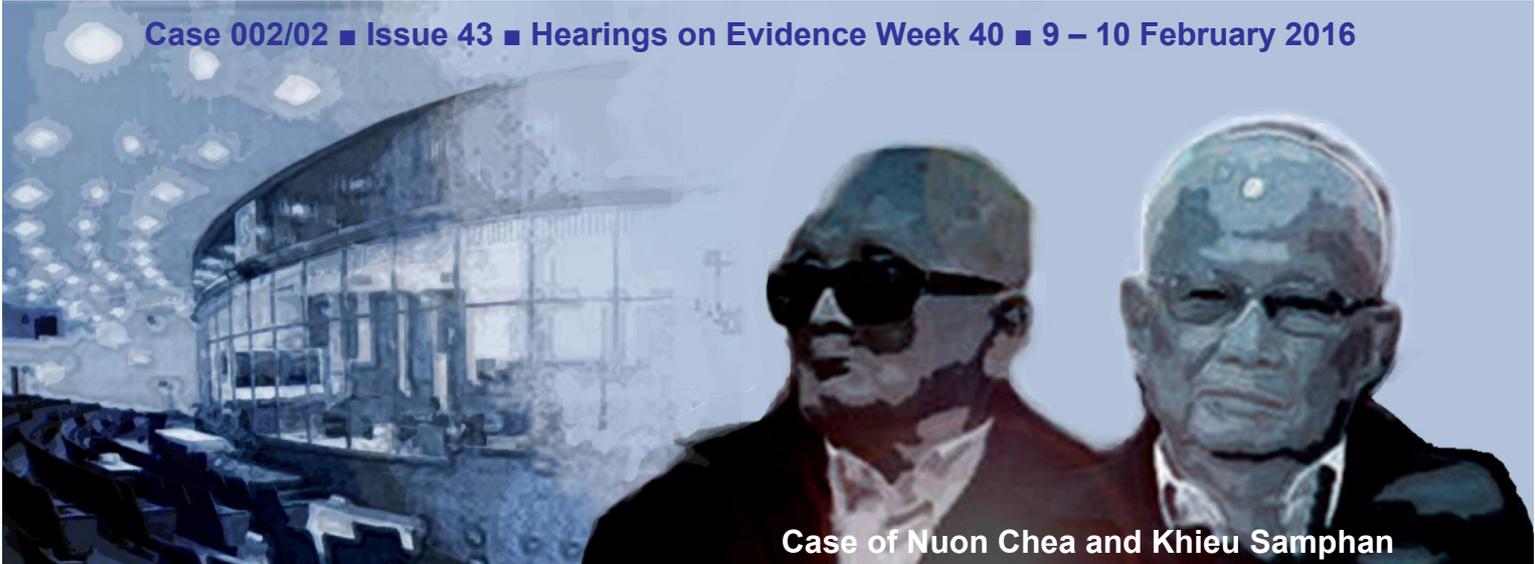


# KRT TRIAL MONITOR

Case 002/02 ■ Issue 43 ■ Hearings on Evidence Week 40 ■ 9 – 10 February 2016



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)

*“When we returned, I saw houses left empty without any villagers.  
I kept waiting to see a return of my uncle, my aunt,  
my cousins, second cousins...we kept waiting for a year  
or two or three, and no one has returned”*

- Expert Witness Ysa Osman

## I. OVERVIEW

This week the Trial Chamber only sat for two days as all Parties were given time to prepare for the upcoming Appeal Hearings in Case 002/01. This week Expert Witness Ysa Osman appeared before the Chamber to testify on the treatment of the ethnic Cham during the the Democratic Kampuchea (DK) regime.<sup>1</sup> Mr. Osman is currently working as an analyst in the Office of Co-Investigating Judges (OCIJ), has previously worked for the Documentation Center of Cambodia (DC-Cam) and is the author of two books on the Cham people, published by DC-Cam: *Oukoubah* and *The Cham Rebellion*.<sup>2</sup> Based on his research, Mr. Osman was able to provide a great deal of information on the history of the Cham people and the key aspects of Cham identity. He also testified about Cham-led rebellions that occurred in Trea, Koh Phal and Svay Khleang villages, and explained his estimates of the population of Cham people living in Cambodia before and after the DK period. Ysa Osman will return in March to conclude his testimony.

