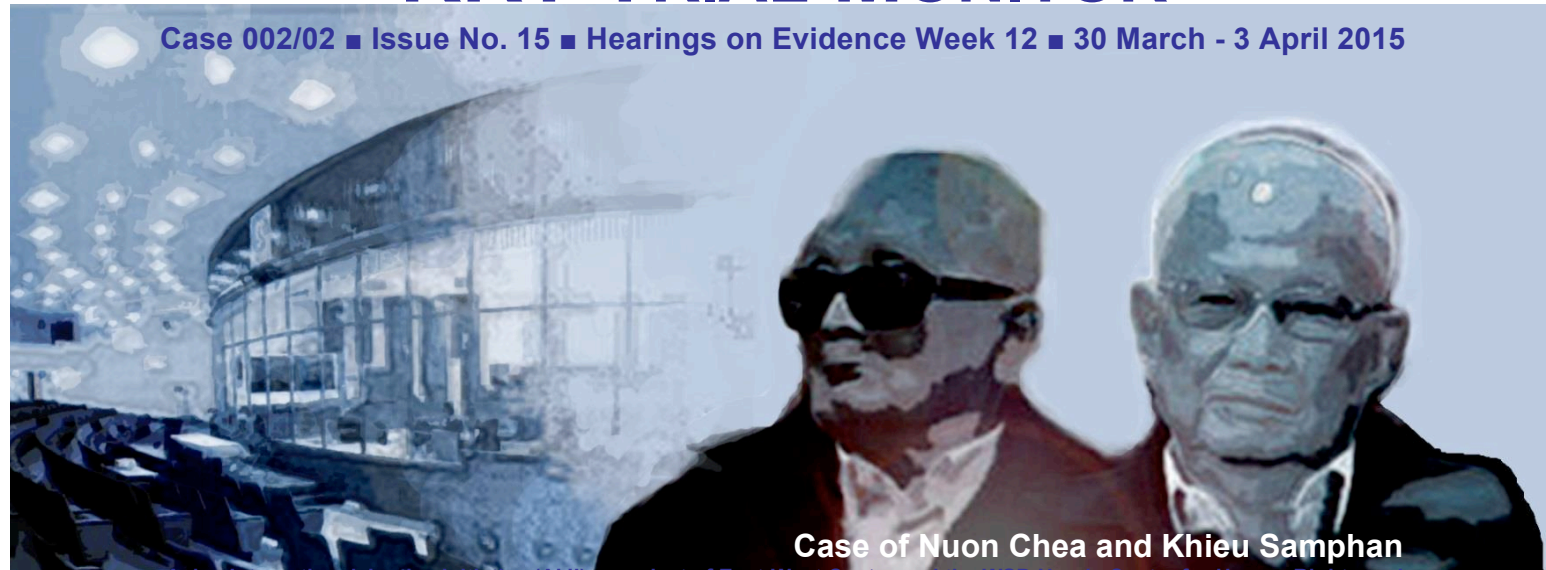


KRT TRIAL MONITOR

Case 002/02 ■ Issue No. 15 ■ Hearings on Evidence Week 12 ■ 30 March - 3 April 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)

*I felt I was completely deprived of any psychological base.
In the past, we could go celebrate ceremonies in the pagoda,
but there was no longer any place to do so. That was, in fact, incredible.
It was an incredible regime.*

- Civil Party Bun Saroeun

I. OVERVIEW

In the final week of hearings before the Khmer New Year holiday, the Trial Chamber heard the statements of suffering of eight Civil Parties related to the harm they suffered under the DK regime. The Civil Parties appeared over two and a half days of victim impact hearings, which were scheduled as the trial segment on Tram Kak District cooperatives and Kraing Ta Chan Security Center nears its completion. The eight men and women who appeared spoke of their experiences in rural cooperatives in Tram Kak District, their maltreatment under the Khmer Rouge authorities, and the loss of family members. The Chamber also heard the witness testimony of Mr. Richard Dudman, an American journalist, via video link to the United States. He mostly discussed his experience visiting Democratic Kampuchea in December 1978 alongside Elizabeth Becker, an expert witness who testified in February 2015. However, his memory loss linked to old age inhibited him from providing many details in his responses. In the days preceding the victim impact hearings, the Chamber also dealt with legal arguments concerning the probative value of Civil Party statements of suffering in establishing facts or evidence of crimes. With the conclusion of hearings this week, the Trial Chamber adjourned proceedings until 21 April 2015, to allow Parties more time to review the recent evidentiary disclosures from the investigations in Cases 003 and 004, and also due to a previously scheduled judicial recess to mark the Khmer New Year holiday.

