



“If everyone was an enemy, how could we find anyone left to serve the revolution?”
- Nuon Chea

Case 002 Testimony Continues

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On Wednesday, January 11, 2012, the Extraordinary Chamber in the Courts of Cambodia (ECCC) Trial Chamber resumed hearing evidence in Case 002. On this particular day many of the Cambodian attendees at the Court hailed from Puok district, Siem Reap Province in rural Northwest Cambodia and had traveled overnight in order to arrive at the ECCC at 9 a.m. These visitors traveled this great distance to attend the morning session of proceedings and were taken by the ECCC Public Affairs office to visit *Tuol Sleng* museum and *Cheung Ek* killing field memorial in the afternoon, before traveling back to Puok district without a single overnight stay in Phnom Penh.

Chamber Instructs Defense Counsel Not To Interrupt Proceedings

The Chamber began the day by instructing defense counsel not to interrupt proceedings to make requests for accused to leave the courtroom until an appropriate juncture, except in circumstances of special need. The Chamber noted that it will “not entertain” requests that interrupt the proceedings moving forward.

Dispute over Documentary Evidence Continues

After the initial statement by Trial Chamber Presiding Judge Nil Nonn, the floor was given to the prosecution to continue the questioning of Case 002 accused Nuon Chea. The prosecution began with some preliminary remarks concerning a specific issue of the Khmer Rouge *Red Flag* booklet that the prosecution had attempted to use during the previous day’s questioning, which had been rejected by Nuon Chea repeatedly because a copy was used, rather than the original. The prosecution noted that the booklet was a special issue of *Red Flag* that included a transcribed version of Pol Pot’s most famous speech and was especially reliable because the speech had been broadcast over the radio and was reproduced in other documents in the case file.

This triggered an objection by the Ieng Sary defense team, which argued that the prosecution was offering its own testimony on documents still in dispute. The Trial Chamber allowed the prosecution to proceed, but reminded all parties to stay within their role.

The Ieng Sary defense again objected however, and argued that the Trial Chamber's earlier ruling to allow the use of documents in dispute during questioning solely allowed their use as a questioning aid and not to read the documents out in court without using them as the basis for a question, calling it "improper and gratuitous . . . speech-making."

The Chamber responded by noting the statements by the prosecution and defense, but characterized the objections as "observations" only based on the Chamber's previous rulings. The Chamber also reminded the parties that the authenticity of documents would be addressed in full during the hearing scheduled for January 16-19, 2012. Nuon Chea's defense team then rose and reminded the Chamber of its client's continuing demands for original copies of all *Revolutionary Flag* and *Red Flag* booklets and asked to question the prosecution about these documents immediately.

Chamber President Nil Nonn appeared vexed by this statement and reminded the Nuon Chea defense that it had already preliminarily ruled on the issue. He also stated that Nuon Chea's national counsel was attempting to "misinterpret" the Chamber's previous ruling on the preliminary admissibility of copied documents and admonished him to "refer to the decision of the Chamber," which did not want to revisit the issue again. This produced quiet chuckles among the Cambodians in the audience, as the Judge employed relatively coarse language when admonishing Nuon Chea's national counsel. The Chamber then turned the floor back over to the prosecution to continue questioning Nuon Chea.

The Prosecution Continues Questioning Nuon Chea

The prosecution began its questioning for the day by asking Nuon Chea about the 1960 Congress during which the Communist Party of Kampuchea (CPK) was founded. Specifically, the prosecution wanted to know whether representatives from Cambodia's Northwest and Northeast Zones were present at the Congress. Nuon Chea affirmed that such representatives were indeed present and upon further questioning, stated that he could not recall when the CPK divided Cambodia into Zones and assigned individuals to serve as secretaries of each Zone.

When questioned about co-accused Khieu Samphan's position in the CPK in the 1960s, Nuon Chea stated that he had no knowledge of Khieu Samphan's activities at the time because Khieu Samphan was involved with "the intellectuals." He then admonished the prosecution for not remembering that he had previously stated that Pol Pot had instructed him not to worry about "the intellectuals" and therefore he did not concern himself with intellectual leftist movements at the time.

Following further objections to questions based on disputed documentary evidence, Nuon Chea stated that he did not know when co-accused Khieu Samphan joined the CPK. The prosecution then asked to whom Nuon Chea was referring when he had mentioned the CPK's opposition to "foreign invaders and their clique" in his opening statement in November 2011. Nuon Chea remained obstinate however, and claimed that this question was based on a speech which he demanded an original copy of before answering. After the prosecution clarified that they were quoting Nuon Chea's own previous in-court statement, Nuon Chea eventually simply claimed that he did not remember using the word "clique" in his opening statement in November and further noted that he "rarely" uses the term.

