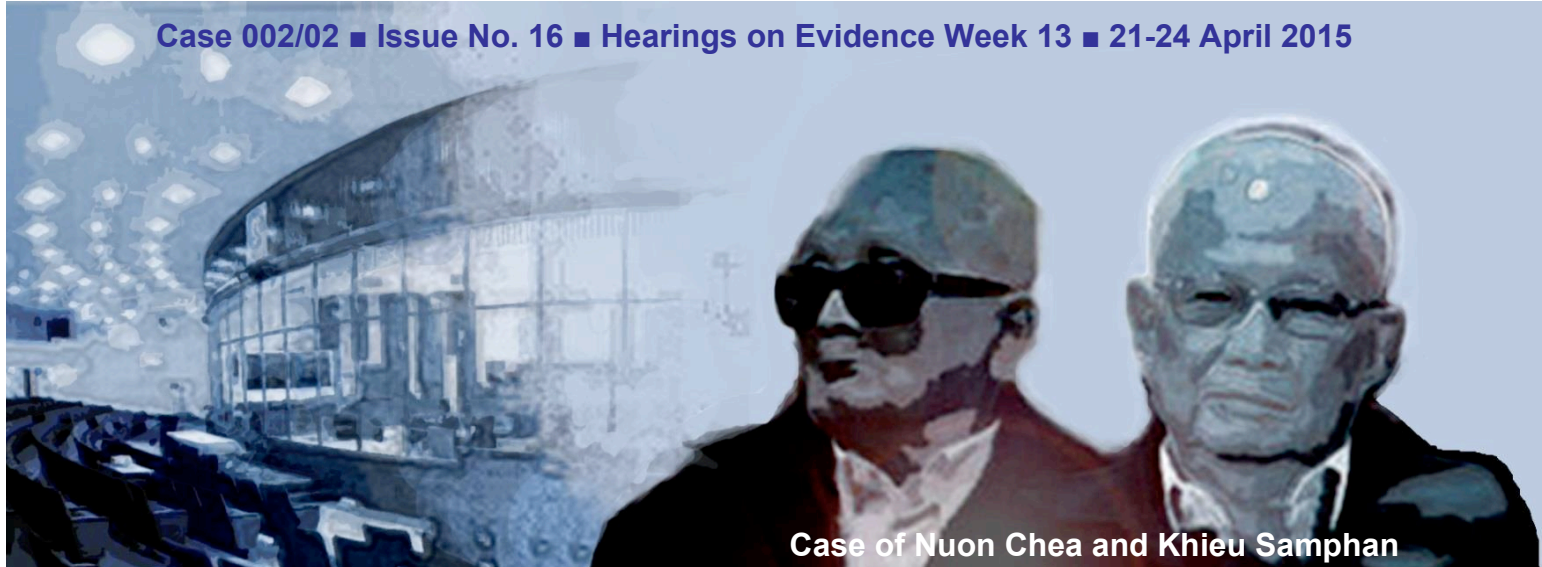


KRT TRIAL MONITOR

Case 002/02 ■ Issue No. 16 ■ Hearings on Evidence Week 13 ■ 21-24 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)

*We were not extravagant; we tried to be economical, not to be greedy.
We did not take in our possession what belonged to others, so that was the position it was
meant to be, so it had to belong to the peasant who was honest and obedient;
the peasant who was friendly and self-disciplined.*

- Witness Pech Chim

I. OVERVIEW

After returning from a judicial recess for Khmer New Year, the Trial Chamber resumed its proceedings in Case 002/02 this week with the second appearance of a Civil Party, as well as that of a witness who first testified before the Court during Case 002/01. Civil Party Thann Thim, who had initially appeared at the 2 April victim impact hearing, testified on the living conditions in Tram Kak District cooperatives, including details of the discrimination directed at '17 April people'. He also detailed his experiences of arrest and detention at Ang Roka prison in 1978. Witness Pech Chim, alias 'Ta Chim', who testified before the Trial Chamber in Case 002/01, reappeared to testify in this trial over the course of four days. The Witness was chief of Tram Kak District for approximately six months between 1976 and 1977, and his testimony touched on a number of topics, including DK administration, the formation of cooperatives, the repatriation of ethnic Vietnamese, the defrocking of Buddhist monks, the regulation of marriage, and the purges of Khmer Rouge cadres in the Central Zone after 1977. This report also covers the Trial Chamber's management of proceedings as well as legal issues raised by the Parties during the examinations of Thann Thim and Pech Chim.