II. SUMMARY OF VICTIM IMPACT HEARINGS

In two and a half days of victim impact hearings this week, the Trial Chamber heard eight Civil Parties' testimonies on the harms they suffered under the DK regime. Five women and three men testified on their experiences in Tram Kak District from 1975 to 1979. Five of the Civil Parties who appeared were children under the regime, and one of the Civil Parties was the first Cham Muslim to testify in Case 002/02.

A. Background on the Civil Parties

The first Civil Party to testify was 67-year-old Ms. Tak Sann. She was born in Kiri Vong District, Takeo Province, but fled Cambodia's Civil War to Kampuchea Krom (Southern Vietnam), where she lived until an official exchange to return to DK resulted in her assignment to a cooperative in Tram Kak District. The second Civil Party, Ms. Iem Yen, was born in Kiri Vong District in 1968 but was later assigned to work in a DK children's unit in Trapeang Thum Khang Cheung Commune, Tram Kak District. The third Civil Party, Mr. Thann Thim, was born in 1945. Although born in Takeo Province, he was living in a refugee camp in Phnom Penh on 17 April 1975, when he was evacuated to Kiri Vong District. In 1978, he was again transferred to Trapeang Thum Khang Cheung Commune, Tram Kak District. The Trial Chamber delayed further examination of Mr. Thann Thim until a future hearing after Defense Counsel noted the interesting details of his testimony on his detention at Ang ROKAR prison and requested he return to testify not only on suffering, but also on facts. On 3 April, the President announced that Thann Thim would reappear on 21 April, when the Court will resume its hearings after the Khmer New Year judicial recess.

The fourth Civil Party to testify this week was Mr. Beng Boeun, a Sino-Khmer who was born in 1939 and who was evacuated from Phnom Penh to Tram Kak District. The fifth Civil Party, Ms. Yem Khunhy, was born in Kampuchea Krom but moved with her family to Takeo Province in DK at age 14, after her mother heard about "an abundance of food" there. The sixth Civil Party invited to testify was Mr. Bun Saroeun. He was born in 1963 and, in 1975, he was moved to work in a DK children's unit in Prey Chher Teal Village, Ta Phem Commune, Tram Kak District. The seventh Civil Party, Ms. Em Vannak, was eight years old at the outset of the DK period. In mid-1975, the Civil Party and her family members were evacuated from their home in Takeo provincial town to live in Ang Noreay Village, Leay Bour Commune, Tram Kak District. The eighth and final Civil Party to appear this week was Ms. Lip Neang, who also was the first Cham Muslim to testify thus far in Case 002/02. The 51-year-old Civil Party currently lives in Kampot Province, but she lost all of her siblings and her mother while living in Tram Kak District.¹

B. Clarifications on Inconsistencies Between Victim Forms and Testimonies

Throughout the questioning of the eight Civil Parties this week, the Parties raised a number of discrepancies between the victim information forms, filed as part of the Civil Party applications, and the Civil Party testimonies in the courtroom. Defense Counsel for Khieu Samphan were especially interested in inconsistencies regarding the birthplaces of those Civil Parties who identified as Khmer Krom. Counsel also inquired as to the involvement of Mr. Chau Ny, a Civil Party who testified in Case 002/01, in the applications of those Khmer Krom Civil Parties. Civil Party Lawyers argued that the Civil Parties were not testifying on discrimination against the Khmer Krom, but on their suffering during the DK period. Although the international CPLCL initially rebuffed the Defense Teams' inquiries, insisting that the occasion to dispute the Civil Party applications had passed with the close of the Case's investigation, she eventually acknowledged the degree of inconsistency in the applications and promised to provide more formal and detailed clarification of the discrepancies at a later date. Nonetheless, she requested that the Trial Chamber proceed expeditiously to hear all eight Civil Parties this week rather than allow further examination of these details to delay the impact hearings.

C. Civil Party Statements on Food Rations

All Civil Parties stated the insufficient amount of food supply during the Khmer Rouge regime. Ms. Em Vannak recalled that she would secretly eat leaves in order to try and combat her starvation. Civil Parties Tak Sann and Iem Yen noted that the rations worsened throughout the course of the regime and they were usually given gruel. Tak Sann mentioned that she had to withhold some of her own ration for her young child. Civil Parties also recounted that lack of

food was used as a threat to ensure people continued to work, and they dared not complain about the rations for fear of maltreatment or killing. Ms. Yem Khunmy added that, when Khmer Rouge cadres asked if the food was delicious, people would lie and agree out of fear. Tak Sann explicitly recalled that the food rations for 'base people' and 'new people' were unequal, stating that the 'base people' received more food than "her" 'new people'. Regarding the 'base people', Civil Party Beng Boeun proclaimed that, in one instance, his mobile unit of '17 April people' was provided poisoned noodles prepared by the 'base people'. Although no other Civil Parties made reference to meat in their food rations, Cham Civil Party Lip Neang recounted that she was regularly forced to eat gruel with pork, an act prohibited in her religion. She claimed this would occur every few days, whenever the unit chiefs and militemen killed a pig.