## II. SUMMARY OF EXPERT WITNESS TESTIMONY

In addition to providing testimony on the identity of Cham people and the Cham population before, during and after the KR period, Mr. Osman also testified about his knowledge of three rebellions of the Cham population; in Trea, Koh Phal and Svay Khleang villages in Krouch Chhmar District. Some questions were raised by both Defense Teams concerning the proper conduct of expert witnesses, but mostly these questions were dismissed by the Bench as the Defense will have the opportunity to question the witness when he returns to testify in March.

### A. Summary of Testimony by Expert Witness Ysa Osman

Expert Witness Ysa Osman appeared over two full days this week, and was questioned by the

Office of the Co-Prosecutors (**OCP**) and the Lead Co-Lawyers for Civil Parties (**LCLCPs**).<sup>3</sup> The Expert was accompanied by OCIJ Legal Officer Julie Bardeche. Ms. Bardeche was appointed according to a Trial Chamber memorandum, which assigned her the role of protecting the confidentiality of Case 004 but made it clear that she was not present as a representative of Mr. Osman.<sup>4</sup>

### **1. Methodology of writing Oukoubah and The Cham Rebellion**

Since the majority of Ysa Osman's testimony resulted from the research he had conducted while writing his two books, he was asked a number of questions about his research methods. His first publication, *Oukoubah*, was first written in Khmer but was translated into English by DC-Cam before being published only in English in 2002.<sup>5</sup> Mr. Osman explained that for this first book, he had focused on victims of S-21 who had been Cham and consulted documents from Tuol Sleng Genocide Museum and the National Library, including victim biographies and "confessions" in addition to KR documents. In addition to desk research, Mr. Osman also interviewed Cham survivors, elders and possible perpetrators or mid ranking KR cadres.

Mr. Osman explained that his research for his second book *The Cham Rebellion*, which was published in 2006 by DC-Cam, differed from his first as it consisted of considerably more interviews.<sup>6</sup> Mr. Osman said that he could not recall how many interviews he had conducted, but estimated that he had interviewed approximately 200-300 people (some ethnic Khmer but mostly Cham) over the course of researching his book, mostly from Kampong Cham. Of the Khmer people he interviewed there were two groups: those who had been lived together with Cham people during the regime and those who were officials or cadres and were involved in arrests or executions.

### **2. Characteristics of the Cham Group (ethnicity and religion)**

A significant part of Ysa Osman's testimony focused on the identity of the Cham people. Mr. Osman stated that not all Muslim people in Cambodia are Cham, although they do make up the majority. He said that the distinct Cham language and their Islamic religion were the most obvious characteristics shared by the Cham. He detailed the religious practices of the Cham; stating that they usually pray five times a day and visit a mosque weekly. He said Cham language was also a defining feature of their identity, that it has both a written and spoken form and that often those who grow up speaking Cham as a first language speak Khmer with a noticeable accent. He also identified the Cham language as a distinguishing feature between the Cham Muslim population and the other Muslim people living in Cambodia, a majority of whom have Indonesian heritage and do not speak the Cham language.

Other obvious distinctions that made the Cham people different from the Khmer people were their traditional clothes, particularly the headscarves worn by women and headpieces worn by men. They also do not eat pork, as this is a strict requirement of Islam. This means that often Cham communities are based on or near water, as they rely so heavily on fish as their main food source. Cham communities are another important part of their identity, as they can pray and study together, with *Hakims* in each village teaching religion.<sup>7</sup> Mr. Osman said that when the law of the state conflicted with the law of Islam, such as in inheritance law, a *Hakim* would moderate the conflict. The Expert Witness testified that these characteristics together were seen as defining the Cham identity.

### **3. Experience of the Cham during the Lon Nol Regime**

The Expert Witness testified that from his research the majority of Cham living under the Lon Nol regime lived in Kampong Cham Province, especially in Ponhea Kraek, Dambae, Tboung Khmum and Krouch Chhmar Districts, although there were Cham in every province of Cambodia at the time. He said that the Cham people generally lived in separate communities

from ethnic Khmer Cambodians, although these communities could border one another without conflict. He said that in the initial stages of the KR revolution, the KR Front were kind to the Cham and the “Cham people loved the Khmer Rouge.” He testified that the KR educated the Cham about how to safeguard their traditions and religious identity, and said that some Cham people joined the revolution to fight against the Lon Nol regime.<sup>8</sup> Judge Lavergne questioned the Expert on Les Kosem; an ethnic Cham military commander of Brigade 5 in the Lon Nol regime during the Civil War. The Judge questioned the Witness on whether it was possible that because of men like Les Kosem, the Cham were associated with the Khmer Republic regime and hence became a target for the KR. In response the Witness stated that if this was the case then the KR policy against the Cham would have been consistent since the early 1970s, however as he had stated earlier, initial relations were positive between the Cham and the KR.

