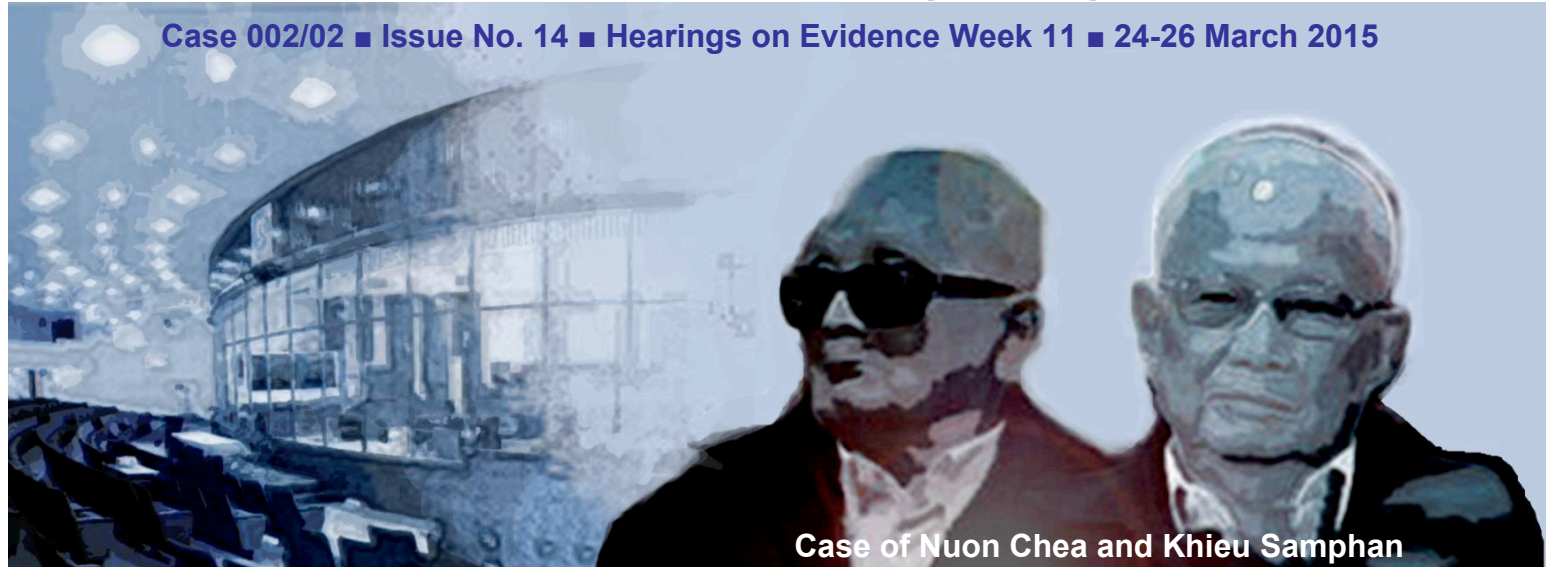


# KRT TRIAL MONITOR

Case 002/02 ■ Issue No. 14 ■ Hearings on Evidence Week 11 ■ 24-26 March 2015



Case of Nuon Chea and Khieu Samphan

Asian International Justice Initiative (AIJI), a project of East-West Center and the WSD Handa Center for Human Rights and International Justice at Stanford University (previously known as the UC Berkeley War Crimes Studies Center)

*The statements of those individuals are not true;  
they were the ones who arrested and killed...  
After they received the orders from the chief of the security office,  
they were the ones who arrested and executed prisoners.*

- Civil Party Soy Sen

## I. OVERVIEW

This week, the Trial Chamber successfully heard the testimonies of three Civil Parties within two and a half days of proceedings. On 24 and 25 March, the first Civil Party, Mr. Soth Saing, testified, under protective measures, on his experiences as a former guard at Kraing Ta Chan Security Center (KTC), where he said he witnessed poor prison conditions, as well as interrogations and executions. Claiming he was assigned only to guard the prison's outside perimeter, the witness consistently denied allegations by Soy Sen (a former prisoner and fellow Civil Party) that he was involved in the execution of two children and various acts of sexual violence. In an extended final session on the afternoon of March 25<sup>th</sup>, Mr. Soy Sen returned to the courtroom to complete his prior testimony, which had been left unfinished on 7 February 2015, when he expressed fear of naming former KTC cadres. In court this week, he identified the former prison staff members who took part in arrests, interrogations, and executions, and he rejected contradictory statements from the former guards. On the morning of 26 March, Civil Party Oung Saroeun testified on her experiences in Leay Bour Commune in Tram Kak District. She reported witnessing a visit by Nuon Chea, Khieu Samphan and Pol Pot to a dam construction site near Or Chambok in 1977. This report summarizes the three Civil Party appearances in court from this week, analyzes the Parties' questioning practices, and critiques the Trial Chamber's inconsistent approach to protecting victim confidentiality in accordance with its own directives.

