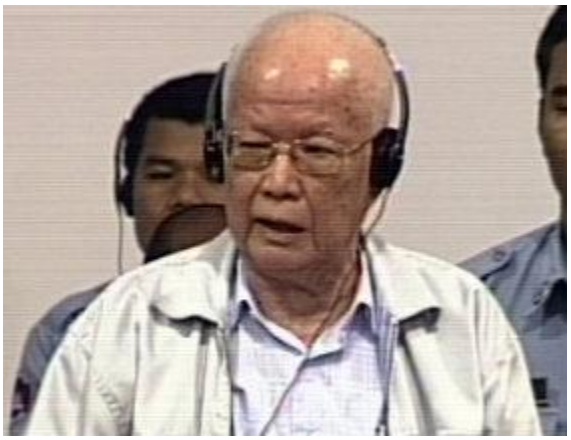

"Selective Decisions on Testimony": Parties Debate Khieu Samphan's Decision Not to Testify after Nuon Chea Himself Responds to Key Documents

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On Tuesday, July 9, 2013 the Extraordinary Chambers in the Courts of Cambodia continued to hear the response of Nuon Chea's defense team to documents presented by the prosecution and civil parties during the week of June 24. This response concluded a rare address by Nuon Chea himself. The Chamber then heard intense debate on whether o Khieu Samphan would himself agree to give evidence to the court before the conclusion of the evidentiary proceedings.

All parties were present to the proceedings, with the exception of Nuon Chea who observed and participated from his holding cell due to his on-going health conditions.

Nuon Chea's Defense Team Continues Its Response

Son Arun, co-lawyer for Nuon Chea, started the day by telling the court that, during his continued presentation, he would be addressing the topic of S21 Detention Center. Mr. Arun repeated an objection he said had been made on the previous day by Mr. Koppe that S21 was considered outside the scope of this trial. There had been two instances in which the court had refused the prosecution's request to include S21 in Case 002/1, which were significant according to Mr. Arun.

He submitted that there were numerous topics that the court would need to hear evidence on if they were to reach a conclusion as to the accused's involvement in S21 and as of yet, these were not being addressed by the court. At this stage, Dale Lysak, Assistant Prosecutor, objected on the grounds that counsel was not responding to documents, which was the purpose of today's hearing.

[1] Cambodia Tribunal Monitor's daily blog posts on the ECCC are written according to the personal observations of the writer and do not constitute a transcript of the proceedings. Official court transcripts for the ECCC's hearings may be accessed at http://www.eccc.gov.kh/en/case/topic/2.

The president stressed that the topic of the hearing was a response to key documents and not the making of submissions, which apparently came as a surprise to Mr. Arun who claimed to be "stunned." He argued the prosecution had also made introductory statements, as he now was doing himself.

Moving on, Mr. Arun began to discuss the evidence itself, telling the court that the prosecution had presented 26 confessions, six of which they alleged had been signed by Nuon Chea. This, it had been argued, showed that Nuon Chea had a role in S21. However, Mr. Arun submitted, this was not the case; "if the evidence shows anything it shows that Nuon Chea had no role at S21 at all," he averred.

In order to prove this point, Mr. Arun began by talking about the six confessions purportedly signed by Nuon Chea, focusing on one example of a confession by San Eab. It had been alleged by Duch that Nuon Chea had signed these confessions, but Mr. Arun drew the court's attention to the testimony of Duch, in which Duch claimed not to have seen the documents before the Office of the Co-Investigating Judges (OCIJ) had showed him them. Duch had said that he recognized Nuon Chea's handwriting.

Mr. Arun stressed before the chamber that Duch was not himself a handwriting expert and that he had not seen Nuon Chea or his handwriting for over thirty years. The counsel urged the court to "exercise common sense" and bear in mind that Duch would not have remembered his boss's handwriting after 30 years. More likely, he submitted, Duch realized that he was being asked to recognize Nuon Chea's handwriting and so did.

