynor sought to explore the drastically different treatment faced by “base people” and “17 April people” under the DK regime. At various times throughout his testimony, the Witness became confused by some questions posed by the Prosecution and failed to provide full answers.

III. LEGAL AND PROCEDURAL ISSUES

Wednesday saw a change to customary procedure. Although Witness Schanberg seemed to have been proposed Nuon Chea’s Defense Team, which was evident from the President initially providing the first opportunity to question the Witness to the Party, the order was changed when Counsel Koppe reminded the Chamber of an email stating that for this instance the Prosecution would take the floor first. Despite this alteration, the proceedings generally went without prolonged delay due to legal procedural issues. There were however some minor issues, such as whether or not Civil Parties could question the Accused on issues not within the scope of Case 002/01 and queries related to what issues witnesses and experts could testify to.

A. Question to the Accused Outside of Case 002/01 Scope

Civil Party Soeun Sovandy questioned the Co-Accused on the motivation behind the purging of Khmer Krom people. The International Defense Counsel for Nuon Chea, Victor Koppe, indicated that this question fell outside of the determined scope of Case 002/01. The President, after conferring with other Judges of the Chamber, determined that, because the Civil Parties were allowed to express their statements of harm and suffering sustained under Democratic Kampuchea due to the crimes allegedly committed by the Co-Accused,¹¹ the Civil Party’s questions beyond the scope of the mini trial were also appropriate. The same allowance was also given to the Prosecution on Friday, when International Prosecutor Raynor questioned Khieu Samphan’s character witness Sok Roeur. Raynor was questioning the Witness’ experience serving as Khieu Samphan’s bodyguard in the late 1980’s and early 1990’s, which triggered objection from Nuon Chea’s national counsel.

The International Prosecutor explained because Sok Roeur was summoned as a character witness, and one's character is not confined to one period of time, the question should be allowed. The Trial Chamber concurred with the Prosecution and overruled the objection.

B. Objection on Witness Questioned as Expert

During Prosecutor Abdulhak 's examination of Schanberg, he asked the Witness to expound on why the Khmer Rouge targeted supply planes when shelling Pochentong Airport, triggering an objection from Nuon Chea's international counsel, Victor Koppe. Koppe argued that, because Schanberg was summoned as a Witness and not as an Expert Witness¹², questions to the Witness should be limited to what he had seen or heard directly. The counsel further stated that even if the question referred to Schanberg's articles, they should only be limited on the reliability of his sources. Abdulhak defended his line of questioning, stating that the question was merely an invitation for the Witness to provide his conclusion from his observation. Koppe emphasized that "the word conclusion should not even get out of his mouth." Nuon Chea's international counsel clarified that while he believed Schanberg had expertise, but the applicable procedures should be upheld. If Schanberg was summoned as a Witness, then he should be examined as such. Judge Cartwright asked the Prosecutor to frame his question so as to not invite speculation, and Abdulhak complied. Victor Koppe objected again when Abdulhak asked the Witness about the effect of the shelling of supply planes during Lon Nol's administration. Additionally, the Counsel demanded the Chamber to direct the Witness to restrict his response to what it is within his direct knowledge. Abdulhak rebutted this, stating that all witnesses draw inferences from their experience, but Koppe declared that a witness should never make general conclusions, such as the overarching impact of an event. The President sternly rebuked the Prosecutor for posing questions that invite the Witness to form conclusions and reminded Schanberg on his obligation as a Witness to provide truthful answers based on what his experiences and observations. It should be noted however, during Francois Ponchaud's testimony, the Chamber allowed for the Witness to express his opinions on certain matters, in apparent agreement to the prosecution at the time that Ponchaud had a special stature due to his extensive experience in Cambodia¹³.

C. Objection on Expert and Witness Providing Opinion that Exceeded Their Capacity

At the end of his testimony on Thursday, Schanberg emphatically stated that what happened in Cambodia was genocide "by the definition" of the word. This invoked reaction from Khieu Samphan's international counsel Anta Guissé, who reminded the Chamber that witnesses should not make such qualification. President Nil Nonn conceded to this and asked the Witness to refrain from making such statements; as such a determination was for the Trial Chamber to make. This ruling was consistently enforced this week, as the President instructed Chhim Sotheara not to respond to counsel Koppe's question on the Expert's prior comment that the KR was a "genocidal regime." This instruction was based on the same reasoning and given without further objection.