Next, the prosecution instructed the Chamber greffier read a portion of *Red Flag* magazine aloud which outlined what groups the CPK labeled "enemies" at the 1960 Congress. When asked to elaborate on this issue, Nuon Chea stated that the quotation was incorrect and misquoted CPK ideology. He stated that there had been two enemies, "imperialists and their henchmen" and elaborated that the term "henchmen" referred to individuals who "sold themselves" to the imperialist landowners as their servants. Nuon Chea then stated that the term "reactionaries" referred generally to individuals "who oppose" but that there were different categories of reactionaries, who protested for different reasons.

Upon further questioning Nuon Chea stated that "it is not correct at all" for the prosecution to assert that officials of the prior regime were considered "feudalist enemies" by the CPK and stated that such people were not automatically considered enemies. He further testified that the category "aristocrats" included both bad and good people and even some feudalist people were "not bad" because they were also nationalists. He took issue with the prosecution putting questions to him using only one specific term, because according to Nuon Chea, there were both bad and good individuals within each CPK social classification and "you could not treat everyone as enemies" because this would create a "deeply divided" nation.

The prosecution then asked how the CPK differentiated between "good" and "bad" individuals within these classes. In response, Nuon Chea returned to his recurring theme of the primacy of nationalism within CPK ideology and stated that even individuals from privileged families who were "patriotic nationalists" were viewed as good people by the CPK.

When asked about CPK party ideology extracted from a copy of *Revolutionary Youth*, Nuon Chea requested that he be able to inspect a hard copy of the document the prosecution was referring to, so he could view and "feel it" to assess its authenticity. When presented with the document, Nuon Chea stated that he had never seen that style of text before and argued that youths could never study the material contained in the document and thus it must not be genuine. The prosecution reminded Nuon Chea that he was only being asked to comment on the party line contained in the document, but Nuon Chea responded that the document was "not correct." He stated that the CPK defined the term "feudalist" generally, with many sub-categories of feudalists, such as the "most heinous landowner feudalists and reactionaries" but noted that "not

all landowners were feudalists and this could not be determined arbitrarily” because it would result in a “divided” country. He claimed that the CPK sought to “make friends” with as many groups as possible to build up the country’s forces and to also minimize¹ the number of enemies of the CPK.

Nuon Chea again became visibly agitated when the prosecution asked him to discuss a CPK document which stated that all members of the previous government, from high level officials down to local clerks, were considered “life or death” enemies of the CPK. He stated that this was a wrong statement because “no group of people were regarded as enemies of the party” but only some “individuals [such as] spies, who leaked information to the enemy, so that the enemy could attack the party.” He admonished the prosecution not to speak “generally” about people, asking rhetorically, “if everyone was an enemy, how could we find anyone left to serve the revolution?” He stated further that “we were trying to reduce enemies and increase friends as much as possible. This was our slogan.” Although Nuon Chea chided the prosecutor repeatedly on this issue, he claimed, in an obviously mocking tone, that he was not “patronizing” or “looking down” on Dale Lysak, the International Deputy Co-Prosecutor questioning him, because Mr. Lysak has no experience with “poor peasants” in Cambodia and thus could not understand the situation fully.

This statement prompted Chamber President Nil Nonn to curtly remind Nuon Chea to simply answer the questions and not to stray into other topics. Nuon Chea however, forged ahead, stating that leading up to the revolution, some city people in Cambodia did not even know what a rice plant was and when they traveled to the countryside they mistook rice plants for fields of simple grass. Thus, according to Nuon Chea, the “perspective” of poor peasants at the time was “very much different” than that of urban dwellers, who enjoyed an indulgent life of “girls, alcohol, and gambling.”

This further vexed Judge Nil Nonn, who reiterated his reminder to Nuon Chea to confine his answers to the topics raised by the prosecution’s questions.

The prosecution next asked if there was a specific point in time when the CPK’s goal changed from achieving a nationalist democratic revolution, to achieving a nationalist socialist revolution. Nuon Chea responded by demanding that the prosecution provide him with documents related to the question. The prosecutor reiterated that he had only asked a general question, not drawn from any specific document, but instead based solely on Nuon Chea’s own previous in-court statements. Still, Nuon Chea requested documentation and refused to answer.