## II. SUMMARY OF CIVIL PARTY TESTIMONY

The Trial Chamber heard the testimony of three Civil Parties this week. Over the course of two days, Civil Party and former KTC guard Soth Saing testified on his experiences at the prison, and refuted accusations that he had also engaged in criminal behavior. He also gave a statement of suffering discussing his "remorse" for the loss of his father and other family

members in the DK era. Following Soth Saing's testimony, Civil Party Soy Sen returned to the courtroom for an extended afternoon session to complete his previously unfinished testimony and provide a statement of suffering. Lastly, Civil Party Oung Saroeun appeared following last week's request from the CPLCLs to hear her testimony on a visit by DK's senior leaders to a dam worksite in 1977.

## **A. Summary of Testimony by Civil Party Soth Saing**

Mr. Soth Saing stated that he joined the Khmer Rouge military in the early 1970s and was later assigned to work at Kraing Ta Chan Security Center (KTC).<sup>1</sup> His testimony as a Civil Party centered on his experiences as a guard at KTC. It included details on the interrogations, executions, and sexual misconduct that allegedly occurred there. The Trial Chamber agreed to enforce the Civil Party's request for protective measures to conceal his image and voice during testimony. His testimony on allegations of sexual violence was conducted in a closed session.

### **1. Experiences Before and During Role as Guard at Kraing Ta Chan Security Center**

Early in his testimony, Soth Saing explained that his main impetus for applying to be a Civil Party in Case 002 stemmed from his father's imprisonment. In 1971, his father faced accusations of espionage and was detained at the Khmer Rouge's Office 204 in Takeo Province. In 1972 or 1973, Soth Saing was compelled to join the army as a soldier. He explained that his team was stationed near Damrei Romiel Mountain in 1975 to search for an alleged traitor, Prum San. The Civil Party claimed that, on one occasion, while resting in a trench and sick with malaria, his firearm was stolen and he was accused of giving it to Prum San's "clique"; he was therefore sent for "re-education" for an afternoon. He explained that he was later re-assigned to guard Kraing Ta Chan Security Center in 1976, as part of a six-man unit that included Srei Thân, *alias* 'Little Duch', and Van Soeun, *alias* Suon, both of whom have previously testified in Case 002/02.<sup>2</sup> He also confirmed that Sim, a guard whose OCIJ statements have been cited previously in the trial, was a member of the same unit. The Civil Party explained that he was "handed over" first to KTC to transplant rice, and later to "provide security" at the prison's outer perimeter. He identified the prison's "heads" as Ta Ann, Ta Penh, and Ta Cheng, with Chieng and Moeun at a lower level. In a previous OCIJ statement, the Civil Party declared he was appointed head of the prison guards because of his "god-grandfather" Chem's "good friendship" with Ta Ann. However, he later claimed that his guard unit had no leaders. Soth Saing said that Ta Ann led "self-criticism" sessions and "life-view meetings," during which cadres and guards were warned that they would lose their lives if prisoners escaped. The Civil Party also testified that, prior to executions, Ta Ann would order guards to post themselves at the perimeter of the compound in order to ensure no one from outside arrived as executions took place. He also stated that, after executions, prison staff were responsible for digging burial pits.

