

# KRT TRIAL MONITOR

Case 002/02 ■ Issue 35 ■ Hearings on Evidence Week 32 ■ 30 Nov – 3 Dec 2015



## Case of Nuon Chea and Khieu Samphan

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 was frightened despite the fact that I was loyal to Angkar.  
But I saw loyal cadres who had also been arrested,  
and that made me frightened.”*

- Witness 2-TCW-918

## I. OVERVIEW

This week, the Trial Chamber resumed after nearly one month of recess due to the appeal hearings in Case 002/01 and a subsequent week’s break for the Water Festival.<sup>1</sup> Three individuals appeared before the Chamber: one witness concerning his experience at the Trapeang Thma Dam worksite (TTD), followed by one Civil Party and one witness concerning the treatment of the Vietnamese. Before beginning to hear the testimony of the first witness, the Trial Chamber decided to proceed using only his pseudonym, 2-TCW-918, due to the Trial Chamber’s decision on the confidentiality of witnesses involved in the ongoing investigations in Cases 003 and 004.<sup>2</sup> Following his testimony, Civil Party Prak Doeun testified about the death of his ethnically Vietnamese wife under the Khmer Rouge (KR), and then Witness Sao Sak spoke of her own experiences in Prey Veng Province in the Democratic Kampuchea (DK) period. Sao Sak will continue to testify when proceedings resume next week. This report summarizes the three testimonies heard this week, as well as the testimony of Witness 2-TCW-996 who appeared on 26 and 27 October *in camera*, as the redacted transcripts of his appearance only became available this week.

## II. SUMMARY OF WITNESS AND CIVIL PARTY TESTIMONY

This report begins by summarizing the testimony of Witness 2-TCW-996 who testified on 26 and 27 October about the TTD worksite. The testimony of witness 2-TCW-918, the subsequent testimony to appear in this report, provides an interesting comparison to that of 2-TCW-996, as the former recalled seeing 2-TCW-996 at an important meeting while working at the TTD. Later in the week, the Court resumed the trial segment on the treatment of the ethnic Vietnamese with the testimonies of two individuals, Civil Party Prak Doeun and Witness Sao Sak.

### A. Summary of Testimony by Witness 2-TCW-996

Witness 2-TCW-996, a 58 year-old rice farmer, testified on 26 and 27 October, however, his

testimony was heard in closed session because of a previous Trial Chamber ruling on the confidentiality of witnesses from the investigations in Cases 003 and 004.<sup>3</sup> This week, the Court published the redacted transcripts from his appearance; the following section summarizes this redacted testimony. Witness 2-TCW-996 testified about his role as a mobile unit chief at the TTD and the purges of Northwest Zone cadres.

### **1. Background and Witnessing Killings during the DK Regime**

Witness 2-TCW-996 testified that before 17 April 1975 he lived with his parents in a village close to Paoy Samraong, in Battambang Province. He told the Chamber that his father died in 1977 from starvation and malnutrition, and that his three nephews were killed during the DK regime because they had been either students or teachers.<sup>4</sup> He said that, in 1975, all youths were forced to join the Khmer Rouge and taken to help build Kouk Rumchek dam. He recalled this as an easy task and said the workers were happy there. After the completion of this dam, his group was sent to Chob Veari, where they were all shown a propaganda film called “The Anonymous Man,” which featured Khieu Samphan. In Chob Veari, Ta Chhang selected him to work as a messenger in Preah Nejr Preah District, and he was then taken to work at TTD under Ta Val, who oversaw mobile unit assignments within the Northwest Zone’s Sector 5.

### **2. Experience at Anlong Sar Hospital**

The Witness testified to working at TTD from mid-1976 until 1977.<sup>5</sup> Ta Val organized the new arrivals into groups within his unit, and he made the Witness a chief of the youth mobile unit in charge of 100 to 120 people. Between his transfer to TTD and his promotion to unit chief, the Witness worked in Anlong Sar hospital – close to TTD – as a rice cook. He described the hospital as a “hut for animals with people lying in rows,” saying it had space for approximately 10 to 15 patients in each building, or approximately 50 to 60 altogether. 2-TCW-996 testified that there were four medics working at the hospital. He also testified that many people contracted malaria and dysentery while working at TTD, that he had witnessed deaths, and that there were low levels of healthcare and medication available.