The prosecution then changed the subject slightly, asking whether the CPK ever labeled capitalists as enemies. Nuon Chea denied that the Khmer Rouge ever considered all capitalists enemies. He became visibly annoyed and instructed the prosecutor that there is a difference

¹ Nuon Chea apparently misspoke and used the Khmer word for “maximize” but it was clear contextually, in both Khmer and the English translation, that Nuon Chea was in fact arguing that the CPK sought to “minimize” enemies.

between capitalism and capitalists and that while the CPK opposed capitalism, it did not automatically brand all capitalists as enemies.

Nuon Chea next, upon questioning, denied that the CPK approved the use of “revolutionary violence” at the 1960 Congress, but stated that the “political struggle” remained the dominant work of the CPK following the Congress and the “armed struggle” was only conducted to “protect the cadres.”

Nuon Chea was next questioned concerning the speech he allegedly gave to commemorate the 9th Anniversary of the Revolutionary Army of Kampuchea. In response, he stated that he was not in the military section of the CPK and that Pol Pot made such speeches as head of the military. The prosecution pointed out that a document containing a transcript of the speech announced Nuon Chea as the “acting Prime Minister” of Democratic Kampuchea (DK). To this, Nuon Chea replied that at the time, he and Pol Pot were “old” and that Son Sen was being groomed to replace them in power and was to assume power should anything happen to Pol Pot. He further denied that he ever served as acting premier of DK, stating that instead Son Sen filled in for Pol Pot when he was sick or incapacitated. Having run up against a seemingly unexpected denial of a basic fact of Khmer Rouge history long considered uncontroversial and well-established, the prosecutor chose to move on, stating that the prosecution would return to the issue at a later date.

Upon further questioning about his alleged speech, Nuon Chea continued to demand documentation and time to read the provided materials from the prosecution. In response the prosecutor offered to move on and leave the document with Nuon Chea overnight and return to the issue later, once he had time to thoroughly inspect the document.

The next topic explored by the prosecution concerned another *Revolutionary Flag* article which stated that the CPK had authorized “illegitimate” or “illegal” means of revolution. Unsurprisingly, Nuon Chea refused to accept the copy provided of the article and demanded the original. This prompted Chamber President Nil Nonn to remind Nuon Chea that the Chamber had already ruled that copies could be provisionally used, pending the outcome of the planned evidentiary hearing. He also stated that if Nuon Chea refused to answer questions based on copies of documents, the Chamber would interpret this response as Nuon Chea exercising his right to remain silent. Nuon Chea then indicated his assent to this statement by Judge Nil Nonn.

In response, Nuon Chea’s counsel quickly rose and stated that Nuon Chea was not exercising his right to remain silent, but was in fact challenging the authenticity of the document and “advised” the prosecution not to display the challenged document in court.

Judge Nil Nonn replied by stating that Nuon Chea himself had already affirmed that he was exercising his right to remain silent in response to any copied documents. However, the prosecution still had the right to display documents in court based on the Chamber’s earlier

ruling, so long as the documents related to the topic of the historical background of the Khmer Rouge movement.

The prosecution asked if it was true that at the 1960 Congress, the CPK had approved the use of “illegitimate or illegal” means as the primary method of achieving revolutionary goals. Nuon Chea declined to answer this question.

Nuon Chea also declined to answer whether following the 1960 Congress, all party members were required to reapply for membership, as alleged in a book authored by Case 002 co-accused Khieu Samphan, stating that he, Nuon Chea, had not read the book and therefore could not comment, despite his high rank in the CPK at the time.

When asked who had authority to change party lines approved at the Congress, Nuon Chea stated that the “general party congress” was the only body allowed to change the CPK party line and neither the Standing nor Central Committee had the authority to do so on its own. Thus, only during general congresses, attended by members from across the country, could changes be made to the party political lines. He also stated that he could not recollect whether any changes were actually made to the CPK political line prior to April 17, 1975.

The prosecution next asked why peasant children were selected to serve in the CPK’s “Secret Defense Units.” Nuon Chea responded that people in these Units “were not soldiers” but only “escorted” people and were equipped only with “tools, such as sticks, hammers and knives.” He added:

“These children, so far as I remember, were tasked with tending cows and escorting cadres when they were on field trips. The cadres were their relatives anyways, so for example, when they went down to the field they would ask that their nephews would accompany them.”