Mr. Arun attempted to present an account by Judge Lemonde, which provided an assessment of Duch's ability to provide evidence. However, as the book which he was reading from had not been admitted into evidence by the court, the prosecution successfully objected to its inclusion in Mr. Arun's presentation.

The defense counsel instead presented a written record of an interview with Duch, in which he talked about the same annotations on the same documents. "I don't know who wrote that, but it was not Pol Pot, whose handwriting was similar to mine. … Perhaps Nuon Chea wrote it, but that is just my assumption because I did not see his handwriting often," Duch had said. The court was told that not only did Duch not recognize the handwriting as Nuon Chea's but also that he lacked a basis to make such identification, as Duch had acknowledged that he did not see Nuon Chea's handwriting often.

As for three other documents in which the prosecution claimed Duch identified Nuon Chea's handwriting, Mr. Arun argued that Duch provided no explanation for his identification. Rather, Duch maintained that he had no recollection of the confessions in question or seeing the annotations being made upon them. This, it was submitted, is significant as Nuon Chea denies annotating the documents and Duch was the sole witness claiming the accused had written on them.

Moving on from the confessions allegedly annotated by Nuon Chea, Mr. Arun turned to look at confessions more generally. The prosecution was suggesting that just because Nuon Chea had seen 33 confessions, he must have had a role in S21, the defense counsel stated. However, he argued that 33 was an insignificant number given the total number of confessions made at the

prison. Nuon Chea denies that he had a role in the purging of individuals, and it was unclear why the alleged confessions were sent to Nuon Chea, the defense counsel declared.

This concluded the presentation of Mr. Arun, who then asked for his client to be able to respond to documents and address the court himself. However, after Nuon Chea had thanked the president, a technical hitch made it impossible for the court to hear from him. There was a short delay while the issue was fixed.

When eventually he was able to address the chamber, Nuon Chea told the court that he would like to address the documents presented by the prosecution and Civil Parties. He told the chamber that from his holding cell he had been paying attention to the presentation of documents by the prosecutors but that there were times when he could not follow what was being said due to his poor health conditions. However, he understood enough to see that what was being said by the prosecution was "neither accurate nor corresponded to the actual events which happened in that period." Nuon Chea asked for the "court's indulgence" so that he could enlighten it on what happened in the Democratic Kampuchea (DK) period.

Nuon Chea announced that he wished to contest all of the documents presented by the prosecution and ordered this contest by focusing on a number of different categories of documents.

A. Evacuation of the People:

A few years ago, Nuon Chea continued, he had testified that after liberation, all city dwellers were evacuated. The evacuation was not forced, he said, and the leadership had made this decision for two main reasons.

First, there were fears that the United States would drop bombs on the cities, as they had done in the past. It was well known that Vietnam was split, with half the country supporting the United States and half supporting Democratic Kampuchea. For 300 nights and days several million tons of bombs had been dropped on Cambodia. To avoid a reoccurrence, the leadership had decided to evacuate the people from the cities.

Secondly, Cambodia had been through war for five years and was already facing food shortages. As such, people were required to participate in rice production to help the country. Nuon Chea stated, "People appreciated the dangers the country faced and its needs. In particular people had loved the revolution and eventually left the cities after they received our appeal to do so."

Nuon Chea told the court that the *Revolutionary Flag* magazine had been used as evidence against him when, in actual fact, the magazine had nothing to do with him. Further, *Revolutionary Flag* issues were not legal documents that had to be applied but rather were political in nature, he argued. Prior to 1975 they were important and allowed the leadership to tell the people that they were strong, but "most of the time, the information was not accurate," Nuon Chea stated. Looking carefully at the articles, it should be noted that most of the articles were speeches by Pol Pot, he said; while the Standing Committee considered the *Revolutionary Flag*, it was Pol Pot who made the decision, with a personal assistant running the magazine. Pol Pot had absolute power: "Whatever he said, he meant business." "In the socialist regime it was the Secretary of the Party who had all of the power." Nuon Chea claimed.