Soth Saing confirmed that some prisoners at KTC were detained for alleged opposition to or betrayal of the Revolution. This prisoner population, the Civil Party claimed, included his own cousin. Some prisoners had ties to the former Lon Nol regime, while others were accused of committing 'moral offenses', including rape. He further detailed that, upon prisoners' arrival, they were shackled. Prisoners encountered poor health and hygiene standards, and were afforded insufficient food rations. Soth Saing testified that children and babies arrived alongside detained parents. The Civil Party revealed that during interrogations conducted by Ta Ann, Ta Penh, and Ta Cheng, prisoners were clubbed, whipped, and suffocated with plastic bags. Soth Saing admitted that he had heard prisoners' screams, and he denied that loudspeakers were used to play music to mask executions. However, he later confirmed to Judge Fenz that a large tape recorder was used to play "revolutionary music" for leisure. The Civil Party confirmed that children were executed and disappeared with their mothers. When confronted with former prisoner Soy Sen's earlier testimony, which alleged Soth Saing had been involved in the execution's of two young children, he responded: "Whatever Soy Sen

says, that is his business.”<sup>3</sup> Defense Counsel Koppe cited Soy Sen’s testimony in further examination of the Civil Party. Soth Saing refuted Soy Sen’s statements, including his opinion that Saing had been one of the prison’s “cruellest” guards. Soth Saing declared that he had never personally witnessed any executions, and he denied having any recent contact with Soy Sen prior to his appearance at the ECCC. Soth Saing additionally denied allegations that he sexually assaulted or raped women when he was a guard (see III.B).

## **2. Civil Party Demeanor, Credibility, and Statement of Suffering**

Defense Counsel for Khieu Samphan, Kong Sam Onn, questioned Soth Saing on the history of his Civil Party application. He suggested that Soth Saing’s status as a victim conflicted with his own admissions of responsibility for his actions as a “perpetrator.” Soth Saing stated that he applied for Civil Party status one year after his initial recognition as a witness in the Case 002 investigation, because his relatives suffered and died in the DK period. Counsel asked why his application only mentioned his father, and not the cousin who was allegedly detained at KTC. International CPLCL Marie Guiraud objected to further questions about the Civil Party’s application, noting that the Co-Investigating Judges had already accepted the Civil Party in August 2010 and that the Defense Teams had missed their opportunity to appeal his status. Nonetheless, the exchange between Counsel and the Civil Party bore out a fundamental challenge in ascertaining the history of DK, as the line between victim and perpetrator was often blurred, especially at the local level.

Throughout his testimony, and in response to specific questions on his credibility, Soth Saing asserted that he told “the truth, the whole truth, and nothing but the truth,” and that had “no worries” in testifying about his experiences. The Civil Party explained that he still lives in his native village in Leay Bour Commune. If he was a “cruel person” in the DK era, as indicated by Civil Party Soy Sen, he argued, he would likely live far away from KTC. Citing the Civil Party’s statements minimizing concern for his own personal security, Mr. Suon Visal, national legal consultant for Nuon Chea, argued that protective measures be lifted; the President swiftly rejected this submission as unreasoned. In his testimony, Soth Saing claimed that he suffered serious trauma as a consequence of his work at KTC, and he stated that it was “beyond [his] belief that the Khmer people could kill Cambodians as a race.” In his statement of suffering, the Civil Party noted his “remorse” for his relatives’ deaths under the Khmer Rouge and his “bad situation” as a soldier. He urged the Court to punish those “responsible for the killing of [his] compatriots,” and he concluded with the hope to build “a better future for Cambodia.”

## **B. Summary of Testimony by Civil Party Soy Sen**

On the afternoon of Wednesday, 25 March, Civil Party Soy Sen returned to the courtroom to conclude the testimony left unfinished following his initial appearance from 4 to 6 February 2015. That testimony had concluded abruptly after he expressed fears of publicly naming former KTC guards and cadres.<sup>4</sup> On Wednesday, Soy Sen explained that he withdrew his request with the WESU for protective measures, because his prior testimony had already been published nationwide, and he no longer feared any repercussions from public testimony. Questioning on Wednesday concerned the Civil Party’s knowledge of the administrative structure at KTC, as well as specific allegations from his original testimony that have since been contested by former prison staff members.<sup>5</sup>

### **1. Experiences as Prisoner at Kraing Ta Chan Security Center**

All Parties questioned the Civil Party on his experiences as a prisoner at KTC and his knowledge of former KTC staff. The Civil Party confirmed that Witness Srei Thôn, alias ‘Little Duch’, Witness Van Soeun, alias ‘Suon’, Sim, and Civil Party Soth Saing were security guards at KTC. In their statements and testimonies, these former guards had all insisted that they were exclusively assigned to guard the perimeter of the prison.<sup>6</sup> Soy Sen refuted these