A similar issue again emerged during the Lead Civil Party Lawyers' questioning of Chhim Sotheara. International counsel for Nuon Chea, Victor Koppe, raised objections on queries inviting the Expert to give blanket statements on the state of KR victims in Cambodia. Koppe argued that it would be inaccurate to assume that his assessment of his patients represent the state of all Civil Parties in the country. NLCPL assured the Trial Chamber that questions referring to victims' symptoms would be posed, to which Koppe argued that one should exercise caution in divulging confidential patient information. After the judges of the bench conferred, International Judge Sylvia Cartwright sustained the objection, directing the Civil

Party Lawyers to establish first, for example, whether the Expert knew the trauma symptoms described by Civil Parties when testifying before the ECCC. However, the Judge cautioned the Expert against divulging information he had obtained from therapy sessions with his client.

IV. TRIAL MANAGEMENT

Generally, the proceedings proceeded smoothly from Tuesday to Friday. Additionally, the Court flexibly managed to hear testimony of Witness Sidney Schanberg via video links in the morning sessions of Wednesday to Friday, while the rest of the afternoon sessions were used both for Civil Parties and for Expert Witness Chhim Sotheara.

A. Attendance

Nuon Chea continued to observe the proceedings from the holding cell throughout the week due to his health concerns. The ECCC continued to provide audio video link from the holding cell to enable him to respond to Civil Parties’ queries. Khieu Samphan observed the proceedings directly in the courtroom throughout the week.

Judge Attendance: On Tuesday, President Nil Nonn announced that National Judge You Ottara would be replaced by Reserve National Judge Thou Mony, and reserve International Judge Claudia Fenz was also absent due to personal reasons. On Wednesday until the end of the week You Ottara attended the proceedings while Judge Fenz remained absent throughout the week.

Civil Party Attendance: This week, approximately 15-20 Civil Parties attended the proceedings daily, either in the courtroom or in the public gallery.

Parties Attendance: All Parties were properly represented during the week, although Nuon Chea’s Defense Counsel, Mr. Son Arun, was absent on Wednesday. Anta Guisse, International Defense Counsel for Khieu Samphan, arrived about five minutes late after the afternoon break on Thursday.

Attendance by the Public:

DATE	MORNING	AFTERNOON
Tuesday 4/6/2013	<ul style="list-style-type: none"> ▪ 400 students from different High Schools in Kampong Cham province ▪ 50 villagers from Kang Meas district, Kampong Cham province and villagers from Preah Vihear province ▪ 25 foreign observers 	<ul style="list-style-type: none"> ▪ 370 students from different High Schools in Kampong Cham province ▪ 50 villagers from Kang Meas district, Kampong Cham province and villagers from Preah Vihear province ▪ 10 foreign observers
Wednesday 5/6/2013	<ul style="list-style-type: none"> ▪ 250 villagers from Kang Meas district, Kampong Cham province ▪ 150 students from Peam Chikor High School, Kampong Cham province ▪ 12 foreign observers 	<ul style="list-style-type: none"> ▪ 370 students from different districts of Kampong Cham province ▪ 3 foreign observers
Thursday 6/6/2013	<ul style="list-style-type: none"> ▪ 400 students from different High Schools of Kampong Cham Province ▪ 1 monk 	<ul style="list-style-type: none"> ▪ 400 students different High Schools of Kampong Cham Province ▪ 1 monk ▪ 8 foreign observers

	<ul style="list-style-type: none"> ▪ 7 foreign observers 	
Friday 7/6/2013	<ul style="list-style-type: none"> ▪ 350 students different High Schools of Kampong Cham Province ▪ 8 foreign observers 	<ul style="list-style-type: none"> ▪ 350 students different High Schools of Kampong Cham Province ▪ 5 foreign observers