II. SUMMARY OF CIVIL PARTY AND WITNESS TESTIMONY

This week, the Trial Chamber invited two people to return to the courtroom for their second appearances before the Court. The first, Civil Party Thann Thim, previously appeared before the Chamber at the victim impact hearings at the start of April 2015, but the Defense asked for him to return to testify to facts. The second, Witness Pech Chim, testified in Case 002/01 on 1 July 2013, and he returned this week to convey his knowledge of DK administration especially in Tram Kak District, which he oversaw as chief for six months in 1976 and 1977.

A. Summary of Testimony by Civil Party Thann Thim

This week, the Trial Chamber invited back Civil Party Thann Thim for further examination. During the Civil Party's prior appearance at the victim impact hearing on 2 April 2015, Defense Counsel Victor Koppe noted "interesting" details in his testimony regarding his detention at Ang Roka prison, and Counsel requested he return to testify not only on suffering, but also on facts.¹ On Tuesday the 21st, Thann Thim was questioned for three sessions on his family's separation, discrimination taking place against 17 April people, the food situation in DK, disappearances of people who held ranks in the Lon Nol regime, and his own arrest in 1978.²

1. Experiences in Rural Cooperatives

Thann Thim testified that, during the DK period, his family was separated to work in different units. The Civil Party claimed that women, children, and men were generally separated into different units. He stated that his wife was born in Kampuchea Krom, and he explained that Khmer Krom and ethnic Vietnamese people faced discrimination and often disappeared. The Civil Party explained that the ethnic groups were singled out based on their accents. He stated that, after his family's evacuation from a Phnom Penh refugee camp to Kiri Vong District, people were asked to announce if they held any rank in the Lon Nol regime, and that those who admitted any rank were told they would be reinstated but instead disappeared. According to the Civil Party, these people were taken away to be killed. The Civil Party claimed that, in September or October 1977, a Kiri Vong District cadre announced that '17 April people' had to be evacuated to Tram Kak district since they were too close to the Vietnamese border. According to Thann Thim, cadres were afraid that they would escape to Vietnam, and, to his recollection, they were transferred in five trucks, each containing 30 to 40 people. The Civil Party explained that '17 April people' from Kiri Vong District were treated worse than other 'new people' in Tram Kak District. The Civil Party also stated that people got sick due to food shortages, and the worst affected were taken away.

2. Experiences at Ang Roka Prison

Thann Thim stated that, a few months after his arrival in Tram Kak District, he was arrested at nighttime, when the chief of the oxcart unit, Ta Pon, came to fetch him in order to accompany him to a meeting. The Civil Party explained that he thought he would die, because 'base people' never invited '17 April people' to meetings. He claimed that the militiamen brought him into the prison, where he was tortured, interrogated, and accused of being a lieutenant in Phnom Penh. The Civil Party explained that he later learned his six-year-old daughter had been arrested for stealing food and admitted under coercion that he held this position. Moreover, the Civil Party explained that, upon his arrival at Ang Roka prison, he was pushed into a wooden hall and he could smell a very bad smell. To the Civil Party's rough estimate, there were 70 people inside that hall and everyone, except babies and children, were shackled. The health condition of the prisoners was very bad due to lack of food. The Civil Party stated that executions did not take place at the prison, but instead at Damrei Romiel Mountain. He confirmed that he saw a group of female prisoners, however he did not know them since they were only kept there for one or two days before being taken away. The Civil Party also confirmed that Ang Roka market was used as some kind of official office.

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

The Civil Party gave clear and strong responses to questions throughout his testimony. He gave detailed answers and spoke eloquently. Toward the end of the Civil Party's testimony he made a declaration of the suffering that he endured in DK. He also asked the Trial Chamber for personal retribution, but the Chamber reminded him that, according to the Internal Rules, he could only seek moral and collective reparations, not personal or financial awards.³

B. Summary of Testimony by Witness Pech Chim

For approximately two and half days, the Chamber heard the testimony of Witness Pech Chim (also known as Ta Chim),⁴ who also testified in Case 002/01, in July 2013.⁵ The Witness reiterated that he was the former secretary of Tram Kak District, also known as District 105, from 1976 to 1977, and he gave testimony on DK administration from communes to the Zone, the treatment of targeted groups, the regulation of marriage, and purges in the Central Zone.