statements, explaining that the security guards were involved in the arrests and executions taking place at the Security Center. The Civil Party claimed that the guards were “absolute” and had the power to do whatever they wished. In response to questions from Counsel Victor Koppe, Soy Sen clarified his own role in sometimes overseeing prisoners when they were working in the fields outside the main compound. He confirmed that the prison staff tasked him with watching the prisoners, who believed he was “one of them,” because he was shackled alongside them at night and bore no weapon in the fields. Soy Sen also responded to the Parties’ confusion over multiple instances of sexual violence he alleged in his prior testimony had occurred at KTC. He confirmed that two women from a mobile unit were raped by ‘Little Duch’, who subsequently sent him to bury their bodies. The Civil Party testified that Little Duch appeared to laugh at Soy Sen’s discovery that M-79 bullet heads had been inserted into the vaginas of these women. He also clarified a claim that another female prisoner had been raped on a separate occasion, explaining that in fact she was “sexually touched” (see III.B).

## **2. Civil Party Demeanor and Credibility and Statement of Suffering**

Throughout his testimony, Soy Sen remained attentive and confidently recalled memories of events at KTC. This week, Defense Counsel Victor Koppe directly asked both Soy Sen and Civil Party Soth Saing if they were telling the truth in Court. Soy Sen replied that his statements on his experiences and observations were true, and he insisted that he had nothing to gain by lying to the court. He explained, “I did not think that it’s necessary to lie to the Court; I will not gain any benefits to myself. I am here to assist the victims and survivors of the period.” Soy Sen concluded his testimony with a statement of suffering. The Civil Party emphasized that he appeared to testify at the ECCC in order to help younger generations and “those lost souls.” The Civil Party also asked, “Why, when there was plenty of food around, people were deprived of food and then they died?”

## **C. Summary of Testimony by Civil Party Oung Saroeun**

Civil Party Oung Saroeun has lived in Leay Bour Commune, Tram Kak District, Takeo Province since the DK regime in 1975 until the present. Before the regime, she sold rice cakes in Takeo provincial town, and her husband was a Khmer Republic soldier. Her testimony covered her experiences in Leay Bour cooperative, where she witnessed the arrest and disappearance of people, including her family members, as well as a visit of DK’s senior leaders to her worksite.<sup>7</sup> Defense Counsel Victor Koppe took issue with the OCP and Civil Parties’ questions to Oung Saroeun, as they primarily focused on topics beyond her observation of the senior leaders’ visit, which he argued had been the central purpose of the CPLCLs’ late application for her testimony. Although the Chamber denied his objections, Mr. Koppe nonetheless argued that he felt he had been “tricked” and promised never to agree to such a request again.

### **1. Experiences in Leay Bour Cooperative**

Ms. Oung Saroeun arrived at Leay Bour Commune in 1975, when her family, from Takeo town, was forced to evacuate alongside other urban people toward the rural cooperatives of Tram Kak District. The Civil Party testified that, in 1976, her family was split up and made to live in separate units. She explained that she never saw her husband again after that time. She stated that her husband, a former Lon Nol soldier, was arrested and sent to Kraing Ta Chan Security Center. She said a former prisoner told her of her husband’s death there, and she also noted that she found the names of her father and uncle on a list of prisoners who died at that office as well. She also testified that her one-year-old son was separated from her and left in the care of older women in a female unit, where he passed away from measles.

Civil Party Oung Saroeun explained that the Khmer Rouge investigated and targeted urban evacuees for ties to the Lon Nol regime. She claimed that, as part of this initial sweep, her uncle was arrested and disappeared because of his position as a “secret agent” for the Lon Nol



regime. In 1976, people were categorized into different groups, which she testified separated 'base people' and '17 April people'. The Civil Party stated that these groups lived, worked, and ate separately; she claimed 'base people' had better living conditions with more sufficient food, while '17 April people' received only two meals of gruel per day and were not allowed to complain for fear of death. The Civil Party recounted how two women in her unit were arrested and raped to death by "Angkar" after they were caught stealing food, and she noted that a 15-year-old boy was arrested and killed by cadres for stealing food as well. Oung Saroeun also recalled that her older brother disappeared after he was criticized for requesting more food. However, she testified that she herself was released after brief re-education after her arrest for "her first minor mistake" of stealing cassava and maize out of hunger.