### **3. Position at the Trapeang Thma Dam**

2-TCW-996 testified that work at TTD began at 7:00AM and usually concluded at 4:00PM, with a short lunch break. He said that, although workers did not have to work at night, they were not able to stop work until they completed the quota to dig three cubic meters of earth per day, because there was a strict deadline to finish the Dam by 1977. As unit chief, 2-TCW-996 would report on the daily work quotas to Ta San, deputy to Ta Val. Despite the strict enforcement of the quota system, 2-TCW-996 claimed that none of his workers ever collapsed or were physically abused, and that he never witnessed any deaths at the worksite. 2-TCW-996 also said TTD was known as the “hottest battlefield in Sector 5,” and that workers were urged to complete it as soon as possible in order to achieve the “great leap forward.”<sup>6</sup> The Witness recalled that workers were not allowed to visit their family and recalled that former intellectuals and students were investigated and sometimes disappeared. He testified that Angkar initially set the food ration at two cans of rice per day. However, following the purges in mid- to late-1977, food rations were halved, additional work was given, and surveillance and disappearances increased. The Witness also testified to having once seen a convoy of white four-wheel-drive vehicles arrive at the worksite approximately in 1976; he later heard that it was a Chinese delegation escorted by Ieng Sary.

### **4. Meeting Planning Revolt and Purges in the Northwest and East Zones**

The Witness provided testimony on his knowledge of an alleged plan among the Northwest Zone cadres to rebel. He said that Ta Val and Ta Hoeung invited about 10 to 15 chiefs of companies

and battalions, including this week's first witness (2-TCW-918), whom he identified as a high-ranking cadre, to attend a midnight meeting. The Witness testified that Ta Hoeung told all participants that they would be promoted to captain, and that Ta Val gave them scarves, "Eastern sandals," cigarette lighters, and white shirts.<sup>7</sup> The Witness minimized the significance of the meeting, stating: "They actually made a bit of a joke during the meeting. They didn't set any serious plan at all," contrasting with his previous statements that the meeting was intended to plan a rebellion against the Khmer Rouge. He testified that Ta Cheal sent a letter via a messenger to East Zone secretary Sao Phim, but that the messenger was arrested before delivering his message. Following this incident, Southwest Zone cadres began to arrest cadres from the East and Northwest Zones.

2-TCW-996 testified that both Ta Val and Ta Hoeung were arrested and taken away in mid-1977. When prompted by International Counsel for Nuon Chea, Victor Koppe, the Witness linked the two arrests to the aforementioned meeting but added that their arrests occurred quite some time later. The Witness testified that Southwest Zone cadres arrested Zone-level leaders, including Ta Cheal in 1977 and Northwest Zone secretary Ta Nhim in mid- to late-1977.<sup>8</sup> 2-TCW-996 testified that cadres from the Southwest Zone arrived in his village about three months after the arrests of Ta Val and Ta Hoeung. The Witness said that his group was told that Angkar had arrested the two men along with all other "traitors." The Witness testified that Ta Val was replaced by Ta San, who was later arrested himself, along with Ta Nhau, who was secretary of Battalion 1 within Sector 5.

## **5. Witness Demeanor and Credibility**

As this testimony was heard *in camera*, monitors were not able to observe the Witness's demeanor live, however, judging from the redacted transcripts released this week, 2-TCW-996 appears to have responded clearly and precisely, and he was mostly able to remember events in detail. Nevertheless, some minor discrepancies arose when the Witness was confronted with his prior statements. He also seemed to prefer to avoid certain topics, such as his membership in the Communist Party of Kampuchea. Although he testified to having held a lower rank than Witness 2-TCW-918, who testified in Court this week, 2-TCW-996 displayed more knowledge about planned rebellions and conditions at the TTD worksite, making an interesting contrast between his testimony and that of the following witness.

### **B. Summary of Testimony by Witness 2-TCW-918**

Witness 2-TCW-918 was originally scheduled to testify before the Water Festival break, however, his appearance was postponed for health reasons. 2-TCW-918 began his testimony on Monday, 30 November, and concluded on Wednesday morning.<sup>9</sup> In line with the Trial Chamber's prior decision on the confidentiality of witnesses involved in Cases 003 and 004, the Parties referred to this Witness by his pseudonym throughout his appearance. 2-TCW-918 testified to having held a position of some responsibility at the TTD, described the conditions there, and recalled the purges of Northwest and East Zone cadres in 1977 and 1978.