After 1973, Mr. Osman said that KR policy on the treatment of the Cham changed dramatically. He said that it was at this time that arrests, detentions and executions began, particularly of Cham religious leaders such as *Hajjis* and *Hakims* in Krouch Chhmar District.<sup>9</sup> Mr. Osman testified that in 1974 arrests had increased in frequency, and the scope of arrest widened to include other districts and other types of Cham people, and it was around this time that the Cham people “lost confidence” in the KR revolution. He said that by this time most of the highly populated Cham regions were controlled by KR forces and so they were not able to seek support from the Lon Nol forces.

#### **4. Treatment of Cham people during the DK regime**

Ysa Osman went on to detail the restrictions placed on the Cham during the DK period. These restrictions included that the Cham women were forced to cut their hair in the centrally mandated short style, and were forced to stop wearing scarves or head coverings, as were the Cham men. Additionally the Cham people were forbidden from using the Cham language and prohibited from praying to Allah and Mosques were closed down. Copies of the Quran were gathered and burned, and the Cham people were forced to raise pigs and eat pork, which is considered *Haram* or unclean in the Muslim faith.<sup>10</sup> Mr. Osman also explained how Cham people were forced to marry outside their community and into other ethnic groups.<sup>11</sup> The KR also carried out countless arrests in an effort to restrict and suppress the Cham people, particularly the Cham leaders. According to the Expert, in Krouch Chhmar District in 1973, the majority of religious leaders were detained and killed and subsequently in 1974 the scope of arrests was widened to include not only Cham leaders but also ordinary Cham villagers.

The Expert stated that the KR regime intentionally suppressed the Cham way of life. He said that, in order to avoid being identified as Cham, often Cham people would change their names or those of their children. He also said that the overwhelming loss of Cham leaders, educators, religious scholars and knowledge significantly affected the ability of the Cham to carry on their traditions. The Expert stated the intentional targeting of Cham leaders was an attempt by the KR to weaken the Cham communities and destroy them as a group. The Expert also testified that his research demonstrated the Cham were killed at a disproportionate rate to the Khmer, although there was some uncertainty as to the exact number of deaths.

#### **5. Cham Rebellion in Trea Village**

A significant focus of Ysa Osman’s second book, *The Cham Rebellion*, and thus a large amount of his testimony this week was centered on three alleged rebellions that were led by the Cham in Trea, Koh Phal and Svay Khleang villages in Krouch Chhmar District.<sup>12</sup>

##### **a. Cham Rebellion in Trea Village**

The first of the three Cham rebellions to take place in Krouch Chhmar was in Trea Village. This was the smallest of the three rebellions and took place in 1973, the year that treatment of the

Cham started to change for the worse. During this relatively small clash, according to the Expert villagers burnt down an office in retaliation for the arrests of Cham villagers. He said that to his knowledge this was not meant as an act of rebellion against the KR as a whole, but rather a direct response to the arrests. He said that immediately after the office was destroyed, a group of KR soldiers arrived in the village immediately to quell the unrest. He said some were arrested while others fled by swimming the Mekong into Kampong Cham District.

#### **b. Cham Rebellion on Koh Phal**

The other two rebellions documented by the Expert in *The Cham Rebellion* both took place in 1975. The first took place on Koh Phal, in Krouch Chhmar District during the month of Ramadan, sometime in September.<sup>13</sup> Mr. Osman testified that the main reason for the rebellion in Koh Phal was the increasing repression, including a prohibition on worship and the imposition of other rules targeting the traditional behavior of the Cham. The Witness said that these rules, applied across the country, arrived later at Koh Phal due to its relative isolation as an island in the Mekong River. After trying on several occasions to take over the island in 1974, the KR were finally successful in 1975, at which time they called all villagers to a meeting during Ramadan. The Expert Witness claimed that, during the meeting when instructions were being given about the changes to take place on the island, someone shouted that it was time for the evening prayer. The KR responded that they must stay at the meeting, which prompted the villagers to rebel, using whatever weapons were available to them at the time, namely traditional swords, knives and stones. He said that the Cham people outnumbered the KR forces at that time, forcing the KR to withdraw from the island. They returned with weapons including artillery and shelled the banks of the island the next day. According to the Expert, this rebellion resulted in many deaths on the Cham side as well as arrests, disappearances and executions afterwards.