## **2. Visit of DK Senior Leaders to Dam Worksite**

Civil Party Oung Saroeun gave testimony about a visit of senior DK leaders including Pol Pot, Nuon Chea, Khieu Samphan, and Ta Mok, as well as Tram Kak District official Ta San and Leay Bour Commune official Ta Nouv, visiting her worksite at a dam near Or Chambok in 1977. She asserted that the dignitaries stood about five or six meters away from her while she carried earth in order to build the canal and dam. Oung Saroeun also confirmed that Ms. Chou Koemlân, who previously testified on this visit, was present in a different unit at the worksite.<sup>8</sup> The Civil Party stated that she herself only recognized Ta Mok, Ta San, and Ta Nouv, who regularly paid visits to Leay Bour cooperatives, but that her unit chief listed the names of the other senior leaders. She recalled that her unit was informed two days ahead that "Angkar representatives" would visit her worksite so her unit had to work harder. The Civil Party also testified that Ta Nouv, who said he only worked in the Leay Bour Commune office in his own testimony in Case 002/02, was, in fact, chief of Leay Bour Commune and "a harsh man" whom she feared, after her uncle was beaten during a brief stint under arrest.<sup>9</sup>

## **3. Civil Party Demeanor, Credibility, and Statement of Suffering**

At the beginning of her testimony, Civil Party Oung Saroeun appeared sad and cried softly as she recounted Tram Kak's liberation by Vietnamese troops in 1979, when she only had a kettle for cooking rice as her single personal possession. When offered the opportunity to express a statement of suffering, she requested individual compensation for the loss of her family members and properties. The Civil Party also asked why she had to work hard without enough food, why her family members were executed, and why she was given no clothing to wear. Throughout her testimony, the Civil Party offered clear, concise statements, and she appeared to recall various memories from the past with ease. Counsel for Khieu Samphan, Anta Guissé, however, doubted the Civil Party's history of recalling the visit of DK leaders to the dam worksite, noting that this incident was not listed in her original 2010 application as a Civil Party. Counsel noted that the Civil Party declared her memory of this visit for the first time in a 12 March 2015 supplementary information form. She confirmed to Counsel that she presently lives in the same village as Civil Party Chou Koemlân, and that they had spoken since Chou Koemlân's testimony in late January, but she denied having spoken specifically about her testimony before the ECCC.

## **III. LEGAL AND PROCEDURAL ISSUES**

This week, the Parties repeatedly objected on grounds that questions were either leading or failed to properly rely on evidence in accordance with the Court's directives. The Trial Chamber intervened inconsistently on questions related to alleged incidents of sexual violence..

### **A. Objections Related to Questioning Practices**

Defense Counsel for Nuon Chea, Victor Koppe, objected on multiple occasions to the questioning methods of the international prosecutors. He took particular issue with Prosecutors

Dale Lysak and Vincent de Wilde D'Estmael's similar techniques of reading out a large number of evidentiary documents before putting questions to the Civil Parties on the stand. Mr. Koppe noted that the Prosecutor's actions resembled closing arguments, and he cited the Chamber's own ruling from Case 002/01 that the Party should first ask the Witness or Civil Party the question, and only after they state they do not recall something should a Party then read out documents in order to refresh their memory. The Trial Chamber sustained this objection on two instances, and Judge Claudia Fenz suggested to the Prosecutor that he should aim to offer more open-ended questions, as no single question could methodologically cover everything. Mr. Koppe also objected on at least three notable occasions to Mr. Lysak and Mr. De Wilde D'Estmael's use of leading questions, but he was less successful in winning the Chamber's endorsement of his objections. When Mr. Koppe questioned Civil Parties Soth Saing and Soy Sen, however, he asked them each to assess the credibility of the other's statements; in reaction, the Chamber sustained Mr. Lysak's objections that Defense Counsel was leading the Civil Parties to give opinion and characterizations on testimony.

## **B. Inconsistency in Protecting Privacy of Possible Victims of Sexual Violence**

The Trial Chamber went into a closed session in the final ten minutes of the 24 March hearing, in order for Counsel Victor Koppe to question Civil Party Soth Saing on allegations of sexual violence at Kraing Ta Chan, in accordance with its recent directives on victims' confidentiality. However, the Chamber's practices in relation to Civil Party Soy Sen's 25 March testimony were not as consistent with its own established procedures. Parties used Soy Sen's reappearance to clarify his prior testimony on two alleged incidents of sexual violence at KTC. He remained consistent with his February 2015 testimony regarding the two women allegedly raped and killed by 'Little Duch'. The separate incident regarding a third woman had been the subject of multiple lines of questioning in interim weeks, especially from Counsel Victor Koppe. Allegations regarding this woman, who is alive today and was cited by name on numerous occasions in public hearings, compelled the Chamber to produce multiple directives regarding measures for the protection of confidentiality for victims of sexual violence.<sup>10</sup> When Defense Counsel Anta Guissé raised the two alleged incidents of sexual violence in her questioning of Soy Sen on Wednesday the 25<sup>th</sup>, the Chamber moved to hear the subjects in a closed session, but Counsel carefully tailored her questions to avoid any use of names, and the hearing continued in public, according to these confidentiality measures.