#### **1. Background and Experiences at Other Dam Sites During DK Regime**

2-TCW-918 testified that, after the Khmer Rouge takeover in 1975, he was tasked with supervising a youth force of six people to complete the Phnom Kambaor Dam worksite in Battambang Province. He was subsequently assigned to a new youth force at the Kouk Rumchek Dam site in 1976. There, he was made "Battlefield Commander" and tasked with measuring land and leading the workforce to complete the dam sites by Khmer New Year, 1976. While he said the unit was able to complete Kambaor Dam by this deadline, the larger Kouk Rumchek took longer. According to the Witness, the regiment chiefs set the work quota of three cubic meters of soil per day, however he denied that the quota was strictly enforced, stating that units could be flexible on how they reached the quota. The Witness claimed that the work conditions at both

dams were similar, with work sessions in the morning and afternoon and three cans of rice allotted per person per day.<sup>10</sup>

## **2. Visit of Senior Cadre and King to Kouk Rumchek Dam Worksite**

The Witness testified that he saw a senior cadre who visited the Kouk Rumchek Dam site briefly. He said that, at the time, Sector 5 mobile unit chief Ta Val told him the visiting cadre was Khieu Samphan. 2-TCW-918 noted that the man he saw must have been important because he arrived in a car. However, the Witness stated in Court that he now believed the visitor could not have been Khieu Samphan because the person he recalled was taller than the Accused seated in the courtroom.<sup>11</sup> 2-TCW-918 did not recall either Khieu Samphan or the late King-father Sihanouk visiting Trapeang Thma Dam, but he did recall being invited to attend a visit of the King to nearby Preay Moan in April 1976. The Witness said that, in preparation for the King's visit, all of the skinny and sick people were hidden out of sight.

## **3. Experience and Position at TTD**

The Witness testified that he attended a meeting planning the construction of the TTD at the Svay Sisophon school, which was being used as the CPK's political office at the time. Although he said he was too afraid to look closely at the other attendees, he recalled that Ta Val and Ta Hoeung chaired the meeting. The Witness testified that construction of the Dam began in either January or February 1977, and that he received his instructions from Ta Val, who supervised all Sector and District mobile forces and assigned asks to the entire workforce.<sup>12</sup> 2-TCW-918 stated that the chief of every regiment would regulate their working hours and then report back to Ta Val. He denied that there was a daily quota of three cubic meters of soil at the TTD, and he said that the time frame was not as strict as at the dams where he had previously worked. He did, however, say that he had heard of a work quota being introduced after he left the TTD worksite and moved to the fishing unit. The Witness denied that workers were mistreated at the Dam, however he acknowledged that, if a worker committed a "moral offense," they would be refashioned up to three times. He testified to witnessing a "holding hands ceremony" of up to 50 couples, some of whom he said had been made to marry as punishment for their misconduct. He also testified that a group of intellectuals was gathered and taken away, although he said he did not know of their fate.

## **4. Purges in the Northwest Zone**

The Witness explained how he feared the purges that had taken place in the Northwest Zone from mid-1977 through 1978. 2-TCW-918 testified that Southwest Zone cadres arrived and began arresting Northwest zone cadres, from chiefs level down to battalions: "I was wondering myself why those cadres were arrested; those cadres included both cruel and kind cadres." The Witness testified to the existence of a list of 100 names of people to be arrested, which he suspected was provided by Ta Cheal. He said that he only survived because his name was left off the list, although he could offer no reason as to why. The Witness learned of Ta Val's arrest from the latter's wife after he was taken from his home. Ta Cheal, Ta Hoeung, and Preah Netr Preah District chief Ta Moang were arrested, however, the Witness testified that he avoids speaking about subsequent actions and thus could not tell the Trial Chamber what may have happened to these arrested cadres. The Witness himself faced the purge when he and Ta Morn were called to an "education meeting" in Phnom Srok District. He testified that, when the vehicle came to arrest them, another soldier pushed him out of the vehicle. He fell unconscious and woke up in a hospital at TTD, ultimately surviving the purges, whereas Ta Morn did not.

## **5. Knowledge of Meeting Planning Rebellion**

When asked about details of alleged factions within the Khmer Rouge, the Witness repeatedly stated he was "not in the political sphere" and did not hear of any plan to rebel against Pol Pot's

government. Despite these assertions, the Witness testified that Ta Val and Ta Hoeung appeared to belong to one party and Ta Nhim and Ta Cheal belonged to another. When Counsel Koppe confronted the Witness with the statement of 2-TCW-996 (see II.A, above), which placed the Witness at a secret midnight meeting chaired by Ta Val and Ta Hoeung, 2-TCW-918 repeated that he had neither attended this meeting, nor heard of any secret plan to arm the Sector 5 mobile units.<sup>13</sup>

## **6. Witness Demeanor and Credibility**

Throughout his testimony, Witness 2-TCW-918 made statements contradicting previous statements he had given to both DC-Cam and the OCIJ. He repeatedly stated that the investigators must have either made a mistake during his interview, misunderstood him, or erred in recording his statement. His previous statements, as well as the testimony of 2-TCW-996, indicated that the Witness was reasonably well-informed about the structures and instructions of the upper echelon, however, in Court, he grew defensive about his involvement in the regime, repeatedly referring to himself as “an ordinary person.”