D. Civil Party Statements on Work Duties

All Civil Parties recalled that, as part of their work duties, they were tasked to dig or carry earth, termite mounds, or cow dung. Civil Party Lip Neang recalled that, if the quota of dug earth was not met at the end of the day, workers would have to continue throughout the night. Em Vannak noted that children were assigned to different groups based on whether they were 'base people' or 'new people'. All Civil Parties mentioned the difficulty of this work, and Tak Sann specifically noted that she was pregnant and tasked to continue to work until she delivered her baby; she recalled multiple instances in which her basket was overloaded and she fell. Civil Parties Tak Sann, Bun Saroeun, and Iem Yen claimed they had to transport or make fertilizer with plants and excrement. Tak Sann had to taste the fertilizer made from excrement in order to test it before use on rice seedlings; she testified that she would force herself to do this for fear of torture. In addition, she claimed that she worked with a mix of people, including 'base people'. However, she said that only 'base people' led the work units, and thus, 'base people' were not required to work as hard as others. Beng Boeun maintained that the "extremely intense" working conditions did not improve over the course of the regime, and most Civil Parties testified that they were unable to rest, or dared not to, out of fear. Iem Yen, Em Vannak and Bun Saroeun explained that children like themselves were prohibited from receiving education in DK and instead had to work both day and night. Bun Saroeun noted the only "lesson" they received was simply to eat and work, and he blamed the regime's lack of an educational system for his "ignorance" today.

E. Three Civil Party Statements on Mistreatment, Arrest, and Torture

Civil Party Iem Yen recalled that she missed her parents so much that she ran away from her children's unit, only to be captured and buried up to her neck for two to three hours by her unit chief, Rom. She was deprived of food and water and warned not to commit such an offense again. Iem Yen explained, "Nothing could compare to it...it was the greatest pain I had ever experienced."² The Civil Party admitted that she was physically dragged back to her unit by militiamen after she tried to escape another two or three times. She testified about another incident of corporal punishment. Upon stealing some cassava on another occasion, Iem Yen was arrested again. As a warning not to steal anything again, she was tied up along with two other children, tortured, and whipped in the abdomen, and she subsequently had to attend a self-criticism meeting.

Thann Thim testified that, when he was summoned to a militia station for a meeting, he was instead tied up, beaten to unconsciousness, and interrogated. He recalled that he was called "contemptible," and questions were asked "immorally" on details of his previous occupation in Phnom Penh, where he claimed to have lived as a war refugee. The Civil Party was then transported to Ang Rokar market, from where he was escorted at gunpoint through fields toward a nearby prison office. The Civil Party claimed he was pushed into a cell there, and his hands and ankles were shackled with an iron rod, that left him with a wound that has lasted until today. He declared he was "seriously tortured" at Ang Rokar prison and interrogated by a person named Meng over the course of three months, after which he was allowed to do tasks

during the daytime and was only shackled at night.³ He claimed he was arrested after his daughter was arrested for stealing sugar cane, and forced to confess that her father was a former Lon Nol officer. Counsel Victor Koppe has signaled he will examine Thann Thim further on the facts surrounding his experiences in detention at Ang Rokar prison, and the Parties will have an opportunity to do so when the Civil Party returns to testify on April 21st.

Em Vannak recalled that she was refused medicine when she fell severely ill. She also recounted a particular incident when she was arrested for fleeing her children's unit to see her parents. She testified that her unit chief, a 15 year-old girl, ordered 20 'base' children from her unit to tie her to a tree and beat her using bamboo clubs with nails attached. The Civil Party also remembered that, on one occasion while collecting rattan in the forest as part of her daily work tasks, she witnessed militiamen with clubs and rifles march people for execution. She claimed she saw "blood being shed everywhere in the forest" as she watched the militiamen beat the victims to death; she recalled she was so frightened that she fainted.