However, the Chamber had earlier allowed Victor Koppe to repeatedly name the possible victim in his questions to Soy Sen. Although Mr. Koppe did so in an effort to establish that this woman was never actually raped, his line of questioning followed neither the Court's directives nor the considerable body of statutory recognition that sexual and gender-based violence produces a type of harm that is distinctive in nature. Three of his questions ("Did [the investigator] ask you what, according to you, what had happened to [redacted name of possible victim] during her time at KTC?"; "Do you remember what you told [the investigator]?"; and, "Did you tell [the investigator] that was what you believed was all that Little Duch had done to [redacted name of possible victim]?") either named the woman or encouraged the Civil Party to name the woman. In his final follow-up question on this topic, Counsel specifically cited his understanding of the Chamber's procedures even as he named the possible victim, asking, "So to be clear, and I think I can ask this in an open session, [redacted name of possible victim] was never raped by Duch, according to you, is that correct?" One would have expected that Counsel's own realization that he was nearing the boundaries of what he understood to be acceptable should have led him to rephrase this line of questioning in its entirety, yet the Trial Chamber failed to intercede according to its own directives. As the Chamber proceeds with Case 002/02's further trial segments, which include allegations of sexual and gender-based violence, it must clearly lay out and consistently enforce its procedures for victim protection, in line with the particular need for specialized procedures to support this class of victim in criminal trial proceedings.<sup>11</sup>

#### IV. TRIAL MANAGEMENT

This week, the Trial Chamber continued to move forward with Case 002/02 while also completing the unconcluded testimony of prior Civil Party Soy Sen. It also was able to hear that of a third Civil Party who was added late to the trial schedule due to a request from the CPLCLs.

##### A. Attendance

Nuon Chea waived his right to be present in the courtroom and observed proceedings from the holding cell, while Khieu Samphan was present in the courtroom during all sessions throughout the week.

**Judge Attendance:** All judges of the Trial Chamber were present throughout the week.

**Civil Parties Attendance:** Approximately ten Civil Parties observed the proceedings each day this week from inside in the courtroom.

**Parties:** All the Parties were present in the courtroom throughout this week.

##### Attendance by the public:

DATE	MORNING	AFTERNOON
Tuesday 24/03/2015	<ul style="list-style-type: none"><li>▪ Approximately 250 villagers from Baribour District, Kampong Chhnang Province</li><li>▪ Three foreign observers</li></ul>	<ul style="list-style-type: none"><li>▪ Approximately 100 villagers from Baribour District, Kampong Chhnang Province</li><li>▪ Nine foreign observers</li></ul>
Wednesday 25/03/2015	<ul style="list-style-type: none"><li>▪ Approximately 200 villages from Kokir Thum Commune, Kien Svay District, Kandal Province</li><li>▪ Approximately 25 students from Youth Resource Development Program (YRDP), Khan Toul Kok, Phnom Penh</li></ul>	<ul style="list-style-type: none"><li>▪ Approximately 200 villagers from Kokir Thum Commune, Kien Svay District, Kandal Province</li><li>▪ One foreign observer</li></ul>
Thursday 26/03/2015	<ul style="list-style-type: none"><li>▪ Approximately 200 villagers from Baribour District, Kampong Chhnang Province</li><li>▪ Six foreign observers</li></ul>	<i>No proceeding</i>

##### B. Time Management

This week, the Trial Chamber was flexible in adjusting its hearing times as necessary in order to complete the testimonies of three Civil Parties within three days. For example, the Trial Chamber extended the 25 March hearing until 4:39PM in order to complete the testimony of Civil Party Soy Sen, as he was unavailable to return to the Court on another day. On 26 March, the Trial Chamber extended the morning session until 12:12PM to complete the testimony of Civil Party Oung Saroeun, rather than the usual close of the morning sessions at 11:30AM. The Trial Chamber also announced adjustments to its normal hearing schedule for next week because a 96 year-old witness, Mr. Richard Dudman, will testify via videolink from the United States. Hearings will run for three days from 8:00 to 10:00AM.