### **C. Summary of Testimony by Civil Party Prak Doeun**

In the afternoon of 2 December, the Chamber began hearing the first Civil Party in the segment on the treatment of the ethnic Vietnamese. 73-year-old Mr. Prak Doeun testified over five sessions and concluded with his statement of suffering on Thursday afternoon.<sup>14</sup> He provided the details of the loss of his first wife and four children, as well as more general testimony on the treatment of the Vietnamese and mixed ethnicity couples in Baribour District, Kampong Chhnang Province. During his testimony, he often struggled to respond to questions and appeared confused, possibly due to his advanced age and poor health.<sup>15</sup>

#### **1. Ethnic Background of Civil Party and his Family**

Prak Doeun stated that his first wife, Bou Samban, held Cambodian nationality and spoke Khmer and French fluently, however, her mother was ethnically Vietnamese and her father half Chinese. Although his wife spoke Khmer without an accent, she was able to understand Vietnamese, and both of her parents spoke Khmer with a Vietnamese accent and followed different traditions, for example, celebrating the Lunar New Year. Despite these differences, he told the Chamber that his marriage had been fully accepted by the wider community and that they had five daughters and one son together, all of whom were given Vietnamese names. Prak Doeun said that, in mid-1976, he gave his children Khmer pseudonyms for fear that they would be targeted for their Vietnamese ancestry. During the DK regime, the Civil Party was transferred a number of times, first to Anhchanh Rung, then to Pech Chanvar, and then to Ta Moev Island, where his family was able to join him approximately one year later, in late 1976.

#### **2. Separation of Mixed Ethnicity Families and Death of Civil Party's Family Members**

The Civil Party testified that, one night in late 1977, cadres gathered the seven ethnically mixed families who were staying on Ta Moev island, including his own, and took them on a forced march for about 5 to 10 kilometers. After walking for approximately nine hours under the guard of two soldiers, the group was separated. His mother-in-law, wife, and youngest son were assigned to go with the other ethnic Vietnamese people to plant vegetables at Tuol Roka, while he was instructed to thresh rice with the rest of the ethnic Khmer group at Wat Melum. Prak Doeun claimed that, the following day, a cadre named Him told him that everyone in the other group had been “smashed,” including his family members.<sup>16</sup> The Civil Party testified that, after this incident, there were no Vietnamese people left on Ta Moev island, although he later admitted that his knowledge about the ethnicity of these families was based on hearsay. Although the rest of his children survived that night, three of his daughters later passed away due to malnutrition and

illness at their cooperatives. The Civil Party stated that only two of his daughters survived the regime, because they looked Khmer and he was able to send them fish and beans in secret.

### **3. Experience of Mass Wedding**

Prak Doeun testified that, in either 1977 or 1978, while assigned to a fishing unit in Baribour District, District cadres asked him to attend a meeting with them at the cooperative. The Witness recounted his fear, and, on arriving at the cooperative, he realized that he would have to give a speech at an arranged mass wedding ceremony of approximately 25 couples. He said that the cadres had told him that Angkar arranged the ceremony, and that anybody who did not consent to marriage would be taken into the woods and killed. He also described how cadres spied on newly married couples to ensure that everybody consummated their marriages. Prak Doeun recalled hearing that two couples who had refused to consummate their marriages were later arrested and reeducated. The Defense questioned the Civil Party's attendance at the ceremony, suggesting that only a high-ranking cadre would have been asked to give a speech, however, the Civil Party explained that the cadres had merely trusted him as a "knowledgeable" and "convincing" speaker.

### **4. Civil Party Statement of Suffering**

The Civil Party took the opportunity to provide a short and emotional statement of suffering in the afternoon of 3 December. In his statement, Prak Doeun claimed that he suffered too much pain for losing his first wife, nearly all of the children he had together with her, and his property. He stated that he almost lost his mind due to this mistreatment, and he asked for a stupa be constructed as a legacy and a symbol of his loss as a reparation.

