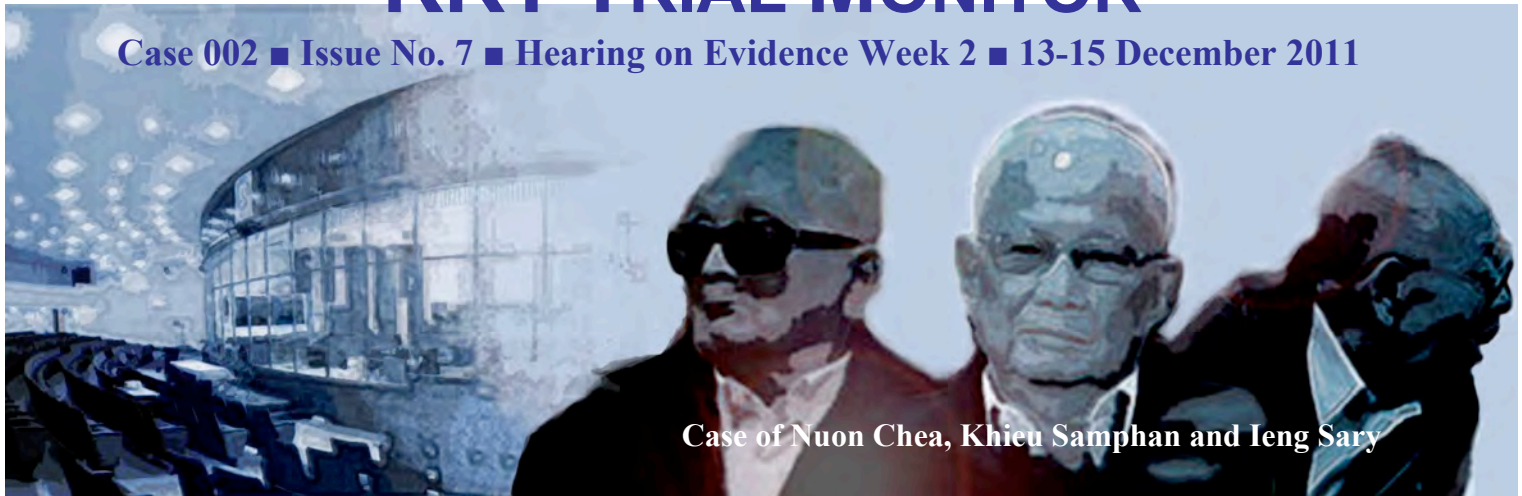


# KRT TRIAL MONITOR

Case 002 ■ Issue No. 7 ■ Hearing on Evidence Week 2 ■ 13-15 December 2011



Case of Nuon Chea, Khieu Samphan and Ieng Sary

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

*If I was only Deputy Prime Minister for nothing  
or the Minister of Defense for nothing  
or the Military Commander for nothing,  
how could I have the power?*

– Khieu Samphan

## I. OVERVIEW

Taking off from last week's proceedings, the hearings this week centered on the historical background of the CPK and the alleged links of the Accused to the events that ensued.

The three Accused demonstrated different stances on their participation in this trial, a likely preview of how the rest of proceedings will unfold. Nuon Chea continued answering questions by the Chamber and the Prosecution on various topics, from the strategic and tactical lines of the CPK to the planning of the evacuation of Phnom Penh. Ieng Sary, on the other hand, invoked his right to remain silent and refused to answer questions apart from his personal background. Khieu Samphan appeared to take the middle ground when he read a prepared statement on his version of the events that led to the rise of the CPK and his role in the movement. However, he refused to answer questions and reserved his right to respond until after the Prosecution has presented evidence against him.

This week also saw the conclusion of the video link testimony of Long Norin, an insider witness who used to work with Ieng Sary at the Ministry of Foreign Affairs. Long Norin's testimony, which was fraught with lapses in memory and inconsistent statements, was stalled by his delicate health and technical difficulties.

Finally, the Parties raised various procedural issues relating to admissibility and authenticity of documentary evidence, as Nuon Chea demanded to see original documents while being questioned by the OCP. The process by which the OCIJ obtained statements during the investigation phase was also put in issue.

## **II. SUMMARY OF TESTIMONIES BEFORE THE CHAMBER**

This second week of substantive hearings featured testimonies from Nuon Chea and the first witness of the trial, Long Norin. In addition to this, Khieu Samphan spoke for two hours about his background, his perspective on CPK history, and what he claimed to be his involvement in DK. He was not, however, willing to answer questions. Ieng Sary unequivocally exercised his right to remain silent the entire week.

### **A. Nuon Chea's Testimony**

At the beginning of this week, Nuon Chea informed the Chamber that despite the weekend's rest, he still felt weak and dizzy. Nevertheless, he gave assurances that he will try his best to fulfill his duty to the Chamber and will seek permission from the Judges when he needs to rest. The Chamber noted his difficulty in moving to the dock and suggested that he use a wheelchair in the future. Nuon Chea's examination by Judge Cartwright, Judge Lavergne and International Co-Prosecutor Dale Lysak took up more than half of this week's hearing time. It did not take long to notice however, that Nuon Chea's answers were often non-responsive and reiterations of his statements during the Opening Statements and last week's hearings. He once again spoke about the difficulties of the revolutionary way and his account of the aggressions of Vietnam. At the end of the hearing week, Nuon Chea rebuffed the OCP's questions relating to passages in the *Revolutionary Flag* magazine because the OCP did not present the original documents in court.

#### **1. Training in Vietnam and Return to Cambodia**

Nuon Chea clarified that it was only in 1953 that he attended ideological schooling in the jungle. He denied receiving military training but he listened to people who were trained in militia warfare. He stayed in Vietnam until after the signing of the Geneva in 1954.

Between 1954 and 1955, the Khmer Rouge's alleged Brother Number 2 returned to Cambodia. Around the same time, he met Saloth Sar, later known as Pol Pot. Nuon Chea stated that he and Saloth Sar worked as assistants of Tou Samouth, a member of the Central Committee of the Khmer People's Revolutionary Party (**KPRP**).<sup>1</sup> He further denied ever holding the position of KPRP secretary. He admitted, however, that he had been responsible for KPRP's political education beginning 1955.

The years 1959 to 1961 were characterized by the restructuring of the KPRP's ranks precipitated by the defection to the Lon Nol army of Sieu Heng, the secretary of the Central Committee of the Party and Nuon Chea's uncle-in-law. It was around this time that he met Ieng Sary. Subsequently, Nuon Chea worked in rural areas to rebuild the KPRP's branches, starting from the two remaining bases: Ta Mok's base in Tram Kak and Ma Mang's base in Peam commune.