#### **c. Cham Rebellion in Svay Khleang**

The Expert also described the second rebellion of 1975 in Svay Khleang, which he said also took place around the month of Ramadan, in early October, approximately two weeks after the rebellion on Koh Phal. Mr. Osman said that it was caused by different reasons to the other rebellions. He said that villagers in Svay Khleang had already been forced to submit to KR policies by late 1975, unlike in Koh Phal, and thus the rebellion was not a direct response to these restrictions. Rather, the villagers rose up when they became aware of a list containing 100 names of people to be arrested, surmising that this was a euphemism for them being killed. He said that after the list was discovered, the younger generation led a relatively disorganized uprising against the KR cadres when they came to arrest the 100 individuals. Ysa Osman said that based on his research, the Cham in Svay Khleang also fought back with traditional swords, knives and stones, however they had also seized guns from the KR. They also managed to dig trenches, making them able to defend their village for a longer time. Nevertheless, the KR finally put an end to the rebellion and arrested those involved.

### **6. Relocation and Killing of Cham People following the Rebellions**

Mr. Osman told the Court that after the rebellion in Koh Phal, Cham rebels were buried in mass graves of up to 40 bodies per grave. Those who did not manage to flee were sent to Roka Khnoa Commune under guard, and there they were classified into three categories based on their perceived threat to the regime. He said that the most dangerous category was sent to security centers in neighbouring villages and that many of them died there. According to Ysa Osman, survivors of the Svay Khleang rebellion were sent directly to detention centers. He said that these were often insufficiently large to house all detainees, and so the fittest men were killed directly, as they were perceived as posing the biggest threat to the regime. The Expert detailed that those remaining often died from malnutrition and starvation. Ysa Osman said that in both Koh Phal and Svay Khleang, survivors who had not been involved in the rebellions and

were not seen as posing a threat to the regime were relocated. He testified that those Cham villagers were then separated and dispersed throughout the country, living among Khmer families. He said that often connections between Cham families were lost during this relocation, and that the relocated Cham would mostly be treated the same as the “New People” who were relocated after the evacuation of Phnom Penh.

## **7. Cham Population Before and After DK**

The OCP spent a significant amount of time questioning the Expert about his estimates of the Cham population before and after the DK regime.<sup>14</sup> This is a contentious issue, and scholars tend to disagree with each other. For his part, Ysa Osman said that he agreed with historian Michael Vickery’s statement that Cambodian population statistics are largely compiled of “assumption, extrapolation and pure guess work;” noting that trying to ascertain exact figures of any population group is incredibly difficult as there are no documents that explicitly indicate these facts. However, he distinguished himself from Mr. Vickery and Australian scholar Ben Kiernan, noting that in his own research he relied on both interviews with victims of the DK regime as well as officials who had seen DK documents containing contemporaneous statistics.

Based on the work of other scholars, as well as his own interviews, Mr. Osman estimated that the ethnic Cham population numbered 700,000 prior to the DK regime. The Expert said he believed that the Cham made up approximately 10% of the total population in Cambodia at that time, with the majority living in Kampong Cham and Tboung Khmum Provinces.<sup>15</sup> Ysa Osman testified that his research put the number of Cham living in Cambodia after the DK period at 200,000, although he admitted that it was not possible to know to what extent the decrease of 500,000 was the result of death by natural causes or of people fleeing the country.<sup>16</sup> When questioned by international Co-Prosecutor Nicolas Koumjian he said he was aware that his data differed from the population statistics put forward by both Vickery and Kiernan. Mr. Osman dismissed the other scholars’ findings, saying that the the documents they based their numbers upon were unreliable. Specifically he said they relied too heavily on the only available census data on Cambodia, the most recent of which dates from 1962, over a decade prior to the start of the DK regime, as well as voter registration lists which made no distinction between minorities whether they be Cham, Chinese/Cambodian or any other race. He also added that many of the elder Cham people he had interviewed could not recall having taken the 1962 census, suggesting that it should not be viewed as a reliable source of population statistics.