### **D. Summary of Testimony by Witness Sao Sak**

Ms. Sao Sak, originally from Anlong Trea, Praek Chrey Commune, Kampong Leav District, Prey Veng Province, began her testimony in the afternoon of 3 December.<sup>17</sup> She testified on the treatment of the ethnic Vietnamese in Prey Veng Province during the DK regime. Under questioning by the OCP, Sao Sak testified about the disappearance of her mother and other ethnic Vietnamese people in her commune, as well as her detention in Angkor Ang village. The Witness will continue her testimony on 7 December next week.

#### **1. Background and Experiences Prior to 1975**

Ms. Sao Sak, now 62, testified that she was considered a "base person" during the DK regime because she had lived in Anlong Trea village all her life. She married in 1969, and, in 1975, she had three children. She testified that her mother was half-Vietnamese. When asked about the Vietnamese population in her region prior to the Khmer Rouge victory, Sao Sak responded that there were some mixed families living in Prey Veng, mostly in Lvea Aem village. She added that people with Khmer and Vietnamese backgrounds treated each other normally without making any ethnic distinctions, and that mixed couples were not unusual.

#### **2. Disappearance of Mother and Detention of the Witness**

Sao Sak testified that her mother worked as a babysitter during the DK period. The Witness said that, in 1978, her mother was called to attend a meeting near Anlong Trea, to which she took her granddaughter (i.e. the Witness' daughter). Sao Sak told the Chamber that a militiaman named Khorn informed her that her mother had gone to a meeting in Kroser Ba'er village, so she went there to see her mother. The Witness said that, when she arrived, she realized that her mother had been detained despite having committed no apparent offenses. Sao Sak made a request to have her daughter released, which was granted, however, she never saw her mother again after they said goodbye to each other at approximately 9:00PM. Sao Sak also testified that, in the

months that followed, she was detained and interrogated about her family background for 10 days by a cadre named Mon, at Ang village near Kach Chher Mountain. She said that her three children were also detained with her, but all four of them were ultimately released.

### **3. Witness's Knowledge of Treatment of Other Ethnic Vietnamese People**

The Witness testified that ethnically Vietnamese people were systematically separated from the rest of the community after 1975. She added that, after her mother's disappearance, other Vietnamese and mixed Vietnamese families were gathered and sent away by boat. Sao Sak claimed that the officials told them that these people were sent back to Vietnam, but that she herself did not believe that story and suspected they were sent for execution. She testified that even pregnant women and children were taken away if they had Vietnamese backgrounds. Before the Court adjourned, the OCP questioned Sao Sak at length on the fate of various individuals of mixed ethnicity from her village. She repeatedly expressed her belief that these people had been killed during the regime, although she was not able to provide any evidence to support such claims.

### **4. Witness Demeanor and Credibility**

Sao Sak provided concise responses to questions during her testimony. She responded calmly and consistently, even when questions were interrupted several times by lengthy objections. She could provide greater detail when requested, avoided speculation, and was upfront when her knowledge was based on hearsay.

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

Proceedings this week were interrupted on a number of occasions with objections related to the ongoing issue of new documents entering the Case 002/02 trial from the investigations into Cases 003 and 004. The Defense objected to the introduction of a new witness in the segment on the treatment of the Vietnamese, and there was also a discussion on whether Civil Party Prak Doeun testified on topics that were outside the scope of the Closing Order.

### **A. Defense Objections to Introduction of a New Witness**

On Tuesday, 1 December, all Parties made oral submissions on the request of the International Co-Prosecutor to call an additional witness concerning the treatment of Vietnamese. Nuon Chea's international counsel, Victor Koppe, objected to the request, on the grounds that it may spark an influx of new witnesses, given that the investigations into Cases 003 and 004 are still ongoing. Khieu Sampan's counsel, Anta Guissé, also objected to the appearance of the new witness, claiming that the OCP's request was tardy and only sought further inculpatory evidence. She further stated that, if this witness were called to testify, all of their statements would have to be disclosed, rather than the three of five requested by the OCP. International prosecutor Dale Lysak supported the admission of all five of the witness's prior statements and underlined the critical importance of hearing the evidence of this witness in the segment on the Vietnamese. The Chamber will issue a ruling on this as soon as possible.