B. Time Management

The Trial Chamber strictly enforced time management, evidencing the determination to utilize the week to hear the scheduled witnesses and civil parties. Contrary to its usual practice of starting the proceedings at 9:00.am, the Trial Chamber began proceedings at 08.30 to accommodate Witness Sydney Schanberg's testimony, as there was significant time difference between New York and Phnom Penh. The end of the hearing remained to be the same, ranging between 16.00 to 16.30, except for Friday as Sok Roeur's testimony concluded early. The Trial Chamber also issued warnings to Parties if the questions were considered ineffective or irrelevant. This, however, did not mean the Trial Chamber, was inflexible. Extra time for questioning was granted for Civil Party Sophany Bay, for example, when her lawyer, Nushin Sarkarati, reminded the Court that her client had traveled from the United States to provide her statement of suffering before the Trial Chamber. Nuon Chea's Defense Team's request for additional time to examine Expert Witness Chhim Sotheara was also granted.

C. Courtroom Etiquette

On the last day of the week's hearings, Anta Guisse objected to Prosecutor Raynor's blunt accusation that Witness Sok Roueur was deliberately avoiding answering questions. Raynor stated this when the Witness provided answers that did not correspond to his queries. President Nil Nonn did not address the manner in which the question was posed, but directed Raynor to clarify his question, whether he was talking about Office K-3, K-8 or K18. This could be also attributed to the fact that "K-3", "K-8" and "K-18" sounded similar in Khmer, which probably triggered confusion in the language rendition of the Prosecutor's question, which in turn befuddled the Witness as well.

D. Translation and Technical Issues

Translation issues were not raised this week nor were they so noticeable that they disrupted the proceedings, with the possible exception of the incidence recounted in IV.C. The President also seemed mindful of the need of the public to understand the proceedings, which was evident when he asked Expert Witness Chhim Sotheara to not mix English with Khmer words while providing testimonies in order to help the court and public understand the technical terms the Expert was using.

The only technical issue arose when the Internet cut out for about five minutes during Witness Sidney Schanberg's remote testimony, and occurred after the morning break of Friday while Anta Guisse was putting questions to him.

E. Time Table

DATE	MORNING SESSION 1	MORNING SESSION 2	AFTERNOON SESSION 1	AFTERNOON SESSION 2	TOTAL HOURS IN SESSION
Tuesday 04/06/13	9:04-10:40	11:00-12:23	13:33-14:59	15:17-15:48	4 hours and 56 minutes
Wednesday	8:33-9:59	10:22-11:32	13:33-14:49	15:05-16:18	5 hours and

05/06/13					5 minutes
Thursday 06/06/13	8:33-10:01	10:21-11:40	13:32-14:40	15:01-16:02	4 hours and 56 minutes
Friday 07/06/13	8:36-10:01	10:22-11:46	13:02-14:28	14:46-15:21	4 hours and 50 minutes
Average number of hours in session					5 hours 27 minutes
Total number of hours this week					19 hours 47 minutes
Total number of hours, days, weeks at trial					815 hours 19 minutes
187 TRIAL DAYS OVER 58 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

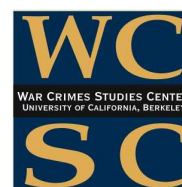
Case 001	<i>The Case of Kaing Guek Eav alias “Duch”</i> (Case No. 001/18-07-2007-ECCC)
Case 002	<i>The Case of Nuon Chea, Ieng Sary, Ieng Thirith and Khieu Samphan</i> (Case No. 002/19-09-2007-ECCC)
CPC	Code of Criminal Procedure of the Kingdom of Cambodia (2007)
CPK	Communist Party of Kampuchea
CPLCL	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



EAST-WEST
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AIJI TRIAL MONITORING



* 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 has been 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 Stephanie Fung, Andrew Grant, Sadaf Kashfi, Aviva Nababan, John Reiss, Noyel Ry, 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](http://www.eastwestcenter.org) and the [War Crimes Studies Center](http://www.warcrimesstudiescenter.org).

¹ The hearing of Civil Parties' Statement of Harm and Suffering started last week, when 12 Civil Parties were heard before the Chamber. See **CASE 002 KRT TRIAL MONITOR**. Issue 61 Hearing on Evidence Week 57. (03-07 June 2013).

² Sophany Bay was examined in the following order: President of the Trial Chamber Nil Nonn; International Civil Party Lawyer Nushin Sarkarati; International Prosecutor Vincent de Wilde d'Estamel; and National Co-Lawyer for Nuon Chea Son Arun.