## **8. Expert Witness Demeanor and Credibility**

Throughout the two days of Ysa Osman’s testimony this week, the quality of his answers was largely consistent. He had no problems following proceedings and often asked for clarification before he gave detailed answers to avoid confusion. He had brought both of his books with him and often referred to or read from them in order to ensure his answers accurately reflected his research. There was one instance where a statement made in court contradicted a passage from his book *The Cham Rebellion*. Judge Lavergne asked the Witness about a telegram he cites in the book that orders the “scattering” of the Cham people. In *The Cham Rebellion*, Ysa Osman states that the telegram was received by Nuon Chea and Khieu Samphan, however he clarified with Judge Lavergne that an error was made in the English translation of the document.<sup>17</sup>

Although he was personally affected by the DK regime, he did not seem to insert any personal biases into his answers, which were strictly based on his research. On a few occasions he was asked about his own personal memories of the DK period, and in these cases he told the Chamber that he had been very young at the time and could remember little. When asked specifically about his experiences after the Svay Khleang Rebellion, he said that he was too young to recall accurately, and instead provided the court with his memories from later years, admitting that these were retrospective. Overall the Witness endeavored to answer questions

using his research, meaning that often his answers were long and very detailed.

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

There was some disagreement between opposing parties this week regarding the role of an Expert Witness, particularly concerning the limitation of Expert Witnesses to provide opinions on ultimate issues of fact. The Trial Chamber's 2012 "Decision on the Assignment of Experts" (E215) states that fact Witnesses testify about the crimes with which the Accused is charged and should limit their opinions to their personal experiences, whereas Expert Witnesses can testify on specific issues of a technical nature and may provide their opinions in a speculative fashion insofar as these opinions are informed by the Expert's academic knowledge on the topic.<sup>18</sup>

#### **A. Disagreement on the Role of an Expert Witness**

International Defense Counsel for Nuon Chea, Victor Koppe, sought clarification from the Chamber during the President's questioning of the Expert Witness. Mr. Koppe argued that the President had phrased his questions in such a way to elicit the Expert's opinion on issues of fact, in contravention of the Trial Chamber's decision. While international Co-Prosecutor Nicholas Koumjian agreed with the Defense's point on the role of the Expert Witness, he disagreed that the President had asked for an opinion on issues of fact. Rather, he said he had asked the witness for his opinion "based on his research," and added that this was within the remit of his appearance as a Witness. The President continued his line of questioning, reminding the Expert not to go beyond his research in his responses.

Later on the same day, Mr. Koppe objected to the style of testimony being given by the Expert Witness. Mr. Osman had brought the two books he had authored with him to the Chamber and on occasion would read excerpts out of the book when it was relevant to his answers. Mr. Koppe objected to this, stating: "we've all read Mr. Osman's book so I don't think there's a need for him to either quote or summarize it." He also asked the President to instruct the Witness to "only testify to facts that he himself experienced... the majority of things he is testifying to are disputed." The President reminded Mr. Koppe that the Expert was not called as a factual Witness and thus all of his questions related to the Expert's research, not his first-hand experience of the DK regime.

### **IV. TRIAL MANAGEMENT**

The Trial Chamber heard the testimony of Expert Witness Ysa Osman over two days in relation to the treatment on Chamber during the DK regime. His testimony has not yet concluded as the Trial Chamber only held hearings over two days this week in order to provide time for the Parties to prepare for Appeal Hearing in Case 002/01 next week.

#### **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.

Ms. Julie Bardeche, a legal officer for the Office of the Co-Investigating Judges were appointed by the Trial Chamber to accompany Expert Witness Ysa Osman due to the interest of the OCIJ in maintaining the confidentiality of the investigation into Case 004.

**Judge Attendance:** National Judge You Ottara was absent this week due to health issues, and national reserve Judge Thou Mony replaced him. All other judges of the Bench were present in the courtroom as usual this week.

**Civil Parties Attendance:** During the hearing approximately ten Civil Parties observed the

proceedings inside the courtroom.