1. Administration of District 105, Sector 13, and the Southwest Zone

Pech Chim testified that, when he became a full Party member of the CPK in 1971, Yeay Khom, then Party chief of Tram Kak District and a daughter of Ta Mok, was present at his induction ceremony. During the period that Khom led the District, Pech Chim became a member of the district committee specifically tasked with overseeing economics, logistics, and transportation. The Witness explained that Khom, who was both the local Party chairperson and the District chief, and Khiev, her deputy, were responsible for convening meetings as well as educating the people of the District. The Witness confirmed that Khiev became District chairman after Khom fell ill and moved away to Kampong Som with her husband, Meas Muth.⁶ Pech Chim stated that he mainly worked from an office at an already “smashed” house at Ang Roka market, and he identified a colleague, Niev, as the District committee deputy in charge of military affairs. Witness Pech Chim clarified the chronology of district chiefs: Khom was the first secretary, then Khiev, then himself for six months between 1976 and 1977, and he was followed by his own brother, Kith. He declared that he regularly attended District-level meetings, sometimes held at Ang Roka pagoda. Pech Chim stated that Ta Mok was never present at such meetings, as he only attended education sessions at Sector-level. The Witness outlined that District meetings included self-criticism sessions and generally covered development strategies, the country’s defense and military tactics, and the class struggle.

Pech Chim added that Sector-level meetings were held to relay instructions from the upper echelons to the districts for implementation. The Witness identified Saom, alias Thorn, as Sector 13 chairman and the source of such instructions at the time. He claimed that Saom and Khom were similar leaders: he described them both as “radical”, “hardline”, and “pure red.” Pech Chim went on to explain that Ta Prak, a cadre from Sector 25, eventually replaced Ta Saom in Sector 13, and that his own brother, Kith, later replaced Prak. Pech Chim clarified that such appointments were generally unofficial, therefore problems in understanding instructions often ensued. The Witness also noted additional disagreements in implementing Party policies, including the establishment of cooperatives in Tram Kak District. For example, a divergence of views on communal property and food shortages resulted in the initial failure of cooperatives in their 1973 trial, although they were reinstated after the 1975 Liberation. He added that Ta Mok himself even appeared in District cooperatives on this latter occasion, in order to underscore the merits of communal eating.

Pech Chim also discussed the administration of Kraing Ta Chan Security Center (**KTC**), and he confirmed that reports sent from the Center were first sent to the District, before being relayed to the Sector. He said that such reports contained confessions and prisoner lists. The lists of names were returned to the District with some crossed out in red ink to indicate that the Sector wanted them ‘smashed’.⁷ Pech Chim explained that the District then sent these names to KTC for implementation. When the OCP showed the Witness examples of KTC reports from 1977, he confirmed the handwriting and signature of prison chief Ta Ann on the initial reports, and he identified annotations from “Tor 13 Prak” as the instructions sent back to the prison from Sector 13 chief Ta Prak. Pech Chim explained that, in the case of Prak’s annotations – “Smash them all”; “It is okay to smash”; “to be smashed”; and, “to be arrested” – the use of the word ‘smash’ meant to kill. Pech Chim also stated that only the Sector had the authority to either release or execute prisoners at Kraing Ta Chan; he testified that, in his role as District chief, he had no such authority. The Witness explained that, in principle, the Sector had to consult with the Zone

on arrests and executions, yet he was unsure whether this was carried out on every occasion. He confirmed that, on one occasion after a Sector-level meeting, he overheard Ta Saom and Ta Mok confidentially discussing a group at KTC that was supposed to be purged.

Pech Chim claimed that there were no arrests in Tram Kak when he was district chief; he said that he instead "advised" people to work together effectively, and he explained that the primary reasons for separating people into units were "control of the work force" and information-gathering. He maintained to Defense Counsel Victor Koppe that there was no distinction between 'base' and 'new' people in terms of food rations, health care, or education, and that men and women would be treated equally. He also explained that Tram Kak District was only one of three districts awarded the 'Honorary Red Medal' for "model district" status in all of DK, and he attributed his district's receipt of this honor to three principal reasons: strong contribution of armed forces; loyalty to class and the revolution; and, strong economic production. Pech Chim also made brief mention of a visit he heard that Khieu Samphan made to the District along with Son Sen, to inspect rice production and vegetation. He also confirmed he attended a political training session led by Nuon Chea in Phnom Penh where "internal and external enemies" were identified.