The main point Nuon Chea wished to draw the court's attention to on this topic was that he wished to see the original copies of the documents that the prosecution had presented. "I do not understand the rules of evidence, but I fully understand what justice is," he declared, arguing that it was unfair for him to be presented with copies of documents as he wished to be able to ascertain whether the documents were real or fake.

Turning to the quoting of books, such as those by Philip Short, David Chandler, and Ben Kiernan, Nuon Chea told the court that he was stunned and did not understand why such books were being used as the core documents against him. The "quality of truth was questionable" in these books, as the authors wished to make them readable and marketable. The hearings of the court are "not part of a theatre, are not a play" and so, he argued, such documents should not be used in evidence

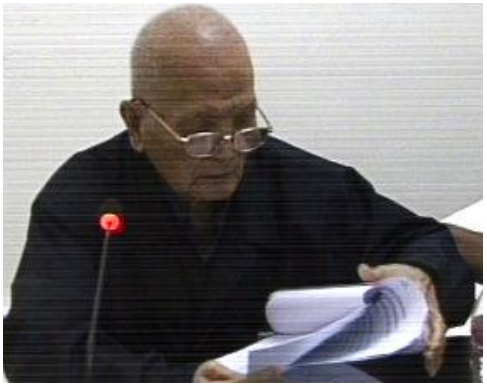
"If we look more deeply," he continued, the information was collected from interviews that the authors believed could provide information to them. There was no guarantee that they were told the truth. Further, the authors of these books did not speak Khmer, thus their texts "lacked integrity and truth." Nuon Chea urged the chamber to reject all books that had been cited.

Turning to the minutes of Standing Committee meetings, Nuon Chea stressed that the evidence only alleged he was present or copied into documents. The fact that he had attended meetings was not sufficient to show that he was involved in decision-making, he argued, as people often attended without challenging decisions. The accused maintained that the prosecution could not conclude that his presence at a meeting meant he was engaged in decision making within such meetings. Similarly, he said, where he had been copied into documents, there could be no assumption that he had authority. Thus, Nuon Chea contested any use of these documents as evidence against him.

B. Nuon Chea's Role

Nuon Chea informed the court he had a number of roles in Democratic Kampuchea (DK). Firstly he was Deputy Secretary of the Communist Party of Kampuchea (CPK), responsible for education, but, he told the court, he never educated people to kill or commit genocide. Rather, he had taught people how to maintain security and deal with the enemy. Nuon Chea gave the example of the United States currently tracking Edward Snowden as a state security operation, which did not necessarily involve violence.

Secondly, Nuon Chea continued, he was a president of the People's National Assembly, in control of making sure that laws were passed. As Cambodia was just out of war with Vietnam, though, there was, in fact, no time to pass laws, he stated. Nuon Chea rejected that he was acting Prime Minister, as Pol Pot already had Deputy Prime Ministers and he was not one of them.



Finally, the accused emphasized, as he often had in the past, that he loved his own people and had no reason to commit genocide against them and then closed with a final, repeated request to be able to see the original documents being used against him.

Responses to Khieu Samphan's Declaration that He Will Not Testify

Following Nuon Chea's statement, Tarik Abdulhak, Senior Assistant Prosecutor, was invited to present the prosecution's response to a document filed on the preceding day by Khieu Samphan's defense team. It became clear that this document announced that Khieu Samphan was no longer willing to give testimony to the court or to be examined by the parties.

Mr. Abdulhak said he was "stunned" by the change of position by the Khieu Samphan team and the accused himself. He then set out the five requests from Khieu Samphan that his team claimed the court had rejected and led to the decision the accused had made:

1. The chamber has refused to issue Khieu Samphan a list of topics that would be covered in his examination;

2. Similarly no list of documents had been provided to the accused;

3. A request to have three weeks of preparatory time had been rejected;

4. Issues in relation to counsel's access to detention, particularly over weekends, have not been resolved; and

5. A request to give evidence by over half-days rather than full days had not been addressed.

The prosecution took issue with the defense's reliance on these claims. Mr. Abdulhak claimed it was important to note that Khieu Samphan had stated consistently that he would testify. He had made statements and responded to questions throughout the trial so far, thereby giving evidence, and, the prosecutor argued, the legal repercussions of these actions were that he had waived his right to remain silent.