**Parties:** All Parties were properly represented in the courtroom throughout the week.

**Attendance by the public:**

DATE	MORNING	AFTERNOON
Tuesday 09/02/2016	<ul style="list-style-type: none"> <li>▪ Approximately 70 students from Sok An High School, Treang District, Takeo Province</li> <li>▪ Five foreign observers</li> </ul>	<ul style="list-style-type: none"> <li>▪ Approximately 100 students from Sok An High School, Treang District, Takeo Province</li> <li>▪ Four foreign observers</li> </ul>
Wednesday 10/02/2016	<ul style="list-style-type: none"> <li>▪ Approximately 60 villagers from Teuk Chhu District, Kampot Province</li> <li>▪ Three foreign observers</li> </ul>	<ul style="list-style-type: none"> <li>▪ Approximately 100 villagers from Teuk Chhu District, Kampot Province</li> <li>▪ Six foreign observers</li> </ul>

**B. Time Management**

This week the Trial Chamber was scheduled to hear the testimony of Expert Witness Ysa Osman on Tuesday and Wednesday in order to provide extra time to the Parties to prepare for Appeal Hearing before the Supreme Court Chamber in Case 002/01 next week. The Trial Chamber allocated one day and one session to the OCP and LCLCPs for questioning the Expert, however as the President and Judge Jean-Marc Lavergne both took over one session each to ask questions to the Expert, the Defense Teams have yet to begin. The Trial Chamber will resume Expert Witness testimony on 2 March after concluding Key Documentary Hearings in Case 002/02 regarding segment of treatments of Vietnamese and Cham, starting on 23 February until 25 February.

**C. Courtroom Etiquette**

There were no notable breaches of courtroom etiquette in the courtroom this week.

**D. Translation and Technical Issues**

There were a few minor mistranslation and technical problems during the hearing on 10 February, including the number of Hakims from '130' to '113' during Mr. Osman's response to international Co-Prosecutor Nicholas Koumjian's question. Monitors also noted the incorrect interpretation of '26 of them' to 'them' and '1,000 families' to '10,000 families' from Khmer to English.

**E. Time Table**

DATE	START	MORNING BREAK	LUNCH	AFTERNOON BREAK	RECESS	TOTAL HOURS
Tuesday 09/02/2016	9:02	10:11-10:32	11:31-11:30	14:40-15:00	16:06	4 hours 24 minutes
Wednesday 10/02/2016	9:00	10:10-10:31	11:30-13:30	14:43-15:00	15:54	4 hours 16 minutes

Average number of hours in session	4 hours and 20 minutes
Total number of hours this week	8 hours and 40 minutes
Total number of hours, day, weeks at trial	537 hours and 30 minutes
147 TRIAL DAYS OVER 43 WEEKS	

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\*This report was authored by Alexander Benz, Borakmony Chea, Caitlin McCaffrie, Elizabeth Orr, Thi Son, Lina Tay and Penelope Van Tuyl 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 Eavalias “Duch”</i> (CaseNo.001/18-07-2007-ECCC)
Case002	<i>The Case of Nuon Chea, Ieng Sary, Ieng Thirith, and Khieu Samphan</i> (CaseNo.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
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> Expert Witnesses are sought to provide insight and clarification on specific issues of a technical nature deemed necessary to the proceedings. (see Internal Rule 31(1)). An expert is appointed through a judicial order specifying their exact assignment (see Internal Rule 31(3)) The Chamber has decided that the role of Expert Witnesses is to enlighten the Chamber on specific issues of a technical nature, requiring special knowledge in a specific field. Experts are entitled to provide their opinions and may give speculative answers insofar as they are informed by the Expert’s broader knowledge about a topic (see Trial Chamber, “Decision on Assignment of Experts” (5 July 2012), E215, [hereinafter **DECISION ON EXPERTS**]). However, this Decision also provides that “Expert Witnesses may not express opinions on ultimate issues of fact, as only the Chamber is competent to make a judicial determination on the issues in the case.” The July 2012 Decision relied on international jurisprudence (for one example, see Trial Chamber, *Prosecutor v. Karemera*, Decision on Joseph Nzirorera’s motion to limit the scope of testimony of expert witnesses Alison Des Forges and Andrew Guichaoua (21 August 2007), ICTR-98-44-T, para. 3).