2. Treatment of Former Lon Nol Officials, Ethnic Vietnamese, and Buddhist Monks

Pech Chim explained that, in April 1975, he welcomed evacuees from Phnom Penh and some traveled to Champa Leu pagoda. He testified that Ta Mok also welcomed them at the pagoda, and the evacuees were then fed, housed, and clothed. The Prosecutor presented a prior witness' statement that the Khmer Rouge registered the urban evacuees' names and sought out former soldiers of the Lon Nol regime to take away. Judge Lavergne confronted Pech Chim with the statements of a prior witness, Riel Son, who stated that Ta Chim had led a meeting discussing plans to arrest former Lon Nol officials after 17 April 1975.⁸ Pech Chim denied that the plan he announced included the elimination of those persons, and he specifically declared that, although he heard of such actions, he never witnessed any executions of Lon Nol officials. However, he acknowledged that a separate plan existed to gather '17 April people' and purge former officials, but he testified that Khom oversaw that meeting. He also stated that purges of former Lon Nol officials were the result of orders from the Sector and above to be vigilant against 'enemies'. Conversely, Pech Chim later confirmed to Defense Counsel that Ta Mok had announced, at a meeting in Takeo after April 1975, that former soldiers of ranks from second lieutenant to colonel were not to be harmed. Although he initially claimed he merely followed instructions, he later clarified he was not placing blame on higher levels of authority such as the Sector or Zone, and he rejected his alleged nickname, "the master of death," as the result of misinformation amongst district residents.

When questioned on the alleged targeting of ethnic Vietnamese, Pech Chim declared that there were Vietnamese soldiers "everywhere" in Tram Kak District and Takeo Province after 17 April 1975, and he explained that these soldiers engaged in commercial activities with Cambodians. He testified that 'Angkar' decided to send them back to their country following the Liberation. The Witness stated that Vietnamese who married Khmers were allowed to stay, however, other Vietnamese civilians and troops were repatriated in two days, in order to "restore peace" between Vietnam and Cambodia. He claimed that he heard that Vietnam mistreated the Khmer Krom, and that this historic "sentiment of hatred" ensured the Khmer Rouge opposed the Vietnamese but welcomed the Khmer Krom. He therefore "categorically reject[ed]" another witness' statement that accused him of ordering the killing of 90 Khmers who had been exchanged back from Vietnam. When asked about these exchanges, in which Vietnamese were sent to Vietnam in return for Khmer Krom from Vietnam, Pech Chim only recalled that Khom, in collaboration with Chorn, oversaw the exchanges. The Witness identified Chorn as the husband of Yeay Boeun, Party chief at Cheang Tong Commune in Tram Kak, and he noted his duties included "keeping track" of where and how many Khmer Krom refugees arrived in Sector 13. Pech Chim added that, if the Sectors were unable to report on the arrivals, the

matter would be reported to Ta Mok himself.

Pech Chim confirmed that Buddhist monks were disrobed during the Regime, but he said he was unsure why. He once again pointed to Khom as the individual responsible for ordering the defrocking of monks at Ang Roka pagoda. Pech Chim explained that her orders came from the Sector or Ta Mok personally. The Witness also recalled a situation at Ang Meatrey pagoda in which people were attempting to prevent the disrobing of the monks. He claimed to have supported the protest and said he nailed the pagoda doors shut in order to protect the statue of the Buddha from destruction.

3. Regulation of Marriage

Parties asked Pech Chim about the regulation of marriage under Khmer Rouge authorities in Tram Kak District. The Witness testified that, from 1970 onwards, marriage required the authorization of not only the parents but also the commune chief. He explained that the Zone was liberated and therefore fell under the *de facto* Revolutionary Law, which formulated this policy for reasons of "obedience." He said that, during the war against the Lon Nol regime, the upper echelon instructed him and other cadres to prevent marriages, as men were needed to join the military. Once "there were no longer any problems" at the battlefield, he testified, group marriages were organized to avoid further protests from the people. Although the Witness confirmed that there were marriage regulations, he repeatedly testified that they did not exist in the form of written law, but rather as a practice of instruction from the upper to the lower levels. The Zone gave the guidelines and the regulations were then implemented at the District. Pech Chim claimed that, after 1975, marriage proposals were usually approved, and when the Civil Parties directly asked him about forced marriage, he maintained, "Both sides were asked about the marriage before they were actually married." He further asserted that parents always consented to the marriage but he also stated that it could have sometimes been out of fear. He acknowledged that a few couples were not sure whether they wanted to get married, and "in that sense, it could be that they were forced to get married." He explained that the Commune chiefs organized wedding ceremonies, and one ceremony could include ten to twelve couples from each commune, resulting in occasional ceremonies for up to a hundred couples. He testified that ceremonies were held without music but included a prayer for dead souls and concluded with a communal dining reception. He acknowledged the marriage regulations were upsetting to many for their mass ceremonies and their lack of ritual or family involvement. Following their ceremonies, couples were allowed to rest for seven days. Pech Chim claimed he never witnessed any militia eavesdrop on the newlywed couples' consummations, but he noted that "the female unit chief was considered as the mother of those women, and she would want to know whether the unit members, that is, those married women, consented to consummate their wedding."