#### **2. The First Party Congress in 1960 and Tactical Party Lines until 1967**

According to Nuon Chea, the tactical lines adopted during the First Party Congress in 1960 were first discussed and developed from the ground level up to the central level

of the CPK, in accordance with the principle of “democratic centralism.”<sup>2</sup> Nuon Chea testified that this referred to the “collection of ideas, visions and knowledge from the Party members, also the Central Party.”<sup>3</sup> The principle of “collectivity,”<sup>4</sup> on the other hand, meant “everybody would participate in a meeting to express the(ir) ideas,”<sup>5</sup> and issues need to be discussed until a unanimous decision could be reached. Nuon Chea stated that “collectivity” applied from 1960 onward during meetings of each committee, including the Central and Standing Committees.

The years 1960 to 1967 were a period of “democratic revolution,” which the Accused defined as getting “rid of the remnants of the colonialist who oppressed the people. There were the remnants of those groups, as well as to get of the power of the feudalism.”<sup>6</sup> The key objective of this phase of the revolution was to transform the livelihood of the people.

Notably, Nuon Chea said political struggle and the creation of Secret Defense Unit also occurred during the period between 1960 and 1976. The objective of the Secret Defense Unit was to escort and protect cadres. Peasants’ children were recruited to this unit and armed only with sticks, knives and axes. Nuon Chea claimed they did not attack or “smash” enemies. When confronted with an article from the *Revolutionary Flag* magazine the Secret Defense Unit had authority to “covertly smash”<sup>7</sup> enemies. Nuon Chea clarified that while, in general, members of the Secret Defense Unit did not look for spies to smash them, they were authorized to smash spies who attended party meetings with the intent of arresting people participating in the meetings.

## **2. Armed Struggle and the Birth of the Revolutionary Army of Kampuchea in 1968**

According to the Accused, suppressive and barbarous treatment of the Lon Nol clique of peasants in Samlaut resulted in an attack of a police station in Bay Damran Village, north of Battambang on 17 January 1968. Nuon Chea narrated that seven persons from the “Kang Chivapol” or the volunteer unit – children of peasants who were mistreated or killed and “could not stand the situation anymore”<sup>8</sup> – attacked the station, and seized weapons. This proved to be the catalyst, as armed struggle spread from one location to another, from the Northwest to the Southwest. Nuon Chea further recounted that, after revolutionaries in the Southwest confiscated a large number of weapons, the armed struggle spread to the West. He firmly declared: “The movement was not the result of the peasants who became vicious and barbarous; it was the result of the mistreatment by the Lon Nol (clique), and Sirik Matak, and Son Ngoc Thanh, and Kou Roun...”<sup>9</sup> Although Nuon Chea expressed support for the uprisings, he denied having ordered the attack of the police station, as alleged in the Closing Order. He further claimed he was not even in Samlaut when it occurred.

In a *Revolutionary Flag* article read into the record by Judge Cartwright, the uprising of 17 January 1968 marked the birth of the Revolutionary Army of Kampuchea. Nuon Chea, however, countered that the RAK was established on 12 March 1968. He said party members and China funded the RAK. Vietnam, on the other hand, opposed the CPK’s armed struggle and withheld weapons deliveries from them. Furthermore, Nuon Chea explained that political struggle was the basis of the armed struggle, which was merely the means to achieve a democratic and national

revolution. He stated that implementing socialism and communism subsequently followed.

### **3. CPK's Alliance with King Sihanouk after the 1970 Lon Nol Coup**

On the second day of hearings this week, Judge Lavergne inquired about CKP's position on King Sihanouk. Nuon Chea admitted that the CPK "not only formed an alliance with the King, but also regarded the King as of a separate status for all the Cambodian people."<sup>10</sup> The basis of this alliance was the front line of DK, which provided for the mobilization of as many forces as possible. The Accused explained that the front line sought to mobilize forces from all social strata, as long as they were patriots and nationalists, including the royal family and the King. The DK, however, excluded elements who remained "imperialists."

According to testimony from Nuon Chea, the CPK sought to strengthen its alliance with King Sihanouk after the Lon Nol coup in 1970. When the King visited Cambodia from Beijing in 1973, the CPK held a reception party in his honor where Pol Pot, Son Sen, Ieng Sary greeted him. Nuon Chea testified that he did not attend this party because, at that time, he was in Kampong Krom. Pursuant to Pol Pot's instructions, he spearheaded security measures for King Sihanouk's seven-day visit to Angkor in Siem Reap. Nuon Chea recalled people in nearby provinces, including monks, received the King and held religious ceremonies. The Accused further reported that the King was very satisfied with his visit, so much so that he praised and expressed gratitude to the leaders of the CPK for their keeping him safe. He stated that the CPK, through its Secretary, Pol Pot, "prepared everything to safeguard the safety of the King."<sup>11</sup>

### **4. Nuon Chea's Testimony on Communism and Buddhism**

Communism and Buddhism can co-exist, according to Nuon Chea. In his testimony this week, he noted that, while they sometimes differ, these two concepts have overlapping theories. The Chamber allowed the Accused to expound upon this point, so Nuon Chea gave examples of how the revolutionary ideals of the CPK and Buddhism are, in his opinion, reflective of each other:

So in the revolution, the notion of dialectical materialism is similar to that in the Buddhist religion -- that is, people are educated to feel compassion for one another, to help one another. However, in revolution, in times of necessity when we are invaded, then we shall resist. If we are confronted with arms, then we shall respond accordingly. Even in religion, I also noticed this approach.<sup>12</sup>

Nuon Chea acknowledged that the CPK eliminated people, but they were those who cannot be educated, those who want to destroy the country. Subsequently, however, he claimed that, "the party had no authority to smash anyone,"<sup>13</sup> and qualified his previous statement thus –

As I repeatedly say, the Communist Party of Kampuchea is not 100 percent pure because our party is not established in heaven, it was formed in a corrupted society. Therefore, the establishment of a party in such a situation cannot be that 100

percent pure. Some people can be re-educated while others could not. So for those who could be re-educated, they became good people, and those who could not would be sacked and removed from the party and sent to the local authority to engage in labour.<sup>14</sup>

Lysak asked why Nuon Chea never paid respects to the venerable monks in his speeches during the DK period when presently, before giving his testimony, he greets the monks present in the gallery with reverence. Nuon Chea answered that he did not want to mix religion with politics and at that time, no monk was present during his speeches. He added that people who say the DK destroyed Buddhism do not understand Buddhism. "The Party did not have any measure to ban Buddhism."<sup>15</sup>