### C. Courtroom Etiquette

On March 24, the President raised his tone as he rapidly dismissed the request from Counsel Suon Visal to withdraw the protective measures for Civil Party Soth Saing's testimony, after he stated he did not fear testifying. On March 26, Counsel Victor Koppe objected to both the Civil Parties and the OCP after they did not ask many questions about the senior leaders' visit to the dam worksite; Prosecutor Vincent de Wilde accused Defense Counsel of preventing him from completing his examination in his nearly expired questioning time.

### D. Translation and Technical Issues

Several translation errors occurred this week. For example, on March 24, there was no translation into Khmer during international assistant prosecutor Dale Lysak's response to an objection from Counsel Victor Koppe, prompting the Trial Chamber's instruction for the Court Officer to check with the AV Unit. Throughout Counsel Victor Koppe's examination of Civil Parties, he repeatedly complained of translation issues relating to both the simultaneous interpretation of the Civil Parties' statements and the lack of consistency in translation of documents in the Court's three official languages. There were no substantial interruptions due to technical issues throughout this week.

### E. Time Table

DATE	START	MORNING BREAK	LUNCH	AFTERNOON BREAK	RECESS	TOTAL HOURS
Tuesday 24/03/2015	9:02	10:10 – 10:30	11:31 – 13:28	14:58 – 15:20	(*)Closed session at 15:50(*)	4 hours and 9 minutes
Wednesday 25/03/2015	8:59	10:10 – 10:28	11:31 – 13:28	14:43 – 15:02	16:39	5 hours and 6 minutes
Thursday 26/03/2015	8:58	10:13 – 10:29	–	–	12:12	2 hours and 58 minutes
Average number of hours in session				4 hours and 4 minutes		
Total number of hours this week				12 hours and 13 minutes		
Total number of hours, day, weeks at trial				145 hours and 36 minutes		
40 TRIAL DAYS OVER 14 WEEKS						

\*This report was authored by Johanna Hamark Kindborg, Huy Sambor, Daniel Mattes, Lina Tay, Phoebe Sabin, Penelope Van Tuyl, and Oudom Vong as part of AIJI's KRT Trial Monitoring and Community Outreach Program. AIJI is a collaborative project between the East-West Center, in Honolulu, and the WSD Handa Center for Human Rights and International Justice at Stanford University (previously known as the UC Berkeley War Crimes Studies Center). Since 2003, the two Centers have been collaborating on projects relating to the establishment of justice initiatives and capacity-building programs in the human rights sector in Southeast Asia.



**Unless specified otherwise,**

- § the documents cited in this report pertain to *The Case of Nuon Chea and Khieu Samphan* before the ECCC;
- § the quotes are based on the personal notes of the trial monitors during the proceedings;
- § the figures in the *Public Attendance* section of the report are only approximations made by AIJI staff; and
- § photos are courtesy of the ECCC.

**Glossary of Terms**

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	Royal Army of Kampuchea
VSS	Victims Support Section
WESU	Witness and Expert Support Unit

<sup>1</sup> Mr. SOTH Saing (2-TCCP-304) was questioned in the following order: President NIL Nonn; national Civil Party Lawyer KIM Mengkhy; international assistant prosecutor Dale LYSAK; Judge Claudia FENZ; Judge Jean-Marc LAVERGNE; international Co-Lawyer for Nuon Chea, Victor KOPPE; national Co-Lawyer for Khieu Samphan, KONG Sam Onn; international Co-lawyer for Khieu Samphan, Anta GUISSÉ; Judge Jean-Marc LAVERGNE a second time; international Co-Lawyer for Khieu Samphan, Anta GUISSÉ, a second time.

<sup>2</sup> The Civil Party confirmed Van Soeun’s testimony that they were cousins, but Soth Saing clarified that they did not meet until they were assigned to KTC together. For more on the testimony of Witness Srei Thán, *alias* Little Duch, see CASE 002/02 KRT TRIAL MONITOR, Issue 10, Hearings on Evidence Week 7 (23-25 February 2015); for more on the testimony of Witness Van Soeun, *alias* Suon, see CASE 002/02 KRT TRIAL MONITOR, Issue 11, Hearings on Evidence Week 8 (3-5 March 2015).