F. Civil Party Statements on Family Members' Arrests and Disappearances

Many of the Civil Parties, including Tak Sann, Iem Yen, Yem Khunny, Lip Neang, and Em Vannak, specifically stated that they were separated from their relatives or spouses when assigned to different work units. Tak Sann, who was pregnant at the time, stated that she was separated from her children and her husband. She explained that her husband disappeared, and she therefore had to give birth and raise her infant alone while completing work tasks. Except for her, Thann Thim, and Beng Boeun, the other five Civil Parties who testified were young children in DK and repeatedly emphasized how much they missed their parents. Bun Saroeun recalled that he was allowed to stay at home with his parents. Em Vannak was only permitted to visit home once a month, as was Iem Yen after visits were reduced from three times per month. Yem Khunny declared that she was only allowed to visit once work was completed.

Civil Parties recalled that they often did not know why family members disappeared or where they were sent. For example, Yem Khunny stated that her mother and siblings agreed to return to their native village in Kampuchea Krom by truck, but they disappeared, and she was uncertain of their fate. She decided to stay in her cooperative, stating, "Because wherever I go, the situation would be the same."⁴ Because of this, she survived, but she lost her parents, grandmother, and three siblings. Ms. Lip Neang recalled that all four of her siblings were taken away but never returned, including some who were sick and allegedly taken to the hospital. Beng Boeun explained that one of his brothers-in-law told a Khmer Rouge cadre that he could drive a car, pilot a plane, and type, and he was thereafter taken away and executed. He added, "Later my neighbors, who liked me very much, told me that anyone who knew how to do anything would not be saved by the Khmer Rouge and that's why he disappeared."⁵ Beng Boeun explained that another brother-in-law was arrested after throwing a coconut down to him from a tree. His brother was tied up in the burning sun, and he was subsequently taken away and presumably executed. When his brother-in-law's wife begged for her husband's release, the Khmer Rouge cadre allegedly answered, "No, don't cry. I'm simply arresting the enemy," and then he took her and their children away as well.

Bun Saroeun's testimony on the disappearance of his brother, a former monk, touched on the treatment of Buddhists under the DK regime. The Civil Party, who had once lived with his brother at the pagoda for study, stated he was "absolutely flabbergasted" that all sacred pagodas in the area had been deserted and that no religious practice took place anymore. The Civil Party claimed that he did not see any monks when he was working at a Tram Kak District pagoda that had been transformed into a militia barracks, which he found "heartbreaking." He said he hoped to see his older brother after his disappearance, but instead found only his robe and other personal effects. Bun Saroeun stated succinctly, "I only saw loss and damage all the way until 1979".

He further explained that his father and uncle, local officials under the Lon Nol regime, and another brother, a former soldier, were arrested and disappeared. Initially, the Civil Party stated that his father, uncle, and brother-in-law were all arrested on 17 April 1975, but he later explained to Counsel Victor Koppe that they were arrested in 1973 or 1974. He only learned more details of their arrest after the 17 April 1975 'liberation' of the country, however. Bun Saroeun testified that, when he and his mother were living at Trapeang Svay Cooperative, he ran into someone he called 'Uncle Ron', who told him that his father was alive but detained at Kraing Ta Chan Security Center (**KTC**), where he had been tortured. Bun Saroeun explained that Uncle Ron lived approximately 100 meters north of the prison site, and he brought the Civil Party and his mother along to watch his father from afar. The Civil Party testified that he watched his father water vegetable plots outside the prison, but his father "was so thin that [he] could not even recognize him." He also claimed that, during the night they spent at Uncle Ron's house, they heard cries emanating from the Security Center.

Civil Party Em Vannak also stated that her brother was detained and killed at KTC. She originally believed the reason for his arrest was that he had committed 'moral misconduct' with a woman, however, she testified that her mother informed her more recently, when she was compiling her Civil Party application, that her brother was arrested because he was a former Lon Nol soldier. Her mother told her that the charge of 'moral misconduct' was merely a "pretext" to arrest her brother. Counsel Victor Koppe asked for further details of this anecdote, suggesting to the Chamber that, if any official policy to target former Lon Nol soldiers existed, it would not have necessitated finding such a "pretext."