## **5. The Evacuation of Phnom Penh**

According to the Accused, Nuon Chea, the decision to evacuate Phnom Penh, as well as other provincial towns, was made in a series of meetings of the Central Committee starting from 1973, including an extraordinary meeting of the Standing Committee in mid-1974. Nuon Chea testified that the first reason behind the evacuation was to address the food shortage and starvation in Phnom Penh, which had been happening since 1972. He explained that, while there was no abundance of food and materials in the countryside, people there lived in cooperatives and helped each other. The second reason was the CPK leadership's conviction that Vietnam intended to exercise control over Cambodia, through the liberation of Phnom Penh. Nuon Chea surmised that if Vietnam were successful, it would have been difficult to respond to threats by Lon Nol soldiers, Vietnamese soldiers, vagabonds, womanizers and heavy drinkers. As such, evacuating Phnom Penh was a means of preventing all this from happening. Finally, the CPK leadership resorted to evacuating Phnom Penh and other urban areas as a means of determining the political strategy of the United States and Vietnam.

According to Nuon Chea, the CPK dispersed people to the provinces based on the estimated volume of who could be supported by the agriculture in the area. He claimed that those who were evacuated from urban areas worked with the local people, but since they were not used to farming, they were only tasked to do moderate work. They also received a different food ration: they were allowed to eat three times a day and offered dessert once a week. However, there remained "bad elements" who wanted to destroy the cooperatives. Nuon Chea narrated that these bad elements showed him "only the wealthy and healthy people and not the skinny ones"<sup>16</sup> when he and CPK officials inspected the cooperatives. Nuon Chea went on to say that "when they knew that upper level went to visit, then we were well entertained and provided with food. They would have chicken and beef for us."<sup>17</sup>

Nuon Chea acknowledged that cities other than Phnom Penh were likewise evacuated after 17 April 1975. The respective Zone Committees decided and implemented these matters as delegated by the Central Committee.

## **6. Ieng Sary's and Khieu Samphan's Roles in the Evacuation**

When asked by Judge Lavergne if the "clandestine Communist movement of Kampuchea"<sup>18</sup> had ties to a group of progressive intellectuals which included Khieu Samphan, Nuon Chea said that Pol Pot and Ieng Sary may have communicated with

them. Nuon Chea testified that Pol Pot instructed him not to concern himself with progressive intellectuals because he “did not speak the intellectual language.”<sup>19</sup> Consequently, while Nuon Chea had met Ieng Sary after the signing of the Geneva Accord, he did not meet Khieu Samphan until after the liberation of Phnom Penh.

Nuon Chea further noted that Ieng Sary and Khieu Samphan were not present at the meeting in mid-1974 where the Standing Committee decided the evacuation of Phnom Penh. Ieng Sary was reportedly abroad, and Khieu Samphan was not a member of the Standing Committee, so he had other tasks. Nuon Chea could not say if and when his two co-Accused were informed of the decision. Khieu Samphan was not a zone level member at the time of the meeting and Nuon Chea could not remember if he was a member of the Central Committee. When asked when Khieu Samphan became a full-fledged member of the Standing Committee, Nuon Chea said he could not recollect the date. As regards Ieng Sary, Nuon Chea claimed that he did not know Ieng Sary’s exact role. Nuon Chea testified that Ieng Sary communicated with the CPK from Beijing. Nuon Chea attributed his lack of knowledge of Ieng Sary and Khieu Samphan’s responsibilities to the CPK’s culture of secrecy. He explained:

In the internal affairs of the party, everybody only minded his or her own business. I only minded my own business. I was responsible for the task I was assigned to. I had no business to ask about somebody else’s business or affairs. The person shall be responsible for his or her own affairs. That is the principle of secrecy. Even after the liberation, the principle of the party still exist so we -- if we need to know something, then we will be allowed to know by the Secretary of the Party and it's equal for every member of the committee or the party. And some of the secret information was not revealed to any party.<sup>20</sup>

## **7. Nuon Chea Speaks about His Role as the Deputy Secretary of the CPK**

Nuon Chea admitted that as the Deputy Secretary of the CPK, he was just one rank below Pol Pot. He insisted, however, that he never asked to be called Brother No. 2. This was, according to Nuon Chea, a moniker Vietnamese cadres accorded him. Nuon Chea asserted that he was not a puppet of the Vietnamese when he served as Deputy Secretary. Moreover, he declared that by 1960, Vietnam no longer dictated the CPK’s party lines.

When asked about biographies, the Accused said that all CPK members since the 1950s were required to write biographies to determine their vision, stance of non-capitalism, and possible ties to enemies. However, he denied that it was his role to investigate and interrogate people through their biographies.

## **8. Prior Public Statements**

The OCP inquired about Khem Ngun, a man Nuon Chea admitted he spoke with in 1998. Nuon Chea testified that he had been truthful when he talked to Khem Ngun about the CPK and its weaknesses. He likewise stated that Khem Ngun worked with Ta Mok and was a spy sent by Prime Minister Hun Sen. OCP lawyer Lysak then proceeded to enumerate a number of journalists to whom he alleged Nuon Chea gave interviews, however the Accused claimed he could only recall Thet Sambath.

The Accused intimated that Thet Sambath gained his trust, but that he was unaware that the journalist was filming him. Nuon Chea further said that Thet Sambath violated his rights by producing a documentary without informing him.

## **B. Ieng Sary Exercises His Right to Remain Silent**

Unlike Nuon Chea, Ieng Sary exercised his fundamental right to remain silent, and only answered questions about his personal background. He confirmed that he was born Kim Tran on 24 October 1925 in Tra Vinh Province, Kampuchea Krom. He married Ieng Thirith in 1953 and they had three daughters and one son. His revolutionary name was “Van.” Aside from these details, Ieng Sary refused to provide additional information. He declared that he would not provide any testimony during the entirety of the proceedings.

## **C. Khieu Samphan’s Testimony**

Following Ieng Sary, the Chamber proceeded to hear Khieu Samphan. However, Khieu Samphan declared that he would respond to questions only after the OCP had presented evidence. Subsequently, he gave his account on his early life, his comments on a number of allegations against him in the Closing Order. He also proceeded to discuss his version of the history of the CPK and his role in the DK.

### **1. Khieu Samphan’s Early Life**

According to Khieu Samphan, after leaving for Paris to further his education in 1953, a friend named Ok Sakun persuaded him to join the Circle of Marxists. By his account, he joined this organization in the belief that its goal was to advocate Cambodia’s independence from French colonialism. In 1955, Khieu Samphan joined the French Communist Party, which encouraged people, including the citizens of other colonialist countries, to work together against colonialism. He stated that engaged in demonstrations to support the war of Vietnam and Syria against colonialism.