### **B. Objections to Newly Disclosed WRIs from Case 003 and 004**

On Tuesday, the Chamber also heard Parties' arguments in response to E319/32, an OCP request to admit 25 new written records, which had come to light as part of the ongoing investigations into Cases 003 and 004. Defense Counsel Anta Guissé made a lengthy submission in which she agreed to the admission of three WRIs but argued that the rest of the records should not be admitted for a number of reasons.<sup>18</sup> She argued that the OCP request was tardy, that there was insufficient evidence that these WRIs were critical to the ascertainment of the truth, and that they were of low probative value. Defense Counsel for Nuon Chea agreed

with her statement, while international prosecutor Dale Lysak and national CPLCL Pich Ang argued that the new WRIs were indeed of critical importance to Case 002. Mr. Lysak also disputed that the request to admit the WRIs was tardy, because, although his office had been aware of the existence of these particular witnesses, the OCP had not known the extent and relevance of their experiences during the DK regime until recently. The Trial Chamber will rule on the admission of the new WRIs in due course.

### **C. Objections Related to Scope on Fair Trial Rights Grounds**

On Wednesday afternoon, Defense Counsel Victor Koppe made a lengthy objection seeking clarification about the Civil Party. He argued that, because the content of Prak Doeun's Civil Party application was not referenced in the Closing Order, the events he described on Ta Moev island fell outside the scope of Case 002/02 and diminished the right of the Accused to know the charges against them. International CPLCL Marie Guiraud and international prosecutor Vincent de Wilde d'Estmael each responded by arguing that the objection was tardy, as the list of Civil Parties to testify had been circulated far in advance of that day's hearing. Ms. Guiraud stressed the importance for Civil Parties to testify to facts as he or she wishes, and that the other Parties could subsequently argue about these facts. Mr. De Wilde d'Estmael also argued that the Civil Party's evidence related to the alleged existence of a national policy to target the ethnic Vietnamese, an element that the Closing Order addressed. The Chamber agreed with the OCP and ultimately overruled the objection on the grounds that the evidence could demonstrate national policy, and that the objection was tardy. Another objection related to scope was made on Monday morning, as Kong Sam Onn complained that questions about the actions of a Lon Nol soldier in 1974 fell outside the scope of Case 002/02, however the objection was overruled. Again, the Trial Chamber concluded that such questions could help shed light on broader policies.

## **IV. TRIAL MANAGEMENT**

After returning from a week of recess for Water Festival, the Trial Chamber resumed evidentiary hearings with legal discussions, the testimony of the final witness in relation to the TTD, and further Civil Party and witness testimony on the treatment of the Vietnamese. For the first time in several weeks, the Trial Chamber conducted a full week's worth of hearings without interruption to the planned schedule.

### **A. Attendance**

Nuon Chea waived his right to be present in the courtroom and observed proceedings from the holding cell all week, while Khieu Samphan was present in the courtroom during all sessions. Mr. Mam Rithea was appointed as Duty Counsel for Witness 2-TCW-918, who appeared under a pseudonym throughout his testimony, under the Trial Chamber's protective measure.

**Judge Attendance:** Each reserve judge took a seat at the Bench at one point this week. International Judge Claudia Fenz was in poor health on Wednesday afternoon and was replaced by international reserve Judge Martin Karopkin. On Thursday, national Judge You Ottara was absent "due to personal matters," and national reserve Judge Thou Mony sat in his stead for the day.

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

**Parties:** All Parties were properly represented in the courtroom this week. Noticeably, on Wednesday, 2 December, international standby counsel for Khieu Samphan, Mr. Calvin Saunders, was late to attend the morning proceeding and national CPLCL Pich Ang was absent from the last session without any notification from the Chamber.



## Attendance by the public:

DATE	MORNING	AFTERNOON
Monday 30/11/2015	<ul style="list-style-type: none"><li>▪ Approximately 300 villagers from Tuek Chhou District, Kampot Province</li><li>▪ Four foreign observers</li></ul>	<i>No public attendance</i>
Tuesday 1/12/2015	<ul style="list-style-type: none"><li>▪ Approximately 120 villagers from Tuek Phos District, Kampong Chhnang Province and Krakor District, Pursat Province</li><li>▪ Two foreign observers</li></ul>	<ul style="list-style-type: none"><li>▪ Two foreign observers</li></ul>
Wednesday 2/12/2015	<ul style="list-style-type: none"><li>▪ Approximately 100 villagers from Krakor District, Pursat Province</li><li>▪ Five foreign observers</li></ul>	<ul style="list-style-type: none"><li>▪ Approximately 50 villagers Krakor District, Pursat Province</li></ul>
Thursday 3/12/2015	<ul style="list-style-type: none"><li>▪ 122 villagers from Krakor District, Pursat Province</li><li>▪ Two foreign observers</li></ul>	<ul style="list-style-type: none"><li>▪ 114 villagers from Krakor District, Pursat Province</li><li>▪ One foreign observer</li></ul>

### B. Time Management

This week, ongoing legal issues led to lengthy debates among all Parties (see III). However, over the course of four days, the Trial Chamber managed to successfully conclude the testimony of one Witness and one Civil Party, and it began the testimony of another Witness. Each morning began with a discussion of legal issues, which generally took about one session. As a result, all Parties requested additional time to examine Civil Party Prak Doeun, which the Trial Chamber granted to each Party in the interest of equality.