III. SUMMARY OF WITNESS RICHARD DUDMAN'S TESTIMONY

Mr. Richard Dudman, a 96-year-old journalist from the United States, is the author of several news articles regarding the Khmer Rouge, and he testified this week as a witness for the Nuon Chea Defense. Hearings were conducted via video link to Maine, in the United States, between 8:00 and 10:00 in the morning.⁶ The questioning of Mr. Dudman focused on his visit to Democratic Kampuchea in December 1978 alongside Elizabeth Becker, an American journalist who previously testified as an expert in Case 002/02, and British scholar Malcolm Caldwell.⁷

A. Experiences as a Journalist Covering Cambodia in and after 1978

Defense Counsel Victor Koppe commenced the examination of Mr. Dudman with reference to the Witness' 1990 *New York Times* Op-Ed that criticized a political narrative that the Khmer Rouge was "murderous" and instead placed more blame on Vietnam.⁸ In Elizabeth Becker's testimony before the Chamber, she had dismissed the article for its reliance on official Khmer Rouge positions as the "single source," stating that other information uncovered since the fall of DK contradicted Dudman's position.⁹ Although Mr. Dudman said he resented Ms. Becker's characterization of his work as "single-source reporting," he distanced himself from that article and agreed that his opinions changed after learning more about the situation in DK. He clearly stated that he now believes that "there was genocide, under the Pol Pot regime,"¹⁰ and he repeatedly characterized his 1978 visit to DK as a "conducted tour." He also confirmed Ms. Becker's testimony that their interview with Pol Pot during that visit resembled more of a "lecture" on the impending Vietnamese invasion. However, Mr. Dudman was unable to recall any further details from the interview, even after Counsel Koppe played a lengthy audio recording of Pol Pot's voice during the meeting.

The Witness then described the murder of his fellow visitor and DK sympathizer, Malcolm Caldwell, at their guesthouse on the night before their departure. He explained that, after hearing gunshots that evening outside the guesthouse, he and Mr. Caldwell spoke and decided to stay inside their rooms. Soon thereafter, a "young man" who was armed arrived in the hallway, and he fired shots at the Witness, who said he narrowly escaped by ducking inside his

room. Shots were then fired through the door, but Mr. Dudman hid in safety. He then heard more shots, and a number of intermittent noises over the course of the subsequent hours he remained hidden in his room. He said that Thiounn Prasith, DK ambassador to the UN and an official leading the foreigners' visit to the country, came to his door and informed him of Mr. Caldwell's death. Mr. Dudman said he went to see the corpse of the British scholar, and he also saw the young armed man dead on the floor. However, he declined to give an opinion on the various theories regarding the reasons behind the attack. His recollection of this particular episode was far more detailed than other aspects of his testimony.

The international prosecutor questioned the Witness on a number of statements from DK radio broadcasts in 1978 using harsh rhetoric toward Vietnamese people. Mr. Dudman claimed he heard hostile, racist, anti-Vietnamese rhetoric throughout his visit but said he never heard such radio broadcasts. Furthermore, Mr. Dudman claimed that a report written by DK officials, describing him as working for the CIA, was a lie. He also explained that he was never allowed to meet senior leaders like King Sihanouk, and that he never was informed that the King was present at the palace in Phnom Penh during his visit to the country. The Witness recalled the feeling that the DK authorities "were putting their best way forward" and not truthfully representing the situation in the country.

B. Witness Demeanor and Credibility

Due to memory loss because of old age, the Witness was unable to provide detailed responses regarding his 1978 visit to Cambodia or his thinking when drafting later news articles. The Parties therefore had minimal questions for the Witness, and his testimony ended early on Wednesday, April 1st. Nonetheless, Mr. Dudman defended his professional integrity throughout his testimony. On several occasions, when questioned on the content of his previous articles about Cambodia and the Khmer Rouge, the Witness explained he adhered to journalistic ethics, and he only wrote what he saw. Mr. Dudman was also very humble, refusing to criticize Ms. Becker for her statements and explaining that he never considered himself an "expert." He said, "I was always learning."¹¹

IV. LEGAL AND PROCEDURAL ISSUES

This week, the Defense Teams raised concerns over the purpose of the upcoming victim impact hearings. Counsel for Nuon Chea noted that his client's appeal in Case 002/01 partially critiqued the Trial Chamber's reliance on Civil Party statements of suffering from the impact hearings as "material evidence" in the Judgment.

A. Debate on Procedures for Victim Impact Hearings

At the outset of a lengthy debate on Tuesday, 31 March and Wednesday, 1 April, Defense Counsel for Nuon Chea, Victor Koppe, made an oral submission in relation to the victim impact hearings scheduled for Thursday and Friday of that week. Mr. Koppe referred to his team's appeal brief in Case 002/01 to note that the Judgment relied on Civil Party statements of suffering from victim impact hearings to establish "material evidence" against the Accused a total of 255 times.¹² Mr. Koppe went on to reason that, if this was to be the case for the upcoming Civil Party testimonies, then equal time should be allocated to the Defense in order to cross-examine the content of the Civil Parties' evidence. Anta Guissé, Counsel for Khieu Samphan, similarly requested clarification on whether the Chamber would use the testimonies to recall only the sufferings of the Civil Parties, or instead to establish fact, which she claimed would unfairly impact any decision of guilt of the Co-Accused. In support of her point, Counsel Guissé referred to the Chamber's prior decision in February 2013 to note its distinction between the types of hearings.¹³