4. Purges and Experiences in the Central Zone

Pech Chim recounted that, in 1977, after overseeing Tram Kak District for six months, he was transferred to the Central Zone rubber plantation in Kampong Cham Province. On his way there, he spent one night in Phnom Penh and attended a meeting chaired by Pol Pot in which Central Zone Secretary Ke Pauk received instructions concerning changes to the Sectors, Districts, and Communes due to "betrayal in the Zones." Pech Chim claimed that Ke Pauk routinely removed deputies within the Central Zone, including the Witness' own deputy at the Zone rubber plantation. He testified that the Zone Secretary came to him for additional manpower, but that whenever he sent new people to him, Ke Pauk "would remove them one at a time," and the Witness eventually "ran out of people to send to him." The OCP presented two 1977 lists from S-21 which listed cadres from the Central Zone and the rubber plantation who were detained and later 'smashed'. Pech Chim confirmed that Chom was Ke Pauk's "right-hand man" and the person tasked with security work in the Central Zone. The Witness confirmed that Chom was also tasked with overseeing construction of the 1st January Dam,

one of three DK work sites to be discussed in the next segment of this trial. The Witness also stated that he received an order from Central Zone Secretary Ke Pauk, in August 1978, to "stop the killing," an instruction he alleged was issued to all Zones.

5. Witness Demeanor and Credibility

Throughout Pech Chim's testimony, his responses were lengthy, detailed, and rather forthcoming. The Witness claimed that he spoke only the truth, and that he hated untruthful people. He expressed his love for various groups, including the poor, intellectuals, and monks. The Witness seemed keen to ensure that the Chamber did not question the veracity of his statements, occasionally declining to answer a question in case he contradicted his previous statements. On several occasions, Pech Chim also indicated that questions put to him had been frequently repeated and that adequate responses could be found in his earlier statements. The President repeatedly reminded him of his obligation to answer questions put to him. Additionally, and particularly in response to the OCP, the Witness dissociated himself from all high-level decisions made during the DK era, including those regarding purges. The international prosecutor later pronounced to the Chamber some major inconsistencies in Pech Chim's answers regarding such decisions. This led to the Chamber's decision to allocate additional time for the Parties to clarify any answers they sought.

III. LEGAL AND PROCEDURAL ISSUES

The Trial Chamber dealt with objections this week concerning the scope of the current trial segment on Tram Kak and Kraing Ta Chan, as well as Case 002 more generally, in relation to repeated questions on the treatment of the Khmer Krom. It also returned to a fundamental legal question it first dealt with during Case 002/01, concerning the use of evidence obtained by torture at DK security centers.

A. Objections Related to Scope During Examination of Thann Thim

During the examination of Civil Party Thann Thim on 21 April, Defense Counsel for Nuon Chea, Victor Koppe, objected to international prosecutor Vincent de Wilde D'Estmael's question regarding the treatment of the Khmer Krom in Tram Kak District. As he has argued previously, Mr. Koppe claimed that their treatment as a targeted group is not included in the Closing Order and falls outside of the scope of Case 002.⁹ The prosecutor responded that the question only referred to the Khmer Krom's presence at the location. After deliberation, Judge Claudia Fenz announced that the Chamber would allow questions on the Khmer Krom in relation to the treatment of '17 April people', and she noted that the Chamber would "clarify the indictment in connection with the Khmer Krom" in due time. Later in the morning, Mr. Koppe raised another objection when the prosecutor asked the witness about Ang Roka prison and the prison conditions, stating once more that this topic fell outside the scope of this segment. The prosecutor emphasized that there was a clear link between Ang Roka and Kraing Ta Chan Security Center, as well as the cooperatives of Tram Kak district, making such questions necessary. The objection was upheld by the Chamber, which agreed with the Prosecution's argument, thus allowing the parties to ask questions in regard to Ang Roka.