He stated that 14-15² year-olds worked in Secret Defense Units and that between 1961 and 1966, there was no one in overall charge of the Units, but villagers created them to “protect themselves, for their personal security.”

The prosecution then asked Nuon Chea to comment on a *Revolutionary Flag* article stating that in 1966, the CPK Central Committee decided to arm the Secret Defense Units and reorganize them into “guerrilla units” because the “life and death situation” between “revolutionary and counter-revolutionary” forces had grown stronger. Nuon Chea would not answer directly because of his ongoing demands for original copies of *Revolutionary Flag*, but stated that villagers banded together to protect themselves without any other organizational assistance. He refused however, to comment directly on the Central Committee’s supposed decision and stated that at that time it was impossible for the CPK to arm people, because it had no access to weapons.

² The Court English translator quoted Nuon Chea as stating that 15-16 year-olds were used. However, according to Khmer speakers present, he actually stated 14-15 year-olds.

Instead, Nuon Chea stated that the CPK could only help people to “unite among themselves” by doing such things as “sharing rice.”

Nuon Chea and Ieng Sary Waive their Right to be Present

Following this response, the Chamber adjourned for its regular lunch break. Prior to the adjournment however, Nuon Chea requested to be excused from the courtroom for the afternoon session due to his ill-health. The Chamber granted his request, provided that Nuon Chea’s counsel provided the Chamber with a written waiver of his right to be present.

Immediately following this decision, Ieng Sary’s counsel rose and stated that Ieng Sary also wished to waive his right to be present in the courtroom during the afternoon session and would shortly provide the Chamber with a written waiver. Thus, for the afternoon session, both Ieng Sary and Nuon Chea retired to the courtroom’s holding cell to participate via audiovisual link. This procedure of spending the afternoon in the holding cell appears to be turning into the standard routine of both Ieng Sary and Nuon Chea.

Continuation of Testimony of Civil Party Klan Fit

During the afternoon session, the Chamber resumed questioning of civil party Klan Fit, who had testified the previous day, as well as in December of 2011. At this juncture, the defense teams each had an opportunity to pose questions.

Nuon Chea’s counsel asked questions regarding the period when Klan Fit joined the Khmer Rouge revolution. Klan Fit stated that he joined the revolution because he was afraid and had heard of the *Angkar*.³ He said that the *Angkar* came from the jungle “to educate us” and he was afraid of this *Angkar*.

Klan Fit next stated that in 1975 he was called to attend a meeting by *Angkar*, where he saw Nuon Chea, who was short and widely built with a large face. He said that he would not have known who Nuon Chea was, but Nuon Chea’s name was announced at the meeting. When further questioned on his identification of Nuon Chea, Klan Fit pointed to Nuon Chea and stated “I saw him, I saw him with my own eyes.”

He also testified that he met, among others, Pol Pot and Ieng Sary in Ratanakiri province prior to 1975. He described Pol Pot as having a “big belly, but a small head.” Klan Fit said that at the time, people often spoke of this, having never seen someone with such a large belly while also having such a small head. He noted that prior to 1975, Ieng Sary had told him that the Vietnamese were friends of the CPK, but that after 1975, Ieng Sary told him that the Vietnamese had become enemies and instructed him to refer to them by the derogatory term, *Youn*.

³ *Angkar* (or “organization”) was the term commonly used to describe the CPK upper leadership as a whole.

When asked about the evacuation of Cambodia's urban areas, Klan Fit stated that since the area he supervised was small, no people were brought to it, but he saw that around 800 urban evacuees were deported to nearby areas. He also stated that evacuated "new people" were assigned to build dams, but that both new people and "old people" worked together. He noted that even he worked alongside new people "day and night" for seven straight days building a dam once.

Klan Fit stated that he did not see "the bad or the good things" such as starvation "with his own eyes," but only observed the generally difficult living conditions in DK. When the Nuon Chea defense began asking about events in 1978, the prosecution objected, prompting the Chamber to remind the defense lawyers to confine their questioning to the issues selected for Case 002/1 (the first Case 002 trial).

When asked about the general situation in Phnom Penh in April 1975, Klan Fit stated that the city was "quiet, so quiet" and that the only people he saw were a few cooks.