International prosecutor Vincent de Wilde D'Estmael criticized the Defense Teams for making

these arguments so late just before the hearings were scheduled, when the Trial Chamber first sent a memorandum about the hearings in December 2014.¹⁴ Counsel Koppe later disputed this by referring to his team's January 2015 submission on practices for examination of Civil Party testimony, which, he said, also "developed this argument."¹⁵ The Prosecutor also discredited the Nuon Chea appeal brief's arguments for its reference to practices in countries that adhere to a common law tradition, which he said did not apply in "this Chamber," and which he noted does not include Civil Parties in proceedings. As he explained, victims in those systems are largely limited to participation as witnesses or for testimony during sentencing. The Prosecutor further added that, in Case 002/01, the Chamber had given all Parties the opportunity to question Civil Parties on any new allegations raised during their statements, undercutting the Defense Teams' argument that, at the time, they did not know that such questions could be put before the Chamber. International prosecutor Dale Lysak later declared that he was "outraged" when he read the criticism of the victim impact statements of suffering in Nuon Chea's appeal brief because he recalled Defense Counsel's explicit agreement to the Trial Chamber's plan for the hearings during Case 002/01.

The debate continued on Wednesday, 1 April as the Parties clarified their different interpretations of the correct procedure on the matter. Mr. Lysak read aloud the transcript from the May 2013 discussion of the Case 002/01 victim impact hearings, during which he noted that the Defense Teams explicitly agreed to ten points put to the Chamber by international prosecutor Keith Raynor.¹⁶ These emphasized the importance of being able to rely on factual information from Civil Parties, and they also noted that the Defense should be given the opportunity to challenge the evidence heard. Mr. Lysak specifically quoted Mr. Koppe's response: "I don't think I ever would be saying this in a court of law, but I think I agree with all ten submissions from the Prosecution." In Mr. Lysak's view, the Trial Chamber that day had established mutual consent between the Parties on this issue, and therefore, he argued, since then all Parties have known that Civil Parties would be questioned on harm, as well as relevant factual issues. Mr. Koppe again argued that the Defense Teams were owed "equal time" to question the Civil Parties should they raise any factual issues, and Mr. Lysak called this "revisionist history" diverging from that May 2013 transcript.

The Chamber decided to hear two Civil Parties starting on the afternoon of Wednesday, 1 April, in order to allow more flexibility if any Civil Parties discussed facts relevant to the case and it then needed to give the Parties additional time for questioning. With this flexibility, the Chamber was able to cede 45 minutes of additional time to Defense Counsel for Nuon Chea to question Civil Party Em Vannak on the various issues raised during her testimony that were relevant to the wider case. The Chamber heard similar arguments from the Parties in relation to the testimony of Civil Party Thann Thim on 2 April, and it eventually agreed to a request from the Defense Teams to postpone his examination until after the victim impact hearings and to invite him back at a later date as a Civil Party formally testifying to facts.

IV. TRIAL MANAGEMENT

In the final week of hearings before the scheduled judicial recess, the Trial Chamber succeeded in hearing the testimony of Witness Richard Dudman, via video link, and the eight Civil Parties of the victim impact hearings. Scheduling modifications, as well as the President's interventions in questioning, ensured that the proceedings moved expeditiously and remained on topic. The Chamber adjourned further hearings until 21 April, to allow for one week of judicial recess for the Khmer New Year holiday, as well as an additional week for the parties to review the recent evidentiary disclosures from Cases 003 and 004.

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. Staff from the Transcultural Psychosocial Organization (TPO), a local

NGO, were present alongside the Civil Parties to provide emotional support as they testified this week.

Judge Attendance: National Judge You Ottara was absent on 3 April due to a personal commitment and National Reserve Judge Thou Mony sat in his stead.

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, with the exception of Mr. Son Arun, national Co-Lawyer for Nuon Chea, who was absent due to personal engagements on 2 and 3 April. Mr. Calvin Saunders, international Court-Appointed Standby Counsel for Khieu Samphan, arrived to the courtroom 15 minutes late on 1 April.