<sup>3</sup> For more on Soy Sen’s allegations against Saing during his testimony, see CASE 002/02 KRT TRIAL MONITOR, Issue 7, Hearings on Evidence Week 4 (2-6 February 2015), pp. 4-6.

<sup>4</sup> See CASE 002/02 KRT TRIAL MONITOR, Issue 7, Hearings on Evidence Week 4 (2-6 February 2015), p. 8.

<sup>5</sup> Mr. SOY Sen (2-TCCP-271) was questioned in the following order: national Civil Party Co-Lawyer MOCH Sovannary; international senior assistant prosecutor Vincent DE WILDE D’ESTMAEL; international Co-Lawyer for Nuon Chea, Victor KOPPE; international Co-Lawyer for Khieu Samphan, Anta GUISSÉ.

<sup>6</sup> For testimony of Witness Srei Thán, *alias* Little Duch, see CASE 002/02 KRT TRIAL MONITOR, Issue 10, Hearings on Evidence Week 7 (23-25 February 2015); for testimony of Witness Van Soeun, *alias* Suon, see CASE 002/02 KRT TRIAL MONITOR, Issue 11, Hearings on Evidence Week 8 (3-5 March 2015).

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<sup>7</sup> Ms. OUNG Saroeun (2-TCCP-980) was questioned in the following order: national Civil Party Lawyer KIM Mengkhy; national assistant prosecutor SREA Rattanak; international senior assistant prosecutor Vincent DE WILDE D'ESTMAEL; Judge Claudia FENZ; Judge Jean-Marc LAVERGNE; international Co-Lawyer for Nuon Chea, Victor KOPPE; international Co-Lawyer for Khieu Samphan, Anta GUISSÉ.

<sup>8</sup> For summary of Ms. CHOU Koemlân's testimony, see CASE 002/02 KRT TRIAL MONITOR, Issue 6, Hearings on Evidence Week 3 (26-29 January 2015), pp. 3-4.

<sup>9</sup> For summary of Mr. NUT Nouv's testimony, see CASE 002/02 KRT TRIAL MONITOR, Issue 13, Hearings on Evidence Week 10 (16-19 March 2015), p. 2.

<sup>10</sup> For previous reporting on the Court's directives on protection of privacy for possible victims of sexual violence, see CASE 002/02 KRT TRIAL MONITOR, Issue 12, Hearings on Evidence Week 9 (9-12 March 2015), p. 6; CASE 002/02 KRT TRIAL MONITOR, Issue 7, Hearings on Evidence Week 4 (2-6 February 2015), pp. 5, 8.

<sup>11</sup> Article 68 of the Rome Statute, entitled "Protection of the victims and witnesses and their participation in the proceedings" states, among other things: "The Court shall take appropriate measures to protect the safety, physical and psychological well-being, dignity and privacy of victims and witnesses...in particular, but not limited to, where the crime involves sexual or gender violence...The Chambers of the Court may, to protect victims and witnesses or an accused, conduct any part of the proceedings *in camera*...In particular, such measures shall be implemented in the case of a victim of sexual violence." Pages 6-7 of UN Women's 2012 report, "A Window of Opportunity: Making Transitional Justice Work for Women," notes difficulties in protection of victims and witnesses before international and hybrid courts, including, "The insensitivity with which victims are often treated...and the general neglect with which crimes of a sexual nature are treated." In the Cambodian context, Page 12 of the VSS' 2012 "ECCC Baseline Study on Gender Sensitivity in Transitional Justice Processes in Cambodia" finds: "As a national Cambodian Court, the ECCC follows its own Internal Rules of Procedure (IRs). These rules have not obstructed the provision of the same protections of witnesses to the ECCC as those available to witnesses to the ICC. Respondents report that judges are responsive to special protection measures, including in regards to gender based violence. Independent Civil Party lawyers have proposed amendments to the Internal Rules to include specific protection measures and safeguards for victims/witnesses of sexual violence. These have not been adopted by the Plenary. Special gender-sensitive measures, including but limited to witness collaboration, witness examination or cross examination are not specified in the IRs." Other reports by the ECCC or Cambodian civil society organizations consistently underline the need for greater gender sensitivity training for the Parties and staff of the ECCC.