³ Soeun Sovandy was examined in the following order: President of the Trial Chamber Nil Nonn; National Civil Party Lawyer Sam Sokon; National Prosecutor Chan Dararamsey, International Co-Lawyer for Khieu Samphan Anta Guisse.

⁴ Seng Sivutha was examined in the following order: President of the Trial Chamber Nil Nonn; International Civil Party Lawyer Emmanuel Jacomy; National Prosecutor Chan Dararamsey.

⁵ Sidney Schanberg was examined in the following order: President of the Trial Chamber Nil Nonn; National Prosecutor Veng Huot; International Prosecutor Tarik Abdulhak; National Civil Party Lawyer Pich Ang; International Civil Party Lawyer Christine Martineau; International Co-Lawyer for Nuon Chea Victor Koppe; National Co-Lawyer for Khieu Samphan Kong Sam Onn; International Co-Lawyer for Khieu Samphan Anta Guisse

⁶ Other people with the same fate has testified before the Chamber, such as Al Rockoff and Francois Ponchaud. See

CASE 002 KRT TRIAL MONITOR. Issue No. 51. Hearing on Evidence Week 46 (28-31 January 2013) and **CASE 002 KRT TRIAL MONITOR.** Issue 56. Hearing on Evidence Week 51 (8-12 April 2013) [hereinafter **ISSUE 56**]

⁷ This list comprised of leaders of Lon Nol's government and the General's main supporters, namely Lon Nol, Sirik Matak, Son Ngoc Thanh, Cheng Heng, In Tam, Long Boret, and Sosthene Fernandez

⁸ Chhim Sotheara was examined in the following order: President Nil Nonn; National Lead Civil Party Lawyer Pich Ang; International Lead Civil Party Lawyer Elisabeth Simonneau Fort; International Prosecutor Vincent de Wilde D' Estamel.

⁹ **CASE 001 CASE 001 KRT TRIAL MONITOR.** Issue 19. Hearing on Evidence Week Hearing on Evidence Week 18 (24-28 August 2009).

¹⁰ Sok Roeur was examined in the following order: President Nil Nonn; Co-Lawyer for Khieu Samphan Kong Sam Onn; Judge Jean-Marc Lavergne; International Prosecutor Keith Raynor; National Lead Civil Party Lawyer Pich Ang; International Lead Civil Party Lawyer Simonneau Fort.

¹¹ The President did not specifically mention "crimes allegedly committed by the Accused" in this instance but provided this allowance at the start of the Civil Party's statement of suffering. The allowance for the statement of suffering to go beyond the scope of case 002/01 has been determined in a temporary verbal ruling by Judge Lavergne in October 2012. See **CASE 002 KRT TRIAL MONITOR.** Issue 41. Hearing on Evidence Week 36 (22-25 October 2012).p. 11-12. This position was further confirmed by the Trial Chamber's decision on this matter. See Trial Chamber. Decision on Request To Recall Civil Party TCCP-187, for Review of Procedure Concerning Civil Parties' Statements on Suffering and Related Motions and Responses (E240, E240/1, E250, E250/1, E267, E267/1 AND E267/2) (02 June 2013)". E267/3. Specifically in paragraph 14 of the decision, the Trial Chamber noted that it has always differentiated between testimony of facts, which had to be confined to the scope of Case 002/01, and the Civil Parties' general statements of suffering. In page 10 of the decision it is also stipulated that the Lead Co-Lawyers of the Civil Parties have to structure their examination of their clients "in a manner that differentiates between testimony on facts and statements pertaining to suffering"

¹² See Internal Rules of the Extraordinary Chambers In The Courts of Cambodia, Revision 8, as revised on 3 August 2011 [hereinafter **INTERNAL RULES**] Rule 31. The rule provided that an Expert was to be commissioned by ECCC's chambers or judges on a specific assignment and shall submit a report upon completion of the said assignment. This differed from a witness who is summoned to testify on what they personally have heard or seen or experienced that was relevant to the crimes at trial. Throughout the proceedings at the ECCC, this difference mainly apparent in the allowance for the Expert to provide their interpretation or opinion on certain facts or events as the result of their professional assignment by the Chamber.

¹³ **ISSUE 56** p. 9-10.