Setting out the purported sequence of events, Mr. Abdulhak recounted that the discussion of these issues had commenced in May 2013. On May 27, 2013, when Khieu Samphan had told the court he would be testifying, he had said that he would like to know the contents of the questions that he would be asked, which the president had told him would be unlikely. Arthur Vercken, Khieu Samphan's co-lawyer, had later in that day clarified that he simply wished for a list of documents and topics, rather than perfectly worded questions. While noting that this goes beyond international standards, Mr. Abdulhak said, the prosecution has chosen not to object to this request.

Mr. Abdulhak stressed that the prosecution wanted to make sure every opportunity was given for Khieu Samphan to testify. As such, even though the specific requests that were made go beyond international standards, the prosecution was willing to accommodate them. They had prepared a list of documents to be given to the defense and were happy to present a list of topics, provided it was considered as only being indicative and not interpreted restrictively.

It was the view of the prosecution that there was no need for three weeks to be granted to Khieu Samphan to prepare his testimony, as the accused had had access to the case file for years. However, if the court held this was necessary they would not object, the prosecutor stated.

On a sterner note, Mr. Abdulhak emphasized that there would be legal implications if the defendant decided not to testify. The prosecution had invited the chamber in April 2012 to

instruct the accused on "selective decisions on testimony." It had been held by the chamber that adverse inferences could be made from selective decisions to remain silent, and the prosecution would be submitting that adverse inferences must be read into any decision by Khieu Samphan to remain silent. He read international precedent on this matter to the court in support of such a holding.

Lead Co-Lawyer for the Civil Parties, Elisabeth Simonneau Fort, echoed the sentiment of the prosecution on this matter. She explained that Khieu Samphan's responses to Civil Parties had been important to them, and he had always said he would speak and answer questions. Finally, Ms. Simonneau Fort stressed that what was at stake was an important opportunity for Khieu Samphan and the Cambodian population at large.

Mr. Vercken briefly presented the argument of Khieu Samphan, informing the court that the argument had been made in writing, and so there was little need for him to repeat it. "I don't feel we are in a trial anymore but instead an international conference on Cambodia," he told the court. We are in a trial and have made simple requests, which have been rejected by the chamber he said, maintaining that "this violates the very rights of our client." The counsel then stated that Khieu Samphan had made this decision on his own and wanted to address the court himself on his reasoning.

Invited to do so by the court, Khieu Samphan stood and stated:

> Good morning, Mr. President and Your Honors. I would like to inform you that I have reasons that I have decided to exercise my right to remain silent. My reasons are that the court has failed to respect my rights and the rights of my defense counsel. At the beginning, I had faith in this court, but after that until the last moment I have no faith in the court.

After a brief adjournment President Nonn asked Khieu Samphan, if the measures outlined by the prosecutor were implemented, he would be prepared to testify.

In reply, Khieu Samphan stated that the reason he had exercised his right to remain silent was not limited to the fact that the court had not accepted these requests. "There are other legal implications. There have been attempts to stop my counsel fully and meaningfully representing me," he claimed. For instance, he cited, his counsel is only allowed 100 pages in their closing statement: "This is, to me, part of an attempt to stop my counsel representing me in the courtroom."

Speaking for the court, Judge Jean-Marc Lavergne stressed to the accused the implications of refusing to testify and the extent to which the prosecution and the chamber were willing to compromise. He emphasized that allowing time to prepare and providing a list of documents and topics were all on offer. He hoped these offers had been taken into account, as well as the possible repercussions of not testifying.

Moving on, Judge Lavergne asked the defense team for Khieu Samphan to explain how their rights had been violated. Further he questioned how the number of pages allowed in the closing arguments was relevant to the decision to testify.

In response, Mr. Vercken told the court that over the course of proceedings his team had made many applications as well as arguments regarding each of these issues. As he continued to question the fairness of the proceedings, he asked the chamber not to cut off his microphone.