B. Defense Counsel Objects to OCP Examination of Purges in the Central Zone

On the afternoon of Wednesday the 22nd, international prosecutor Dale Lysak asked for an extra session to be allotted to the OCP and Civil Parties due to the delay in translation that had slowed his questioning. In his request, he noted he hoped to examine Witness Pech Chim on the purges in the Central Zone, remarking that he wanted to ask about these issues now rather than wait for the future trial segment, as he assumed the Chamber would not recall the Witness due to scheduling logistics and his advanced age. Defense Counsel Victor Koppe explained that his team was "completely unprepared" for questioning on the Central Zone, and he asked

why the request was coming in the midst of the OCP's examination. He also observed that the Witness "seems quite fit" and could return to testify at a later point once the trial reached the segment on internal purges. Lysak explained that the purge of the Central Zone "is a direct issue in this trial," and he reminded the Chamber that it has already ruled it would cover all relevant issues rather than recall witnesses where possible. He noted that elderly witnesses in the last trial were examined on the entire scope, even beyond Case 002/01. He later clarified that the particular victims of this purge about whom he planned to question Pech Chim were sent to S-21, and therefore his prospective examination touched on two segments of Case 002/02. The Chamber deliberated on the request for additional time during the mid-afternoon break and eventually ruled in the prosecutor's favor. When Mr. Lysak attempted to show an S-21 prisoner list relating to the purge of the Central Zone to Pech Chim, however, Mr. Koppe stood up and explained he felt "uncomfortable" with the examination as he "simply at this stage [was] not having enough understanding of where the OCP wants to go." Counsel reiterated that his team was "unprepared" for discussion of purges in the Central Zone, old North Zone, or S-21. Mr. Lysak reacted, "I honestly do not know. I'm not sure how to respond to that." Judge Fenz noted Mr. Koppe's statement "as an observation," but Counsel formalized his objection to argue the examination fell "outside the agreement we have that we deal with Kraing Ta Chan and Tram Kak." The prosecutor responded bluntly, "If Counsel is not prepared, that is his fault." After brief deliberation, the Chamber overruled the objection, and Mr. Lysak continued to question the Witness on the purges of cadres in the Central and old North Zone (see II.B.4).

C. Objections Concerning Victor Koppe's Reference to Torture-Induced Confession

A fundamental legal question that has provoked debate throughout trials at the ECCC has concerned the use of torture-tainted evidence. When Parties discussed the admissibility of evidence in January 2012 at the outset of Case 002, the Defense objected to the inclusion of S-21 confessions made under torture as a violation of the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (**CAT**).¹⁰ The OCP argued at the time that, although the CAT prevents statements obtained under torture from being used for the substantive truth of what they asserted, such evidence is permitted in order to prove that torture took place and was used within a particular process of the Khmer Rouge.¹¹ In Case 001, a substantial part of the case file constituted confessions of prisoners at S-21 under conditions of torture overseen by Duch, and the Chamber ruled that "[t]he relevance of these documents is limited to the fact that they were made under torture. They are not admitted for the truth of their contents."¹² In October 2012, during Case 002/01, Defense Counsel for Nuon Chea, Andrew Ianuzzi, voiced concern over an OCIJ interview's reference to the S-21 confession of the West Zone secretary, Chou Chet, *alias* Sy. Judge Silvia Cartwright reiterated the Chamber's previous ruling that confessions obtained contrary to the CAT were not permitted for use as evidence or as the basis for questioning.

On Friday, 24 April 2015, this issue resurfaced during Defense Counsel Victor Koppe's examination of Witness Pech Chim. Counsel asked the Witness about a person named Kong Chap, *alias* Se, who the Witness identified as a colleague who worked alongside him and Ke Pauk in Sector 41 (Kampong Cham) in the Central Zone. The Witness testified that Se was put in charge of the old North Zone and was "attached to Siem Reap" for several months, and he explained that Ke Pauk notified him of Se's arrest under orders from the upper echelon. When Counsel followed up to ask, "Have you ever come to learn that Se implicated you and your brother as belonging to his network?" The Witness said this was the first time he had heard such a claim. Judge Lavergne intervened at this point to ask Counsel where he received this information, specifically asking if it stemmed from an S-21 confession obtained under torture. Mr. Koppe claimed to be asking a general question "and not referring to anything in particular." When Counsel attempted to evade the Judge's questions, Judge Fenz then asked again about the basis for his question to the Witness. Counsel maintained that he was "entitled not to answer that question." Prosecutor Lysak declared that Mr. Koppe was referring to the S-21 confession of Kong Chap, in which the Witness Pech Chim was the 47th on a list of hundreds of

implicated persons. Mr. Lysak called Counsel’s questioning, which he explained emanated from torture, “inappropriate when you are putting it forward for the truth of the matter,” although he also suggested that questions about whether the confession “was used in the regime and communicated by people” would be appropriate. At this point, Mr. Koppe asserted he had only asked a general question without reference to any evidence, and he requested “a very clear ruling” from the Chamber. He asked for a reasoned decision, and he noted that, in its appeal of the Judgment in Case 002/01, his team has made an appeal ground on whether it is permissible to use elements of S-21 confessions as a “foundation of possible further questions.” The Chamber announced that it would review the transcript and relevant legal frameworks and provide a reasoned decision, per Mr. Koppe’s request, at a later time and date.