### C. Courtroom Etiquette

There were some contentious interactions between President Nil Nonn and Defense Counsel Victor Koppe this week. For example, Counsel asked 2-TCW-918 if he was afraid to answer his questions, adding that he himself would be scared if he were the Witness, "or indeed a member of the opposition in this country." The President was quick to silence Mr. Koppe, who attempted to repeat his question to the Witness a second time, before a second interruption from the President. Several objections came from both sides of the Chamber this week over allegations of mischaracterized evidence. During the first session on 2 December, international prosecutor Dale Lysak objected to Counsel Koppe referring to a Witness as "a high-ranking cadre" when, in fact, he was only a low-level guard. Counsel Koppe later made a similar objection during the Civil Party lawyer Lyma Nguyen's examination of Prak Doeun, claiming that she was mischaracterizing the Witness's wife as "Vietnamese," when, in fact, she held Cambodian nationality and only Vietnamese ancestry. The President advised Ms. Nguyen to clearly distinguish between nationality and ethnicity in her examination. KRT monitors in the public gallery of the courtroom also noted a mobile phone ringing from the direction of the Bench during the examination of the Civil Party in the morning session on Thursday.

### D. Translation and Technical Issues

There were several translation issues and technical interruptions during proceedings this week. During proceedings on Thursday, Senior Assistant Prosecutor Vincent de Wilde d'Estmael

complained several times about improper translation or mistranslation from English to French and requested repetition. International Co-Prosecutor Nicholas Koumjian mispronunciations of Khmer and Vietnamese names during his examination of Witness Sao Sak were worsened by poor-quality interpretation and unnecessarily confused the Witness and delayed questioning. On Tuesday, technical problems delayed the commencement of proceedings by almost 20 minutes. Several brief audio malfunctions throughout the proceedings prompted the President to instruct the Parties to patiently repeat their lines of questions and answers.

#### E. Timetable

DATE	START	MORNING BREAK	LUNCH	AFTERNOON BREAK	RECESS	TOTAL HOURS
Monday 30/11/2015	9:06	09:18 – 09:59	11:32 – 13:32	14:45 – 15:09	16:04	3 hours, 53 minutes
Tuesday 01/12/2015	9:22	10:25 – 10:42	11:32 – 13:32	14:26 – 14:47	16:00	4 hours
Wednesday 02/12/2015	9:03	09:55 – 10:15	11:30 – 13:31	14:41 – 15:01	16:01	4 hours, 17 minutes
Thursday 03/12/2015	9:01	10:10 – 10:31	11:31 – 13:31	14:49 – 15:08	16:02	4 hours, 21 minutes
Average number of hours in session				4 hours and 7 minutes		
Total number of hours this week				16 hours and 31 minutes		
Total number of hours, day, weeks at trial				446 hours and 50 minutes		
<b>119 TRIAL DAYS OVER 35 WEEKS</b>						

\*This report was authored by Alexander Benz, Borakmony Chea, Melanie Hyde, Daniel Mattes, Caitlin McCaffrie, Lina Tay, Penelope Van Tuyl, and Talisa zur Hausen as part of the KRT Trial Monitoring and Community Outreach Program. KRT Trial Monitor 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**

Case001	<i>The Case of Kaing Guek Eav alias “Duch” (CaseNo.001/18-07-2007-ECCC)</i>
Case002	<i>The Case of Nuon Chea, Ieng Sary, Ieng Thirith, and Khieu Samphan (CaseNo.002/19-09-2007-ECCC)</i>
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
DSS	Defense Support Section
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

<sup>1</sup> For more information about the appeal hearings scheduled for the week of 17-20 November 2015, see CASE 002/01 APPEALS KRT TRIAL MONITOR, Issue 2, Second Set of Appeal Hearings (11 December 2015).