Attendance by the public:

DATE	MORNING	AFTERNOON
Monday 30/03/2015	<ul style="list-style-type: none"> Approximately 250 villagers from Baribour District, Kampong Chhnang Province Three foreign observers 	<i>No proceeding</i>
Tuesday 31/03/2015	<ul style="list-style-type: none"> Approximately 150 villagers from Preah Sdach District, Prey Veng Province Approximately 250 students and teachers from four different universities in Phnom Penh Two foreign observers 	<i>No proceeding</i>
Wednesday 01/04/2015	<ul style="list-style-type: none"> Approximately 170 students from four different universities in Phnom Penh Three foreign observers 	<ul style="list-style-type: none"> Approximately 100 villagers from Traing District, Takeo Province Two foreign observers
Thursday 02/04/2015	<ul style="list-style-type: none"> Approximately 300 villagers from Traing District, Takeo Province Ten foreign observers 	<ul style="list-style-type: none"> Approximately 103 students from different training institutes in Phnom Penh Four foreign observers
Friday 03/04/2015	<ul style="list-style-type: none"> Approximately 300 villagers from Traing District, Takeo Province Ten foreign observers 	<ul style="list-style-type: none"> Six foreign observers

B. Time Management

The week's hearings saw the Trial Chamber successfully complete the testimony of one overseas witness as well as the victim impact statements of eight Civil Parties through strict time allocation for all the Parties. The Chamber also decided to begin the victim impact hearings a half-day early, on the afternoon of April 1st, to provide additional flexibility for the subsequent hearing days. However, it was unclear why the Chamber decided to wait over four hours, until the afternoon, to begin the victim hearings that day, as the testimony of Witness Richard Dudman had concluded early, at 8:44AM, and the Greffier had reported the

two Civil Parties scheduled to testify were present that morning. Throughout the remaining testimony of Civil Parties on 2 and 3 April, the Trial Chamber repeatedly asked all Parties to tailor questions to focus on the Civil Parties' suffering rather than questions of facts. However, the Trial Chamber also struck a balance between the OCP and the Defense by granting the Defense an additional 45 minutes to question Civil Party Em Vannak, after the OCP exceeded its time allotment.

C. Courtroom Etiquette

The hearings on victim impact were emotionally difficult for the testifying Civil Parties, and they stoked tensions between the Parties with regards to interruptions from Defense Counsel. There was generally a measure of respect, exemplified by the quiet that filled the courtroom as Civil Party Iem Yen recalled her accounts of punishment in the DK regime. However, when Victor Koppe objected to the CPLCL's line of questioning during the testimony of the first Civil Party, Ms. Tak Sann, he used an expression that incurred a strong response from Ms. Guiraud and a rebuke from Judge Fenz. Although he referred to Ms. Guiraud's questioning when he said "If it walks like a duck, swims like a duck, quacks like a duck, it must be a duck," the CPLCL understood this as a reference to the statements of the Civil Party herself, and called the objection both shocking and perplexing. Clearly angry, she digressed, "I must say that this objection was really the straw that broke the camel's back." Before overruling Mr. Koppe's objection, Judge Fenz noted the use of such language was "questionable at best."

The President also criticized Defense Counsel on two separate occasions for straying from the victim impact hearings' emphasis on suffering. When Counsel Kong Sam Onn continued to ask Civil Party Beng Boeun about the treatment of the ethnic Chinese, the President cut it off as related neither to suffering nor to the scope of Case 002/02. He interrupted Counsel, ordered him to sit down, and subsequently concluded the Civil Party's examination. Following this, Counsel Victor Koppe noted that the Trial Chamber had referred to this Civil Party's testimony in its Judgment in Case 002/01 on four occasions, and he was beginning to emphasize the "material concerns" of the Defense when the President interrupted him to thank the TPO staff member who was leaving the courtroom. He then turned to Counsel and asked if he was criticizing the Chamber. Mr. Koppe reacted bluntly, "That's exactly what I was doing, Mr. President. I was criticizing you for cutting us off." The President responded that Counsel had already asked questions and could not "take the floor whenever [he] wish[ed] to do so."

D. Translation and Technical Issues

The President interrupted Counsel Koppe's questioning of Witness Richard Dudman on 31 March and during that of Civil Party Yem Khunmy on 3 April when English-to-Khmer translation failed. There were no notable technical issues during the testimony of Richard Dudman via international video link. However, a courtroom microphone failed to operate during the OCP's examination of Civil Party Thann Thim on 2 April, and proceedings were briefly interrupted as a technician arrived to fix it.