It appeared to observers that Mr. Koppe modified the context of his original question over the course of his responses to the Judges and OCP’s commentary. By the end of this debate, Counsel Koppe clarified he only ever asked the Witness if he was aware that Se had implicated him and that he was only seeking the Chamber’s reasoned decision if it chose to forbid this question. However, his evasive behavior when first responding to Judge Lavergne’s query, as well as his defense strategy’s central argumentation about the alleged existence of networks throughout DK, gave the appearance that he originally intended to utilize the S-21 confession for its substantive truth. This is an issue that the Chamber has touched on throughout the ECCC’s history. Throughout those debates, however, the Parties have generally agreed on the same principle that the CAT underlines: that statements made under torture should not be used for the truth of their contents. It is crucial to the integrity of the proceedings and the legacy of the ECCC that all Parties uphold the spirit of the UN Convention Against Torture.

IV. TRIAL MANAGEMENT

The Trial Chamber returned from a two-week recess to hear the testimonies of a Civil Party and a witness. It managed to complete both testimonies on schedule as it nears the end of the trial’s first segment on the Tram Kak cooperatives and Kraing Ta Chan security center.

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 were present in the courtroom throughout the week.

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

Parties: All Parties were properly represented in the courtroom, with the exception of Mr. Son Arun, national Co-Lawyer for Nuon Chea who was absent from 22 to 24 April due to health reasons. Mr. Calvin Saunders, international Court-Appointed Standby Counsel for Khieu Samphan, was also absent in the morning session on 21 April.

Attendance by the public:

DATE	MORNING	AFTERNOON
Tuesday 21/04/2015	<ul style="list-style-type: none"> ▪ Approximately 250 Villagers from Baribour District, Kampong Chhnang Province ▪ Three foreign observers 	<ul style="list-style-type: none"> ▪ Approximately 250 Villagers from Baribour District, Kampong Chhnang Province ▪ Three foreign observers

Wednesday 22/04/2015	<ul style="list-style-type: none"> ▪ Approximately 210 villagers from Kandieng District, Pursat Province ▪ Two foreign observers 	<ul style="list-style-type: none"> ▪ Approximately 150 villagers from Kandieng District, Pursat Province ▪ Two foreign observers
Thursday 23/04/2015	<ul style="list-style-type: none"> ▪ Approximately 250 villagers from Baribour District, Kampong Chhnang Province ▪ Ten foreign observers 	<ul style="list-style-type: none"> ▪ Approximately 200 villagers from Baribour District Kampong Chhnang Province ▪ Ten foreign observers
Friday 24/04/2015	<ul style="list-style-type: none"> ▪ Approximately 250 villagers from Phnom Kravanh District, Pursat Province ▪ One foreign observer 	<ul style="list-style-type: none"> ▪ Approximately 100 villagers from Phnom Kravanh District, Pursat Province ▪ One foreign observer

B. Time Management

After returning from holidays for Khmer New Year, the Trial Chamber sought to include the late addition of a Civil Party's testimony in addition to that of a witness who was scheduled to appear for two and a half days. The Court continued immediately with Witness Pech Chim's examination on Monday afternoon when Civil Party Thann Thim's testimony concluded early. In a demonstration of its flexibility in adjusting the schedule, the Chamber also provided the OCP with an additional session to examine Pech Chim when requested. When the OCP requested a few additional minutes to question the Witness at the end of his examination on 24 April regarding his inconsistent statements, the Chamber ensured the other Parties received an equivalent addition of five minutes as well.

C. Courtroom Etiquette

This week, Judge Jean-Marc Lavergne became irritated with Witness Pech Chim and later with the international Co-Lawyer for Nuon Chea. During the 23 April hearing, Judge Lavergne put questions to Pech Chim and repeatedly asked him to focus on the period between 17 April 1975 and 6 January 1979. After the Witness continued to provide overly lengthy responses mostly referring to experiences in the early 1970s, the Judge interrupted him and raised his voice to remind him of the need to stay within the Court's temporal jurisdiction. The following day, Judge Lavergne warned Mr. Victor Koppe when asking about the sources of information he was using to question the Witness, as he believed them to have come from torture at S-21 (see III.C). When Mr. Koppe sarcastically responded that he found the documents "in the case file," the Judge insisted sternly, "Please, please, don't joke," before following up to Mr. Koppe's lack of a clear response, "So then you're dropping this line of questioning?"