On his return to Cambodia, Khieu Samphan published the newspaper *L’Observateur* as a voice for intellectuals. It was published in French because his target readership was Cambodia’s leaders, who preferred to read materials in French rather than in Khmer. He explained that his newspaper not only aimed to support the neutral stance of King Sihanouk, but also to pushed for democratic reform and bridge the gap between the rich and the poor. He clarified that the communist movement did not finance the publication of *L’Observateur*, although he admitted that some of its supporters were communists. He was quick to qualify, however, that these communist supporters were Assembly Representatives. Notwithstanding his lack of ties with the CKP, Khieu Samphan claimed that King Sihanouk branded the newspaper as a “red” publication because the latter was concerned about his notions of independence. He narrated that soon after he started publishing his newspaper, the special police ministry took him in for questioning. He alleged that the Minister of Interior himself interrogated him. Two to three months later, he was beaten up and stripped naked in the streets under broad daylight. Khieu Samphan also averred that, subsequently, he was subjected to arbitrary arrest and detention. Moreover, his publication was closed down but did not specify by whom.

In 1962, the Accused was elected to Parliament. Immediately after, he was appointed as Secretary of the Ministry of Commerce, giving him the opportunity to implement the economic plan he envisaged in his doctoral dissertation. Khieu Samphan stated that King Sihanouk was unsatisfied with his proposal for economic reform, which, according to him, initially brought progress but ultimately failed because of corruption. He likewise posited that in order to curtail his political influence, the King criticized his reform process and encouraged people to believe that he was a member of the Khmer Rouge. Consequently, he lost his seat in Parliament.

After recounting details about foreign trade at that time, the Accused proceeded to comment on paragraphs 1128 and 1600 of the Closing Order, which indicated, among other things, the circumstances of his escape from Phnom Penh on 22 April 1967. Khieu Samphan confirmed that there were indeed threats to his security because he faced arrest by the military tribunal. Since the Closing Order is silent on the circumstances behind his flight from the capital, the Accused clarified that he was in danger because of baseless suspicions that *L'Observateur* instigated the peasant uprising in Samlaut. He countered that his newspaper could not have been the impetus for the rebellion, because peasants could not read French.

## 2. Membership in the CPK

Khieu Samphan contended that the turn of events forced him to join the CPK; otherwise, he would not have enlisted on his own volition because he held different beliefs. He emphasized that he merely sought assistance from the CPK leadership, particularly Ta Mok, for his safety. As such, he maintains that he cannot be considered to have participated in the revolutionary struggle. Moreover, he insists that he did not satisfy two criteria for membership: (i) sufficient experience in combat; and (ii) a “clean social status” (which refers to being from the poor peasant class). Khieu Samphan asserted that he had neither exposure to armed struggle, nor was he a poor peasant because he was a senior intellectual. Regardless of his personal convictions and his failure to fulfill the requirements for membership, Khieu Samphan became a member of the CPK in 1969.

The Accused also refuted the allegation in paragraph 1129 of the Closing Order that he met with Pol Pot, Nuon Chea and other senior leaders at the CPK’s headquarters during the establishment of the National United Front of Kampuchea (**FUNK**) after the overthrow of the King in 1970. He insisted, “...it was not me – because I was not in the group of the CPK and it was not me who came to stay at the party headquarters.” His next statement, however, contradicts this because it appears that he was indeed, at the headquarters:

It was Pol Pot who called upon me to go there in order to participate and to listen to what he did with the military cadre from various battles -- various battlefields -- who came to report to him and to listen to him how he gave directions back to those people, so that I could understand the situation of the revolution, so that I could write up the report to the -- Samdech Sihanouk.<sup>21</sup>

In the same year, the establishment of the Royal Government of National Union of Kampuchea (**GRUNK**), the government in exile based in Beijing, and the alliance between King Sihanouk and the CPK was proclaimed.<sup>22</sup> Khieu Samphan was GRUNK’s Deputy Prime Minister and Minister of Defense, positions he said he found



out he held only when he heard the announcement on the radio. He resolutely insisted that although he was officially the Deputy Prime Minister and Minister of Defense, in reality, he exercised neither power, nor the authority attached to these offices. He stated: "I was appointed as the Deputy Prime Minister of nothing, a Defense Minister of nothing, and the Commander of Forces of nothing. I was not even aware of that myself."<sup>23</sup> He supported this claim by saying that he did not have the right to make any decision, and his task was limited to liaising with King Sihanouk, with the purpose of reconciling these opposing forces. Referencing his lofty goal, he retorted, "[i]s that a crime? Of course, it is not. Clearly, it is not."<sup>24</sup>

In 1971, Khieu Samphan became a candidate member of the CPK's Central Committee. Like his positions in GRUNK, he claimed that his membership in the Central Committee was only a pretense, and that he did not exercise any real power. He was only a front, he said, and he was promoted to the Central Committee only to protect his image in the party. To substantiate this, he pointed out the other members of the Central Committee were in charge of a zone, sector or major unit, such as a division. He was, on the other hand, limited to liaising with the King. He added that, being an intellectual, he never really belonged to the party.

#### **D. Long Norin's Testimony**

This week, the Chamber, the Civil Party lawyers, the OCP and Defense Teams concluded the examination of Long Norin. The elderly witness continued to show reluctance in giving his testimony. He revealed pieces of information sparingly and was unable to recall facts on many key questions.

##### **1. Return to Phnom Penh during the Evacuation of Phnom Penh**

Part of Long Norin's testimony pertained to his personal recollection of the evacuation of Phnom Penh. He testified that he encountered people walking along the road when he arrived in Phnom Penh on 20 April 1975. He did not, however, directly answer the query of Mr. Son Arun, Nuon Chea's national counsel, on the number of people he saw were being evacuated. Instead, he stated that he did not know where the people were headed and that he did not want to find out because "knowing too much would be a problem."<sup>25</sup>

Subsequent to the evacuation, Long Norin worked at as a typist at the Ministry of Foreign Affairs.<sup>26</sup> He also served as King Sihanouk's guard for six months when the latter acted as the President of the State Presidium. According to the Witness, the King did not exercise any power during this period, as all power rested with Pol Pot and the Central Committee. Moreover, the King had to request the Central Committee's confirmation if he wanted to travel through his spokesperson. According to Long Norin, the King resigned from his position in early 1976 despite pleas from Khieu Samphan, Ieng Sary and other Central Committee members. He then went to Beijing while Long Norin stayed in Cambodia and returned to work at B-1.