E. Time Table

DATE	START	MORNING BREAK	LUNCH	AFTERNOON BREAK	RECESS	TOTAL HOURS
Monday 30/03/2015	8:01	8:59 – 9:08	–	–	9:56	1 hour and 46 minutes
Tuesday 31/03/2015	8:01	8:58 – 9:08	–	–	10:57	2 hours and 46 minutes

Wednesday 01/04/2015	8:01	8:44 – 12:59		14:17 – 14:38	15:29	2 hours and 52 minutes
Thursday 02/04/2015	9:11	10:12 – 10:30	11:29 – 13:28	14:24 – 14:56	15:57	3 hours and 57 minutes
Friday 03/04/2015	9:02	9:56 – 10:14	11:28 – 13:29	14:46 – 14:59	16:02	4 hours and 28 minutes
Average number of hours in session				3 hours and 9 minutes		
Total number of hours this week				15 hours and 49 minutes		
Total number of hours, day, weeks at trial				161 hours and 25 minutes		
45 TRIAL DAYS OVER 15 WEEKS						

*This report was authored by Johanna Hamark Kindborg, Huy Sambor, Lonh Nget, 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
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
VSS	Victims Support Section
WESU	Witness and Expert Support Unit

¹ The eight Civil Parties were questioned by the following persons: President NIL Nonn; international Lead Co-Lawyer for the Civil Parties Marie GUIRAUD; national Civil Party lawyer LOR Chunthy; national Civil Party lawyer Prosecutor SREA Rattanak; international senior assistant prosecutor Vincent DE WILDE D'ESTMAEL; 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.

² Trial Chamber, Transcript of Trial Proceedings (1 April 2015), E1/286.1, lines 11-14, p. 61.

³ This testimony relates to that of Witness Van Soeun, alias Suon, who testified that he delivered a letter from District 105 Chief Ta San to Chhoeun at Kraing Ta Chan, instructing the Security Center to “sweep clean” a number of widows and children under the oversight of ‘Meng’ at a prison near Ang Rokar market. Witness Neang Ouch, alias Ta San, also acknowledged helping to write that letter, although he blamed the order on Ta Ron, his superior at the level of Sector 13. For summary of Mr. VAN Soeun’s testimony, see CASE 002/02 KRT TRIAL MONITOR, Issue 11, Hearings on Evidence Week 8 (3-5 March 2015), pp. 2-3; for summary of Mr. NEANG Ouch’s testimony, see CASE 002/02 KRT TRIAL MONITOR, Issue 12, Hearings on Evidence Week 9 (9-12 March 2015), pp. 2-4.

⁴ Trial Chamber, Transcript of Trial Proceedings (2 April 2015), E1/287.1 [hereinafter **2 APRIL TRANSCRIPT**], lines 24-25, p. 90.

⁵ **2 APRIL TRANSCRIPT**, lines 21-23, p. 60.

⁶ Mr. Richard DUDMAN (2-TCW-923) was questioned in the following order: President NIL Nonn; international Co-Lawyer for Nuon Chea, Victor KOPPE; international assistant prosecutor Dale LYSAK; international Civil Party Lead Co-Lawyer Marie GUIRAUD; international Co-Lawyer for Khieu Samphan, Anta GUISSÉ.

⁷ For summary of Ms. Elizabeth BECKER’s testimony, see CASE 002/02 KRT TRIAL MONITOR, Issue 8, Hearings on Evidence Week 5 (9-12 February 2015), pp. 2-7.

⁸ Richard Dudman, “Pol Pot: Brutal, Yes, but No Mass Murderer,” *New York Times* (17 August 1990).

⁹ See CASE 002/02 KRT TRIAL MONITOR, Issue 8, Hearings on Evidence Week 5 (9-12 February 2015), endnote 28, p. 14.

¹⁰ Trial Chamber, Transcript of Trial Proceedings (30 March 2015), E1/284.1 [hereinafter **30 MARCH TRANSCRIPT**], lines 1-2, p. 21.

¹¹ **30 MARCH TRANSCRIPT**, line 14, p. 11.

¹² Nuon Chea Defense Team, ‘Nuon Chea’s Appeal Against the Judgment in Case 002/01’ (29 December 2014), F16, para. 187.

¹³ Trial Chamber, ‘Further Information Regarding Trial Scheduling’ (7 February 2013), E236/5.

¹⁴ Trial Chamber, ‘Information on (1) Key Document Presentation Hearings in Case 002/02 and (2) Hearings on Harm Suffered by the Civil Parties in Case 002/02’ (17 December 2014), E315/1, paras. 7-9.

¹⁵ Nuon Chea Defense Team, ‘Nuon Chea’s Request Regarding Certain Practices to be Undertaken When Examining Upcoming Civil Party 2-TCCP-271 and Other Case 002/02 Witnesses and Civil Parties Generally’ (16 January 2014), E336.

¹⁶ Trial Chamber, ‘Transcript of Trial Proceedings’ (20 May 2013), E1/193.1, pp. 105-110.