Mr. Vercken told the chamber that it had an overly low threshold for the admissibility of documents. Documents have been ruled admissible on a *prima facie* basis. Footnotes on a closing order had been sufficient to make documents admissible. The president had gone so far as to argue that documents had been ruled admissible because they were used in the OCIJ investigation, without debate.

"During the first two key document hearings, I did not have the right to speak," Mr. Vercken claimed. During the third hearing, he claimed, there were conditions on his submission in that not only was he barred from talking about the admissibility of documents but also on their authenticity. "We consider that this is a sort of trap. We are being manipulated," he argued. The court was claiming that submissions could be made on probative value; however, he maintained, in practice nothing like an adversarial hearing on probative value was allowed.

Increasingly displaying his frustration, Mr. Vercken asked the court when an adversarial hearing would actually take place. "When will we be able to defend Mr. Khieu Samphan – after 20 months of proceeding, 12 experts, and tens of thousands of pages of evidence?" Such a defense could not be made in a 100-page closing argument, he maintained; asking the defense to do so was as ridiculous as asking for closing arguments in a session of one hour and 40 minutes. Mr. Vercken told the court that he had reached the conclusion that the defense of Khieu Samphan had been "muzzled."

Mr. Vercken continued to reiterate his argument until Mr. Abdulhak objected "in the interests of making the record clear." The prosecutor argued that talk of the placing of traps and breaches of fair trial rights had no basis in reality, as, in practice, no documents had been ruled admissible without the availability of adversarial proceedings. While there had at time been a presumption of admissibility, he maintained, this had always been rebuttable, and therefore the defense's claim was "simply not true." Further, he stated, if Mr. Vercken wishes for more time to test for probative value, he could have requested extra time in the manner that counsel for Nuon Chea had.

Continuing, the prosecutor stated that arguments about the page limit of the closing brief had no relation to the accused's decision to testify. In fact, Mr. Adbulhak asserted, contrary to his claim to be "gagged," testifying would be an opportunity for Khieu Samphan to tell the people of Cambodia what had happened under the DK regime.

After a brief period of deliberation, Judge Sylvia Cartwright issued the court's decision, informing the parties that the chamber had afforded Khieu Samphan every chance to respond to all issues at trial and therefore does not accept this as a reason for exercising his right to remain silent. She then told Khieu Samphan's defense to begin presenting documents and responding to those presented by the prosecution and civil parties.

Khieu Samphan's Defense Responds to Key Documents

Mr. Vercken told the court that the first point he wished to raise concerned a document presented by the prosecution during the proceedings of June 24, 2013. Senior Assistant Prosecutor Keith

Raynor had requested that fact sheets dated March 1975 and created by the U.S. National Security Council be admitted into evidence pursuant to the internal rules. At that time counsel for Khieu Samphan had opposed the introduction of this document but had been told the document could enter evidence and they could respond to this in due course.

The prosecutor had accepted that the document had not previously been admitted into evidence but attempted to have it admitted in the interests of justice. Today the Khieu Samphan team contest the submission of the prosecutor, Mr. Vercken stated, on the grounds that the submission of this document is not in line with the rules of the court and that the admissibility requirements were not met.

With regards to the rules of court, Mr. Vercken argued that Internal Rule 87.4 required that documents must be submitted prior to the hearing to which they relate and not at the last minute, as had been the case in this instance. Further, the application should be made in writing and the document available in the three official languages of the court. In the present case, he stated, the application had been made orally and was not available in languages other than English,

Mr. Vercken recounted a number of instances in which the court had ruled documents could not be admitted at the last minute, as well as memorandum from the court supporting this holding. Further, he continued, Rule 87.4 established that the evidence in question could only be admitted if it was established that it was not available at the beginning of the trial.

After the lunch break Mr. Vercken clarified that two previous requests had already been made to admit Judge Lemonde's book into evidence. The first of these was made during an application for bail, at which time the request was rejected, as it had been late.