Next, Klan Fit stated that he was again in Phnom Penh in January of 1979 after having been accused of being a Vietnamese spy (discussed below). He and some others had been called to a meeting in Phnom Penh around then, where unnamed senior leaders (referred to as *Ohm Ohm* or "respected elders") informed them that the Vietnamese would soon take over Phnom Penh. These leaders informed the audience that they would leave, but alone. The next day Klan Fit saw two helicopters leave Phnom Penh. He then saw the bodyguards of these leaders "weeping" because they had been left behind by their superiors.

Klan Fit next testified that he had not meant to file a "complaint" against the senior leaders specifically, but wanted to find the truth, stating "we were treated as brothers when we joined the revolution . . . but later we were told we had to fight the Vietnamese."

When asked what he wanted from the Court, Klan Fit responded that he "wanted to stay alive" prompting chuckles from the audience. He clarified by stating that he wanted to demonstrate that everything he did during the DK period, he had done on the orders of the senior leaders and not on his own accord.

This concluded the questioning by the Nuon Chea defense and the Ieng Sary defense team took up the questioning.

When asked about his civil party application, Klan Fit asked for an explanation of what the term "civil party" meant. He also denied that he filed a "complaint" but explained that he was "requested by *Angkar*" to answer some questions, apparently viewing ECCC authorities as comparable to his former Khmer Rouge superiors in a strange twist. He explained that he could not verify any documents because he is illiterate, but stated that he had always told the truth in the statements he provided to the Court.

Next, Klan Fit affirmed that he knew fellow civil party Romam Yun, who had testified the previous day, as the two men are neighbors in the same village. He also stated that the questioning of himself and Romam Yun by ECCC investigators had taken place separately.

The Ieng Sary defense then read out portions of Klan Fit's previous statements describing his indoctrination into the Khmer Rouge movement and asked him why in these statements Klan Fit had not indicated that he was forced to join the revolution. Klan Fit responded that he took the situation as "duress" because Khmer Rouge representatives "kept educating [him] and educating [him]" and he was convinced to join the revolution because he was illiterate and easily convinced by propaganda. He also stated that he joined because he was "afraid." He explained that it was "useless to protest" against any CPK policies, citing the example of "*Ohm Ya*"⁴ who joined the revolution voluntarily, despite having a decent life already, but still was later killed.

Upon further questioning, Klan Fit admitted freely that he was promoted three times by the CPK and that upon each promotion he gained authority over more people. He also stated that he was told that Ieng Sary was a "Zone Committee" but he had no knowledge of whether Ieng Sary held any other post. He also reiterated that he met Ieng Sary at study sessions and that Ieng Sary went by both his name and his revolutionary alias, "Van." He noted the revolutionary names of other senior leaders and that when his area was bombed by the Americans during the civil war, he retreated to a base named "K-5" along with other revolutionaries and leaders.

Next, Klan Fit was questioned about his previous statement that he and ten of his local Northeast Zone compatriots were arrested in 1978, including Romam Yun. Klan Fit affirmed that he traveled to Phnom Penh upon orders in 1978 and that upon arrival everyone in his group was instructed to write their biographies and then assigned to work in a vegetable garden. He stated that one morning, one month after his arrival, he was taken to *Wat Sleng* reeducation camp, where he worked to grow rice and saw about 400 people in the surrounding rice fields. He explained that the wives of men who had "disappeared" were taken to this rice field to work and that many children also were there, crying. He stated that when he was digging in the fields, periodically people's names would be called and they would be taken away, never to return. At the time, he did not know that these people were taken to *Tuol Sleng* prison, but later heard that this is where the people disappeared to. Klan Fit stated that he was not taken to the prison only because the Vietnamese arrived just in time. He also testified that he was questioned about his ties with Vietnam while at *Wat Sleng*, but responded that he had no ideas about Vietnam and stated that issues involving Vietnam were "up to *Angkar*."

This concluded the questioning of Klan Fit by the Ieng Sary defense. Khieu Samphan's defense team then announced that it did not have any questions for the witness.

⁴ Presumably referring to Nai Sarann, the Secretary of the Northeast Zone who went by the alias "Ya" and was later purged by the Khmer Rouge, who labeled him "the contemptible Ya."

Prior to dismissing him as a witness, the Chamber then provided Klan Fit the opportunity to discuss the harms he suffered under the Khmer Rouge, due to his role as a civil party. Klan Fit declined this opportunity however, ending his testimony.

Following the end of Klan Fit's testimony, Chamber President Nil Nonn announced that, as it was too late in the day (3:40 p.m.) to take up new issues, the Court would adjourn and resume the following day at 9 a.m.

END