D. Translation and Technical Issue

On 23 April, the President responded to complaints from the Parties concerning interpretation problems to explain that two interpreters were absent due to health issues that day. The President asked all Parties to be patient and slow down their speech in order to ease translation. There were no substantial technical interruptions this week.

E. Time Table

DATE	START	MORNING BREAK	LUNCH	AFTERNOON BREAK	RECESS	TOTAL HOURS
Tuesday 21/04/2015	8:59	10:08 – 10:29	11:29 – 13:29	14:35 – 14:58	16:04	4 hours and 21 minutes
Wednesday 22/04/2015	9:02	10:13 – 10:34	11:34 – 13:30	14:48 – 15:10	16:01	4 hours and 20 minutes
Thursday 23/04/2015	9:00	10:12 – 10:30	11:41 – 13:29	14:44 – 14:59	16:02	4 hours and 41 minutes
Friday 24/04/2015	9:00	10:10 – 10:29	11:27 – 13:31	14:41 – 14:58	16:04	4 hours and 24 minutes
Average number of hours in session				4 hours and 26 minutes		
Total number of hours this week				17 hours and 46 minutes		
Total number of hours, day, weeks at trial				179 hours and 11 minutes		
49 TRIAL DAYS OVER 16 WEEKS						

*This report was authored by Johanna Hamark Kindborg, Lea Huber, 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

¹ On 3 April, the President announced that Thann Thim would reappear on 21 April, when the Court would resume hearings after the Khmer New Year judicial recess. See CASE 002/02 KRT TRIAL MONITOR, Issue 15, Hearings on Evidence Week 12 (30 March -3 April 2015), p. 2.

² Mr. THANN Thim (2-TCCP-288) was questioned in the following order: international Civil Party Lead Co-Lawyer Marie GUIRAUD; 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, Arthur VERCKEN.

³ According to Revision 9 of the Internal Rule 23 *quinquies* (1) reads: “If an Accused is convicted, the Chambers may award only collective and moral reparations to Civil Parties.”

⁴ Mr. PECH Chim was questioned in the following order: President NIL Nonn; international assistant prosecutor Dale LYSAK; national Civil Party Lawyer SIN Soworn; international Civil Party Lead Co-Lawyer Marie GUIRAUD; Judge Jean-Marc LAVERGNE; President NIL Nonn, a second time; international Co-Lawyer for Nuon Chea, Victor KOPPE; international Co-Lawyer for Khieu Samphan, Arthur VERCKEN; national Co-Lawyer for Khieu Samphan, KONG Sam Onn; international assistant prosecutor Dale LYSAK, a second time.

⁵ See CASE 002/01 KRT TRIAL MONITOR, Issue 66, Hearings on Evidence Week 61 (1-4 July 2013).

⁶ MEAS Muth has been charged in Case 003 with homicide, in violation of the 1956 Cambodian Penal Code, Crimes Against Humanity, and Grave Breaches of the 1949 Geneva Conventions, mostly in relation to his position as the DK’s naval commander. However, prior to this position, he was a CPK cadre based in the Southwest Zone, and he was married to Khom, one of Southwest Zone Secretary Ta Mok’s daughters. For more on his charges *in absentia*, see Public Affairs Section. “The International Co-Investigating Judge Charges Meas Muth in absentia in Case 003” (3 March 2015). ECCC. Available at: <<http://www.eccc.gov.kh/en/articles/international-co-investigating-judge-charges-meas-muth-absentia-case-003>>.

⁷ Defense Counsel for Nuon Chea, Victor Koppe, criticized the use of the KTC reports as photocopies of unoriginal documents. He repeatedly noted that the lack of original copies also inhibits the Chamber from distinguishing the red ink about which Pech Chim testified.

⁸ See CASE 002/02 KRT TRIAL MONITOR, Issue 13, Hearings on Evidence Week 10 (16-19 March 2015), p. 4.

⁹ See CASE 002/02 KRT TRIAL MONITOR, Issue 8, Hearings on Evidence Week 5 (9-12 February 2015), p. 10.

¹⁰ Article 15 of the United Nations Convention Against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment states: “Each State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made.”

¹¹ See CASE 002/01 KRT TRIAL MONITOR, Issue 9, Hearings on Evidence Week 4 (16-19 January 2012), pp. 10-11.

¹² See CASE 001 KRT TRIAL MONITOR, Issue 7, Week Ending 31 May 2009. See *also* AIJI, Lessons Learned from the ‘Duch’ Trial (December 2009), pp. 24-25.