<sup>2</sup> Trial Chamber, “Decision on International Co-Prosecutor’s Request to Admit Documents Relevant to Tram Kok Cooperatives and Kraing Ta Chan Security Center and Order on Use of Written Records of Interview from Case Files 003 and 004” (24 December 2014), E319/7.

<sup>3</sup> Witness 2-TCW-996 was questioned in closed session in the following order: President NIL Nonn; international co-lawyer for Nuon Chea, Victor KOPPE; international senior assistant prosecutor Vincent DE WILDE D’ESTMAEL; international Civil Party lead co-lawyer Marie GUIRAUD; Judge Jean-Marc LAVERGNE; national co-lawyer for Khieu Samphan, KONG Sam Onn.

<sup>4</sup> There was some question during the Witness’ testimony about whether the three individuals mentioned by the Witness were his nephews or his brothers. This was not clarified.

<sup>5</sup> During questioning, Counsel Victor KOPPE noted that work started on the TTD on 14 or 16 February 1977, however, the Witness restated that he believed work started on the Dam in early 1976.

<sup>6</sup> This Witness explained that military terminology was commonly used when referring to the TTD worksite. He explained that the Dam was labeled a “battlefield,” and he further stated that chiefs and supervisors were called “commanders” and were responsible for measuring the land and observing the “forces” of workers. He also said that the plan to complete the Dam site was regarded as a “win” if accomplished in due time.

<sup>7</sup> When confronted with questions on the provenance of the “Eastern sandals” distributed at the meeting, the Witness clarified that the sandals were merely called “Eastern,” but did not in fact come from the East Zone.

<sup>8</sup> Counsel Victor KOPPE pointed out that the date of RUOS Nhim’s S-21 confession was 1 June 1978, however, the Witness stood by his original response.

<sup>9</sup> Witness 2-TCW-918 was questioned in the following order: President NIL Nonn; assistant prosecutor Dale LYSAK; international Civil Party lead co-lawyer Marie GUIRAUD; Judge Jean-Marc LAVERGNE; international co-lawyer for Nuon Chea, Victor KOPPE; international co-lawyer for Khieu Samphan, Anta GUISSÉ.

<sup>10</sup> When questioned further about the rice quota per person, the Witness added that, although workers each received three tins of rice per day, they sometimes did not have enough water or the opportunity to cook three times a day.

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<sup>11</sup> 2-TCW-918 testified that the person he saw at the Dam site was over 1.7 meters tall before estimating that Khieu Samphan was only 1.67-1.68 meters tall. The Witness had been 250 meters away from the visitor at the time.

<sup>12</sup> The precise role of 2-TCW-918 at the TTD remains unclear, however, his close relationship with Ta Val and the testimony of 2-TCW-996 indicate that he could have been TA Val's deputy.

<sup>13</sup> When read his prior testimony about the unit being armed with weapons at the meeting, he said that his previous interviewers must have been confused, and that laborers used to refer to tools for constructing the Dam as "weapons" at that time.

<sup>14</sup> Civil Party Mr. PRAK Doeun (2-TCCP-300) was questioned in the following order: President NIL Nonn; international Civil Party lawyer Lyma NGUYEN; 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>15</sup> Counsel Anta GUISSÉ questioned PRAK Doeun in depth about the circumstances of providing his original Civil Party Application. PRAK Doeun claimed that he could not recall the circumstances in detail. However, he stated that, when one or two people came to his house, he put his fingerprint on an English version of his statement without fully understanding its purpose. He told the Chamber that the people who came to meet him did not introduce themselves and that he was initially afraid of punishment when they mentioned that he was requested to appear in court proceedings.

<sup>16</sup> Counsel KOPPE questioned the Civil Party at length about the veracity of his story. Mr. KOPPE asked the Civil Party if he had ever been arrested or accused of the murder of his wife. The Civil Party vehemently denied this. The Bench intervened during Counsel Koppe's questioning to ascertain the basis for this line of examination. Counsel clarified that in a prior interview, PRAK Doeun is quoted as saying "I would like to deny that the Khmer Rouge ever forced me to kill my Vietnamese wife to survive. I swear this is not true." The Trial chamber ultimately did not permit the Defense Counsel to put this question to the Civil Party.

<sup>17</sup> Witness Ms. SAO Sak (2-TCW-886) was questioned in the following order: President NIL Nonn; national deputy prosecutor SENG Leang; international co-prosecutor Nicholas KOUMJIAN.

<sup>18</sup> Anta GUISSÉ argued the three WRIs should be admitted because one had already been tendered into evidence, one came from a witness who had already appeared in Court, and another came from a witness who was to testify soon.