<sup>2</sup> The title of Ysa Osman’s first book, *Oukoubah*, is an Arabic term meaning both punishment and justice. Mr. Osman told the court that the meaning he intended to convey with this title was justice.

<sup>3</sup> Witness Ysa Osman (2-TCE-95) was questioned in the following order: President NIL Nonn; international co-prosecutor Nicholas KOUMJIAN; national deputy co-prosecutor SONG Chorvoine; international civil party lead co-lawyer Marie GUIRAUD; judge Jean-Marc LAVERGNE.

<sup>4</sup> Trial Chamber “Modalities of Testimony for 2-TCE-95” (5 February 2016) E367/6. Procedural protocol was discussed on 30 September 2015. Since Mr. Osman worked previously as an investigator for the OCIJ, international co-investigative judge Michael Bohlander requested that the OCIJ legal officer Andrea Ewing be present during the Expert’s testimony to protect any confidential information being raised. The Defense Teams both objected to this suggestion, arguing that the Expert had a ‘personal obligation’ to maintain confidentiality and should not require an assistant to achieve this. They also underlined that ICIJ had no legal status in Trial Chamber in Case 002. For a full analysis of the arguments made regarding Ysa Osman’s legal officer see CASE 002/02 KRT TRIAL MONITOR, Issue 32, Hearings on Evidence week 29 (28-30 September 2015) pp. 7-8.

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<sup>5</sup> Although Ysa Osman obtained a Bachelor of English from Build Bright University in Phnom Penh, he said that he did not translate the book himself as his English was not at a high enough standard. He testified that he first began working at DC-Cam in 1999, however did not mention how soon after he joined that he began research for his first book.

<sup>6</sup> Just as in his first work, he originally wrote the book in Khmer but it was translated by DC-Cam into English and then only published in that language.

<sup>7</sup> “*Hakim*” is the term for an elder Cham Muslim religious leader.

<sup>8</sup> Ysa Osman made it clear that there were ethnic Cham members on both sides of the civil war, saying that there were also ethnic Cham members in the Lon Nol government.

<sup>9</sup> “*Hajji*” refers to someone who has made the pilgrimage to Mecca.

<sup>10</sup> Mr. Osman testified that buried copies of the Quran were found in Svay Khleang and Koh Phal after the DK regime ended, which he presumed to be an attempt by local Cham villagers to protect them from being destroyed by KR forces.

<sup>11</sup> Prior to the DK regime it was not forbidden for Cham people to marry outside their community, however before marriage their partner would have to convert to Islam.

<sup>12</sup> Many witness and Civil Parties have testified on these three alleged rebellions during the segment on the treatment of the Cham. For summaries of the testimony of these witnesses, in particular *see* CASE 002/02 KRT TRIAL MONITOR, Issue 30, Hearings on Evidence week 27 (7-10 September 2015), CASE 002/02 KRT TRIAL MONITOR, Issue 32, Hearings on Evidence week 29 (28-30 September) and CASE 002/02 KRT TRIAL MONITOR, Issue 38, Hearings on Evidence week 35 (5-8 January 2016)

<sup>13</sup> According to the witness the second one occurred around the 29th of the Ramadan month which would have been the 5th of October 1975 and the first rebellion took place approximately two weeks before in September in Ramadan as well.

<sup>14</sup> International Co-Prosecutor Nicholas Koumjian spent almost an entire session going over calculations made by Mr. Osman in his book about the exact number of Cham people who were living in specific villages in Krouh Chhmar District in 1975 and 1979.

<sup>15</sup> During the DK regime, Tboung Khmum was a district of Kampong Cham. It became a separate province in 2013.

<sup>16</sup> However Mr. Osman did say that traditionally Cham people usually return to their home village, so he did express doubt that people who had fled would not have returned after the fall of the DK regime.

<sup>17</sup> The telegram was addressed in Khmer to Nuon Chea and “Brother Khieu” – the alias of Son Sen, not Khieu Samphan. The Witness was up front about this possible translation error and agreed with Judge Lavergne’s suggestion that he use the time afforded him in the break to double check the different language versions of his book. After the break he acknowledged that an error had been made from Khmer to English in his book and that the telegram was sent to Nuon Chea and Son Sen, not Khieu Samphan.

<sup>18</sup> *See* DECISION ON EXPERTS, pp. 8-9.