## **2. The Fate of Ministry of Foreign Affairs Personnel and Cambodian Repatriates**

Civil Party co-lawyer, Ms. Nushin Sarkarati reminded the witness of a previous statement from his testimony last week, attesting to the fact that the staff of the Ministry of Foreign Affairs became fearful of going “to study” after disappearances in the Ministry. Long Norin affirmed that the term either meant doing labor or going to S-21, but he refused to elaborate further. He likewise confirmed that there were expatriates who returned to Cambodia on Ieng Sary’s request. They were labeled as intellectuals who needed to “refashion” themselves through physical and mental work before they could be considered a revolutionary. Long Norin said that these expatriates were sent to do labor in Boeung Trabaek and Chrang Chamreh, which were also part of the Ministry of Foreign Affairs.

## **3. Statements on Ieng Sary**

Long Norin affirmed the statement he had previously gave the OCIJ, indicating that Ieng Sary had sole decision-making power in the Ministry of Foreign Affairs. He stated that when Ieng Sary was out of B-1, he would leave instructions that nobody could make decisions without his knowledge. However, he denied knowing if Ieng Sary took instructions from the Central Committee, as he previously stated in his OCIJ Statement. Long Norin also claimed to have forgotten who told him that Ieng Sary once declared in a meeting that no arrests would be allowed in the Ministry while he (Ieng Sary) is not in the office in Phnom Penh.

## **4. The Democratic National Union Movement**

On the second day of the hearing, Judge Lavergne asked Long Norin about press statements the witness had allegedly given when he was the Secretary General and spokesperson of the Democratic National Union Movement, an organization which the Witness helped Ieng Sary establish in the 1990s. The statements were mostly about how Ieng Sary never knew of the evacuation of Phnom Penh and the crimes that were committed by the KR. Judge Lavergne read out passages in articles that enumerated the people who were solely responsible for the atrocities of the DK regime: Pol Pot, Nuon Chea, Son Sen, Yun Yat and Ta Mok. Long Norin averred that he did not remember making any of the press statements the Judge cited.

## **III. LEGAL & PROCEDURAL ISSUES**

During this week’s hearings, the Parties raised a number of issues mostly relating to documentary evidence. These issues included: (1) the appropriate process of putting documents before the Chamber, (2) admissibility of documents, and (3) translation and transcription concerns with regard to interviews with witnesses and Civil Parties conducted by the OCIJ. Other procedural concerns included the scope of the examination of witnesses and Civil Parties, as well as protective measure that are being employed by the ECCC to ensure that they are not influenced or threatened because they are giving testimony in court. It is anticipated that these issues will recur, particularly where the Chamber declined to rule immediately on the matter, and instead informed the parties that it would give its ruling “in due course.” Other matters that were discussed this week include informing the Accused of their fair trial rights, and the exercise of the Accused of their right to remain silent.

## **A. Evidence Considered Put Before the Chamber**

The issue of putting evidence before the Chamber re-emerged on Wednesday, when international Co-Prosecutor Dale Lysak began asking Nuon Chea questions based on the book *Behind the Killing Fields* by Thet Sambath. Defense immediately inquired as to whether Lysak's questioning effectively put the book before the Chamber as documentary evidence. The Defense made a joint objection to the admissibility of this book, with Son Arun asserting that the author of the book has not given permission for the Court to use his work against Nuon Chea.<sup>27</sup> Ieng Sary's international counsel, Mr. Michael Karnavas argued that the book is inadmissible unless the author testifies as to its content and the quotes in cited in the book are checked against the 1,000 hours of interviews he recorded.

In response, Lysak argued that the OCP was not in fact putting the document before the Chamber at this stage. He submitted to the Chamber that the OCP mentioned the book to only as a vehicle for questions meant to verify the relationship between Nuon Chea and the author. However, the next day the OCP again asked questions based on the book, and these appeared to go beyond merely establishing an interview-based relationship. The Bench reminded Lysak that he cannot refer to the book's contents unless it is put before the Chamber. Counsel acquiesced by stating that he "will not use the book until a ruling is made." This comment seemed to indicate that Counsel wished to have the book considered for admission by the Chamber.

This exchange prompted Khieu Samphan's international counsel, Mr. Arthur Vercken, to request clear rules on putting documents before the Chamber. To support his request, he cited several specific concerns raised in connection with documentary evidence: (i) the Chamber's pronouncement last week that footnotes on the paragraphs of the Closing Order read out at the start of the proceedings are considered "put before the Chamber," unless the parties interpose an objection; and (ii) the process of adding new documents during trial under IR 87. In response, Judge Lavergne stated that the Chamber received a number of requests for documents to be considered put before the Chamber, as well as challenges to the admissibility of certain documents. He explained that the Chamber is still studying the matter and will make a ruling "in due course." The Judge reminded the Parties that the Chamber planned to devote special sessions in the new year to discussing procedural issues relating to the presentation and admissibility of documentary evidence. Finally, Judge Lavergne clarified that the documents referred to in the footnotes are presumed admissible and considered put before the Chamber.

This very same issue of putting documents before the Trial Chamber was a recurring concern in Case 001. The process under Rule 87(3) in Version 3 of the Internal Rules<sup>28</sup> proved to be both "tedious and time consuming."<sup>29</sup> Thus, on 11 June 2009, after almost three months of trial, the ECCC held a Trial Management Meeting to address the inefficiency of the procedure. This resulted in the amendment of, among others, Rule 87(3). The amendment is currently reflected in the language of the same Rule in Version 8 applicable in Case 002. By reason of this amendment, Rule 87(3) now reads,<sup>30</sup> "Evidence from the case file is considered put before the Chamber or the parties if its contents have been summarized, read out, or appropriately identified in Court." While the amendment facilitated the process of putting documents before the Chamber, application of Rule 83(3) continues to be the

subject of debate and confusion, in light of the voluminous documentary evidence expected to be presented by the Parties in the case at bar. The expedient resolution of this pressing concern will certainly benefit the conduct of the trial.