The second request was to use the book to assess the probative value of evidence. That request had not been dismissed; however it had been suggested in another document that the chamber wished to deny the application as the book was said to be of no evidentiary value.

Resuming where he had left off prior to lunch in addressing documents, Mr. Vercken continued to discuss admissibility of the National Security Council document. It was clear that the prosecution had access to the document in February 2010, he said, when they asked the OCIJ to have it admitted into their evidence; as such it was clear it had not become available to the prosecution at the last minute. Before finally moving on, Mr. Vercken also argued that the document was repetitive and thus was of no value to the court.

Mr. Vercken next turned to discuss the five policies that were alleged to form a Joint Criminal Enterprise (JCE). In actual fact it appeared that more than five had been discussed in the key document hearings, he stated; however he would not be addressing the additional policies.

Since the severance order, he asserted, it had been difficult to establish the criteria and contours of this first trial. Topics such as the establishment of cooperatives, the regulation of marriage, and the treatment of monks, Vietnamese people, and Cham people were all difficult issues to place. As a result, Mr. Vercken maintained, there had been successive attempts by the prosecution to broaden the scope of the trial, which causes legal uncertainty for the defense as to the charges they were contesting.

At this stage Mr. Abdulhak objected on the grounds that the submissions being made did not concern key documents and that arguments concerning legal uncertainty were out of the scope of the present hearing. This comment sparked off what was to become an extremely heated debate between the defense, the bench, and the prosecution.

Mr. Vercken told the court that the prosecution's objection allowed him to turn to another clear uncertainty – when the defense would be granted an adversarial setting in which to reply to the documents presented by the prosecution. He asserted that he did not want to raise a dispute or serve as a bad example, charges that had been leveled against him on the previous day, but still he questioned what his role in the courtroom was. Rather dramatically, Mr. Vercken exclaimed, "Ultimately, I am at a loss."

In an attempt to clarify counsel's role, Judge Lavergne stressed that the afternoon's hearing should be focused on the presentation of key documents and response to those of the prosecution and civil parties. Given Khieu Samphan's defense team did not take advantage of the opportunity to present documents in other key document hearings, they were also being given the opportunity to present and respond to documents relating to earlier parts of the trial, the judge confirmed.

Mr. Vercken retorted that this was very clear but that in actual fact he had not had an opportunity to respond in the past, as such an opportunity had not actually existed. "Apparently today I have the opportunity to make observations on all of the documents brought up by the prosecution. I remind you that 847 documents have been presented in the four hearings on key documents to date," Mr. Vercken stated. Replying to so many documents would be like summarizing his case in 100 pages. "I am not a magician," Mr. Vercken declared, as he seemingly became angrier and angrier.

Apparently trying to call Mr. Vercken's bluff, Mr. Abdulhak interjected at this point to ask the court to award the Khieu Samphan team extra time. At present the defense counsel had wasted his time responding to one document, he retorted, but stated that the prosecution had no objection to Mr. Vercken being given extra time

Changing tack, Mr. Vercken went on to lambast the chamber for "changing the goalposts" by originally holding that key document hearings had been designed for the public to be informed of each parties' positions, but now had become an opportunity to make submissions on documents. How was he expected to do this, Mr. Vercken asked, if the court had not even finished hearing testimony? "There hearings are not part of the trial," he declared. "Come on!"

A repetitive exchange ensued between the bench, Mr. Vercken, and the prosecution. Ultimately, the defense refused to apply for extra time as was suggested by Mr. Abdulhak, who claimed that this showed the defense's argument was "false and disingenuous." He went so far as to declare that Mr. Vercken was covering for his inability to prepare, as the defense counsel refused to use key document hearings "on principle."

Judge Lavergne and the President appeared to become increasingly frustrated, as the former declared that there had been ample time for the defense to respond in an adversarial setting.

On the subject of this alleged adversarial challenging of documents, Nuon Chea's defense counsel entered the fray. Victor Koppe, Co-Lawyer for Nuon Chea, argued that he had to step in to stress that key document hearings were not truly adversarial as his team had been limited in

what they could present. This, the prosecution responded, was a misunderstanding of what it meant for proceedings to be adversarial; provided both sides were subject to the same restrictions the proceedings would continue to be adversarial.