## **1. Translation of Documents**

Intertwined with the issue of putting documents before the Trial Chamber is the translation of these documents to the ECCC's official languages: Khmer, English and French. Vercken noted that not all documents (particularly those cited in the Closing Order that are now considered put before the Chamber) have been translated into the three languages. Relying on a Memorandum issued by the Chamber, Verecken argued that all documents needed during hearings should be translated into all three languages. The burden of translating these documents should not be placed on the defense or other parties, Vercken asserted. Rather, this should have been done by the OCIJ. Vercken quoted from the Memorandum issued by the Chamber on 25 October 2011<sup>31</sup> requiring documents used in court to be translated, to prove his point. Notably, this Memorandum Vercken cited states:

When documents are introduced at trial, these should ordinarily be available in all three ECCC official languages. The party seeking to introduce a document bears the responsibility of ensuring the timely availability of this document in all ECCC official languages.<sup>32</sup>

The President dismissed this argument, stating that the issue of translation has been raised numerous times and will not be addressed by the Chamber at that moment. Judge Lavergne added that perhaps Khieu Samphan's new counsel was not aware that the Chamber had already decided on the matter of translation in previous rulings. Judge Lavergne advised counsel that, at no point in these earlier rulings did the Court hold that a document has to be translated into three languages in order to be admissible as evidence.

The issue on translation of documents to the three official languages of the Court again came to fore when the Ieng Sary Defense Team pointed out that transcripts of OCIJ interviews were available only in Khmer. Karnavas noted that this is cause for some concern as international counterparts of the Parties and the Bench are limited to the written summaries prepared by the OCIJ and could not check their accuracy against the transcripts. The Trial Chamber assured the Parties that it would rule on the issue in due course.

## **2. Authenticity of Documents**

After the lunch break on Thursday, Prosecutor Lysak attempted to elicit comments from Nuon Chea about a speech by Pol Pot quoted in a 1977 issue of *Revolutionary Flag* magazine. Instead of answering the substance of Counsel's inquiry, however, Nuon Chea repeatedly demanded to see the original of the magazine before he could respond. Lysak reminded the Accused that the Defense Teams did not object to the use of the copy of the document when Judge Cartwright previously put it before the Chamber. President Nil Nonn explained that all documents have been digitized because of the huge volume of documents in the Case File. He added that the document has been referred to since the investigative stage, and observed that the Defense should have raised any objections they had when the Closing Order was

issued. Nuon Chea's international counsel, Mr. Michiel Pestman, stood up to clarify his client's position on the matter, arguing that this was an issue of authenticity, not whether the document in question had been put before the Chamber. International Co-Prosecutor, Mr. William Smith, countered that an authenticity challenge based solely on the fact that a document is a photocopy does not offer adequate grounds for the objection. He argued that international courts have to accept copies of documents on account of the volume of documentary evidence that needs to be examined for each case.

Once again, the Chamber responded to the arguments of the Parties by promising to deliberate the objection and subsequently issue a ruling "in due course." The Chamber also reiterated that it has reserved a week of proceedings in January for discussions on submission, admissibility and authentication of documentary evidence, at which point these recurring issues can finally be addressed head-on, and ultimately resolved.

### **3. OCIJ Procedure in Procuring Statements during Investigation**

Pursuant to Rule 55.5(a) & 60.1 of the Internal Rules, the Co-Investigating Judges may interview, record, and take the statements of any person whose testimony is considered conducive to ascertaining the truth. Rule 25.1(d) gives a witness the opportunity to verify his statement at the conclusion of his questioning. A written record of interview should be signed or fingerprinted after the witness reads it.<sup>34</sup> However, neither the Internal Rules nor Trial Chamber rulings from Case 001 provide clear instructions on the method and scope of interviews conducted by the OCIJ.

At the start of Ang Udom's examination of Long Norin, Ieng Sary's national counsel drew Chamber's attention to inconsistencies between the tape, transcript, and written record of the Witness' interview prepared by the OCIJ. He also pointed to instances where the interpreter intervened to elicit some answers from the witness during the interview. When probed by Karnavas, Long Norin revealed that he was not afforded a chance to read the transcript or compare the three documents. Upon clarification by Judge Laverge, however, the Witness confirmed that he voluntarily affixed his signature and thumbprint on the written record. Regardless, Long Norin claimed could neither recall if the record was read out to him, nor confirm if it is faithful to the statements he gave the OCIJ.

From the answers of the witness, Karnavas posited that the written record was not an accurate reflection of Long Norin's statements. He introduced the possibility that the investigators may have manipulated the Witness and fed the answers. Karnavas expressed concern because the Parties may have to deal with these "highly unreliable"<sup>35</sup> summaries throughout the proceedings. With the agreement of the OCP, Karnavas asked the Chamber for the full transcripts be put on record and translated. The Chamber assured the Parties that it will issue a memorandum on the matter in due course.

### **4. Inadmissibility of Questions**

This week, the Parties raised a number of objections on the manner of examining the Accused and the Witness. On Thursday morning, for instance, Pestman questioned Long Norin about why he had not mentioned Keat Chhon in his testimony, a person

he repeatedly mentioned in his OCIJ statement. He asked if the witness had been pressured about his testimony in court, if he knew the position Keat Chhon presently holds in the Cambodian government, and why the latter refused to testify. Long Norin answered that he had not been approached or pressured prior to giving testimony. He testified that he does not know the governmental position Keat Chhon currently occupies.<sup>36</sup> The Chamber, through President Nil Nonn, disallowed further questioning along these lines, on the ground that it was irrelevant to establishing or refuting the facts put into controversy by the Indictment. The Nuon Chea Defense objected to the ruling, stating, "Our position is that political interference is always relevant, at any point of the proceeding, no matter what the topic is."<sup>37</sup> Judge Silvia Cartwright noted the objection but the Chamber did not rule on it.

On Thursday afternoon, the OCP put questions to Nuon Chea aimed at showing that Buddhism was at odds with communism, and establishing further that, as a result of this inconsistency, the CPK prohibited the practice of Buddhism in the country. Karnavas successfully objected to this questioning for being irrelevant because it was outside the scope of the first segment of the trial. Lysak argued that his queries would show the principles of the Communist Party in the 1960s, during which monks were seen as enemies. Counsel submitted that it was a specious argument to deny this fact, and by extension the authenticity of the Pol Pot speech he cited in his questioning. This led to another objection from Karnavas, who claimed that the Prosecutor was pleading and should limit himself to asking questions. The Chamber sustained Karnavas' objection. Throughout the week, there were other objections by Parties claiming that questions were leading, irrelevant, speculative or out of context. Seeing that this could be an ongoing concern, it would be helpful if the Chamber would provide clear guidelines regarding the permissible scope of questioning by the Parties of persons who will give testimonial evidence.

## **5. Informing the Accused of their Fair Trial Rights**

After initial questions on their personal identification and background, the President of the Trial Chamber formally informed the Accused Khieu Samphan and Ieng Sary of their rights: to be defended by a lawyer of their choice at every stage of the proceedings, to remain silent and not incriminate themselves at any stage of the proceedings, and to be informed of the charges against them. President Nil Nonn inquired if they understood the charges against them. They affirmed. This process is important in all criminal proceedings to ensure that the person on trial is indeed the one charged, that he understands the charges and understands his rights as an accused.

## **6. Right to Remain Silent**

The right to remain silent and the related right against self-incrimination are guaranteed by the Constitution of Cambodia, the ECCC Law, the Internal Rules, and the Cambodian Criminal Procedure. Compliance with fair trial standards clearly demands that an accused be accorded these rights. However, questions remain unanswered on the exact procedural and substantive application of the exercise of these rights before this Tribunal.

On Monday afternoon, after being called to the stand, Ieng Sary invoked his right to remain silent during the entire proceedings. In addition, Karnavas requested that the Chamber refrain from asking Ieng Sary questions, because his client intended to exercise his right not to answer any questions at any phase during the trial or any other trial covered by the Closing Order. Accordingly, he requested that the Chamber not put Ieng Sary on the stand again, until such time as the Accused expresses his desire to answer questions or make comments. Khieu Samphan, on the other hand, read a prepared statement to comment on parts of the Closing Order relevant to the first segment of the trial. He also stated that he would not answer questions until the OCP has presented evidence against him.

The issue of whether the Chamber is allowed to draw adverse inferences from the silence of the Accused is unclear, as this was not addressed in Case 001 when Kaing Guek Eav alias “Duch” exercised his right to remain silent.<sup>38</sup> While neither the ECCC Law nor Cambodian legislation provides any guidance on this matter, Article 67 of the Rome Statute guarantees the right of the accused “to remain silent, without such silence being a consideration in the determination of guilt or innocence.” However the ECCC Trial Chamber interprets the right to remain silent, and whether the Accused answering some questions and exercising the right to remain silent in relation to others will result in adverse inferences, remains to be seen as the trial progresses.

## **B. TRIAL MANAGEMENT**

This week, health concerns, along with technical issues, still dictated the flow of the proceedings. Although Long Norin was expected to continue his testimony upon the Chamber’s resumption on 13 December 2011 after a non-working holiday, he was still in poor health at that time. Thus, the Trial Chamber questioned the three Accused instead. Throughout the week, Nuon Chea’s questioning was mostly limited to half a day because of health concerns. This would seem to be the period that will be allotted for his questioning for the next hearings. The Chamber also noted Nuon Chea’s difficulty in walking to the dock and advised that the security use a wheelchair to make it easier for the Accused to go to the dock.

Technical difficulties also affected the schedule of the proceedings. Although Long Norin was well enough to testify on 14 December 2011, the Chamber deferred the continuation of his testimony to the afternoon because of some glitches in the audiovisual facilities in the morning. There were also some questions that Long Norin did not answer or was unable to hear clearly (possibly due to the video feed in his location). These questions had to be repeated to him. Technical problems were likewise encountered in the translation booth. At the start of his questioning, audio feed of the translation of Judge Lavergne’s question to Nuon Chea was interrupted. Translators had to repeat themselves twice before the problem was resolved. Pestman also complained at one instance that he did not get the translation of statements made in Khmer to English.

### **1. Time Allocation**

The Trial Chamber allocated half a day everyday this week for the Parties to examine Nuon Chea on the historical background of DK. Unlike last week, the Chamber did not prescribe strict time allocations particularly with regard to Long Norin because it allowed the Parties to question him on all aspects of Case 002. When international

CPLCL Ms. Elizabeth Simmoneau-Fort inquired on the time allotment for the Defense's examination of Long Norin, the Chamber explained that it did not allocate concrete time for the questioning of the Accused and the Witness, in order to accommodate their different levels of knowledge, possible interruptions in the proceedings, technical issues, and other considerations relating to their age and health.

## 2. Translation Issues

There were some inaccuracies in the translation of some statements this week. For example, at one point the date of an event was incorrectly translated in English as "1975" instead of "1955." This is an important area of concern, as answers to questions may vary depending on the dates relayed to the witness. There was also some concern on the delay in the translation, which prevents counsels from making timely objections. In one instance, the Chamber admonished Lysak for not getting on his feet and objecting to a question by Son Arun in a timely manner. Lysak interjected that because of the delay in translation, by the time they hear the objectionable question, the witness had already answered, and their challenge would have become moot. These translation issues, taken together, appear to have some impact on the flow and quality of proceedings.

## 3. Judicial and Lawyer Etiquette

Courtroom etiquette became an issue one point this week, when Vercken had a heated exchange with the Bench, stemming from the former's insistence upon discussing the issue of admissibility of documents and translation, despite several explanations made by the Chamber. The President raised his voice when he admonished Vercken and declared that latter was not allowed to take the floor anymore. When Vercken tried to respond, the President switched off the Counselor's microphone. Reminders were also made to all parties to first seek permission from the Bench before standing up and speaking. At the end of the last session, one of Nuon Chea's international lawyers, Mr. Andrew Ianuzzi thanked his colleagues in the defense, and invited them to drinks in open court. This inappropriate comment rightfully earned a sharp reprimand from Judge Cartwright. This is a reminder that all Parties must exercise care in the proper use of their time on the floor, and must limit discussions only to matters relevant to the proceedings. At the same time, the Chamber should perhaps practice greater restraint when admonishing Parties, particularly when the latter raise legitimate substantive and procedural concerns in earnest.

DATE	START	MORNING BREAK	LUNCH	AFTERNOON BREAK	RECESS	TOTAL HOURS IN SESSION
Tuesday 13/12/11	09.01	10.44-11.07	12.05-13.33	14.50-15.19	16.10	4 hours and 49 minutes
Wednesday 14/12/11	09.02	10.08-10.33	12.06-13.32	14.35-14.55	16.04	4 hours and 51 minutes
Thursday 15/12/11	09.01	10.18-10.42	12.03-13.31	14.43-15.11	15.54	4 hours and 33 minutes
<b>Average number of hours in session:</b> 4 hours and 44 minutes <b>Total number of hours this week:</b> 14 hours and 13 minutes <b>Total number of hours, days, and weeks at trial:</b> 44 hours and 7 minutes <b>10 TRIAL DAYS OVER 3 WEEKS</b>						