Ultimately the chamber concluded the submissions of Khieu Samphan, as counsel made no further submissions on key documents.

Stephen Heder Begins His Testimony

With the debate concluded, President Nonn continued the proceedings by introducing a new witness – Stephen Heder, 60, a political scientist and historian. Mr. Heder told the court that he was a U.S. citizen who lived in the United States and in the United Kingdom. After taking an oath, which he had to repeat part of twice, Mr. Heder was examined by Mr. Raynor.

Mr. Raynor welcomed the witness and told him many people had been waiting for quite some time to see him here. He began by informing the witness that he was not classified as an expert witness and would be treated accordingly. Mr. Raynor announced that he would be covering the books that were authored by the witness and the interviews he had conducted.

Mr. Raynor first confirmed biographical details. The chamber heard that Mr. Heder had both a Bachelor of Arts degree and a Master of Arts degree from Cornell University, and had been a lecturer in Politics at the School of Oriental and African Studies (SOAS) in London. He is presently a research associate at SOAS. Mr. Heder had been a correspondent for TIME and Newsweek magazines in Laos, Cambodia, and Vietnam. He had also served in the United Nations Transitional Authority in Cambodia (UNTAC) as head of the analysis and assessment unit of the education division. He had also been a researcher focusing on the Khmer Rouge while they were in power and had worked at the Research School of Pacific Studies at the Australian National University.

In one of the most sardonically rebutted objections of recent days, Mr. Arun objected on the grounds that leading questions were being made and that, given that the witness had not spoken to the OCIJ, it was unclear what the source of the prosecution's information was. "I hope my learned friend knows about Google," Mr. Raynor retorted dryly. The objection was not sustained.

Continuing, Mr. Heder confirmed that he had also worked for the United Nations Assistance to the Khmer Rouge Trials (UNAKRT) as a researcher and analyst in the OCIJ. At that time the Office of the Co-Prosecutors (OCP) had no analysts, he said, so he was lent to the OCP for a while and eventually returned to the OCIJ. He confirmed that he had also been a consultant to the War Crimes Office at the American University from 1998-1999. During that period he did the writing that led to the publication of his book *Seven Suspects for Prosecution*.

Mr. Raynor presented to the court a list of documents that were on the case file and were produced by Mr. Heder. These included interviews and reports made by the witness.

On page one was a list of books. Mr. Heder confirmed he had written these books, though complained that the list lacked proper academic citations.

At this stage, Mr. Koppe objected to the terminology used by the prosecution. He accepted he was making what might be seen as a childish objection but stressed that Mr. Heder was before the court as a witness and not an expert. As such, the prosecution should refer to him as Mr. Heder and not Dr. Heder, he argued, as in no court of law is a witness referred to by his academic title. Mr. Raynor countered that this was indeed a childish objection; however, the president sustained it anyway in the interests of smooth proceedings, acknowledging that it was a minor point.

In his most sarcastic tone, Mr. Raynor then asked "Mr. Witness" to identify a document as being "Reassessing the Role." Mr. Heder also confirmed he had taken a number of witness statements. He had spent most of the calendar year of 2005 in Cambodia leading a project looking at documentation and conducting interviews, he said.

Mr. Heder explained that in 2004, he had been funded primarily by the Documentation Center of Cambodia (DC-Cam)[2] and the UK Embassy in Cambodia to do research work. The project had consisted primarily at looking at interviews by DC-Cam, which he summarized into English. He highlighted that a couple of the documents on the list were given to DC-Cam but were not from them. Similarly some of the dates looked like they were when DC-Cam conducted the interviews, rather than when he summarized them.

At this point, the proceedings were adjourned for the day, to reconvene on Wednesday, July 10, 2013, when the prosecution will continue their examination of Mr. Heder.

[2] DC-Cam is a sponsor of the Cambodia Tribunal Monitor, and its director, Youk Chhang, serves as managing editor.