**Unless specified otherwise,**

- the documents cited in this report pertain to *The Case of Nuon Chea, Ieng Sary, Ieng Thirith and Khieu Samphan* (Case No. 002/19-09-2007-ECCC) before the Extraordinary Chambers in the Courts of Cambodia;
- the quotes are based on the personal notes of the trial monitors during the proceedings;
- 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)
CIA	Central Intelligence Agency
CPC	Code of Criminal Procedure of the Kingdom of Cambodia (2007)
CPK	Communist Party of Kampuchea (formerly, the “Khmer People’s Revolutionary Party, later renamed as the “Workers’ 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)
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



\* This issue of KRT Trial Monitor was authored by Mary Kristerie A. Baleva, Samuel Gilg, Princess Principe, Noyel Ry, Kimsan Soy, Penelope Van Tuyl and Flavia Widmer 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](http://www.krtmonitor.org)>, <<http://forum.eastwestcenter.org/Khmer-Rouge-Trials/>> and <<http://socrates.berkeley.edu/~warcrime/>>. AIJI is a collaborative project between the East-West Center, in Honolulu, and the University of California, Berkeley War Crimes Studies Center. Since 2003, the two Centers have been collaborating on projects relating to the establishment of justice initiatives and capacity-building programs in the human rights sector in 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.

<sup>1</sup> Office of the Co-Investigating Judges. “Closing Order” (15 September 2010). D427 [hereinafter, CLOSING ORDER]. Par. 19. 13. “...the Indochinese Communist Party (ICP)... was officially dissolved in 1951 and its former members were supposed to establish separate revolutionary organizations for each country. The new party created in Cambodia was the Khmer People’s Revolutionary Party (“KPRP”)...” The KPRP was renamed “Workers Party of Kampuchea.” See CLOSING ORDER. par. 20. 13, which states, “Official CPK documents and statements, post-17 April 1975, identify the 1960 Congress, at which the KPRP became a “Workers Party”, as the real starting point of the Cambodian communist movement.” Later, the Workers Party was referred to as the Communist Party of Kampuchea. See, CLOSING ORDER. par. 23. 14. “In a Central Committee meeting held in September or October 1966, the leaders decided to change the name of the Party to CPK (although that decision

was kept secret until the next Party Congress)...” See also, Library of Congress, Appendix-B – Cambodia: Major Political and Military Organizations, “KCP,” “KPRP”. Available at [http://lcweb2.loc.gov/frd/cs/cambodia/kh\\_appnb.html](http://lcweb2.loc.gov/frd/cs/cambodia/kh_appnb.html), accessed on 9 February, 2012.

<sup>2</sup> Trial Chamber. Transcript of Hearing (15 December 2011). E1/23.1. (hereinafter, “15 DECEMBER TRANSCRIPT”).

<sup>32</sup> Line 16.

<sup>3</sup> *Ibid.*, at lines 16-19.

<sup>4</sup> *Ibid.*, at 34, lines 24-25.

<sup>5</sup> *Ibid.*

<sup>6</sup> Trial Chamber. Transcript of Hearing (13 December 2011). E1/23.1. (hereinafter, “13 DECEMBER TRANSCRIPT”).

<sup>5</sup> Lines 23-25; 6. 1.

<sup>7</sup> *Ibid.*, at 9. Line 14.

<sup>8</sup> *Ibid.*, at 11. Lines 8-9.

<sup>9</sup> *Ibid.*, at Lines 23-5; 12. Line 1.

<sup>10</sup> Trial Chamber. Transcript of Hearing (14 December 2011). E1/23.1. (hereinafter, “14 DECEMBER TRANSCRIPT”).

<sup>5</sup> Lines 19-21.

<sup>11</sup> *Ibid.*, at 23. Lines 15-16.

<sup>12</sup> 13 DECEMBER TRANSCRIPT. 39. Lines 22-25; 40. 1-3.

<sup>13</sup> *Ibid.*, at 42. Lines 12-3.

<sup>14</sup> *Ibid.*, at Lines 17-24.

<sup>15</sup> 15 DECEMBER TRANSCRIPT. 88. Line 25. 89. Line 1.

<sup>16</sup> 13 DECEMBER TRANSCRIPT. 32. Lines 4-5.

<sup>17</sup> *Ibid.*, at lines 7-9.

<sup>18</sup> *Ibid.*, at 51. Lines 21-22.

<sup>19</sup> *Ibid.*, at 52. Line 7.

<sup>20</sup> 14 DECEMBER TRANSCRIPT. 6. Lines 21-25. 7. Lines 1-6.

<sup>21</sup> 13 DECEMBER TRANSCRIPT. 94. Lines 7-13.

<sup>22</sup> See CLOSING ORDER. 15. par. 25.

<sup>23</sup> 13 December Transcript. 94. Lines 21-24.

<sup>24</sup> *Ibid.*, at lines 15-16.

<sup>25</sup> 14 December Transcript. 77. Lines 3-4.

<sup>26</sup> The Ministry of Foreign Affairs was also referred to as “B-1” during the regime.

<sup>27</sup> The author Mr. Thet Sambath confirmed this in a newspaper article; see The Phnom Penh Post, “Film’s Use at Trial Questioned,” 15 December 2011.

<sup>28</sup> Rule 83(3) in Version 3 did not provide for appropriate identification in court as a means of putting documents before the Chamber. It reads: “... Evidence from the case file is considered put before the Chamber if its content has been summarised or read out in court.”

<sup>29</sup> AIJI. *KRT Trial Monitor, Case 001*. “Lessons Learned from the ‘Duch’ Trial.” (December 2009). 23. See also, *KRT Trial Monitor, Case 001*, Report Nos. 6 (week ending 24 May 2009); 9 (week ending 21 June 2009); 16. (week ending 10 August 2009) and 21 (week ending 20 September 2009).

<sup>30</sup> Rule 87(3) has not been amended since Version 4 of the Internal Rules.

<sup>31</sup> See Trial Chamber. “Witness Lists for Early Trial Segments, Deadline for Filing of Admissibility Challenges to Documents and Exhibits, and Response to Motion E109/5” (25 October 2011). E131/1. par.4. 3.

<sup>32</sup> *Ibid.*

<sup>34</sup> Internal Rules. Rule 25.2; Rule 55.7.

<sup>35</sup> 15 December Transcript. 15. Line 18.

<sup>36</sup> Presently, His Excellency Keat Chhon is Cambodia’s Minister of Finance and Economy.

<sup>37</sup> *Ibid.*, at 101. Lines 10-12.

<sup>38</sup> In Case 001, while the Accused Duch answered majority of the questions, he chose not to answer certain questions (e.g. on 29 April 2009), exercising his right to remain silent. In its Judgment issued on 26 July 2010 the Trial Chamber did not state whether or not it had drawn adverse inferences from these choices.