



## **“We Seek for Justice”: Case 002 Evidentiary Hearings Continue with Testimony from DC-Cam**

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On Monday, January 23, 2012, the Trial Chamber of the Extraordinary Chambers in the Courts of Cambodia (ECCC) continued its hearing on evidentiary issues in Case 002. The day’s proceedings were dedicated to hearing evidence from a previously unnamed witness from the Documentation Center of Cambodia (DC-Cam), a research organization that has provided the bulk of documentary evidence to the ECCC.<sup>1</sup> The three Case 002 defense teams have objected to the admission of documents from DC-Cam without independent authentication and have argued that the Center may be biased in favor of the prosecution.

### ***Nuon Chea Commentary on Statement by Prime Minister Hun Sen***

Immediately after the Chamber announced that it would hear testimony for the duration of the day’s proceedings, Nuon Chea’s international counsel, Michiel Pestman, rose and asked for clarification on the comments by the Trial Chamber at the end of the previous hearing session on Thursday, January 19.<sup>2</sup> Mr. Pestman inquired whether the comments by Chamber President Nil Nonn chiding the Nuon Chea defense team to refrain from repetition was just a reminder to “remain patient” for a decision or an actual decision that the Chamber would not consider the issue.

Judge Sylvia Cartwright, who had been absent from the previous session when the issue arose, responded to this comment, stating that the Chamber would address the matter “in due course.” Judge Cartwright also pointedly asked Mr. Pestman to “please stand” when being addressed by the Chamber.

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**DISCLOSURE:** DC-Cam is a sponsor of the Cambodia Tribunal Monitor, and its director, Youk Chhang, serves as co-managing editor. The author of this blog post currently works with DC-Cam as a legal advisor.

<sup>1</sup> For more information on the work of DC-Cam, see [www.dccam.org](http://www.dccam.org).

<sup>2</sup> At the close of the January 19 session, the Nuon Chea defense team had sought information from the Chamber regarding the Chamber’s issuance of a decision on the defense’s request that it publicly condemn statements to media by Cambodian Prime Minister Hun Sen, in which he labeled Nuon Chea as a “killer” and “perpetrator of genocide.” On January 19, the Chamber rebuked the defense team for repeating its requests and provided no further information.

***Bench Questioning of Documentation Center of Cambodia Witness Vanthan Peoudara***

During last week's evidentiary hearings, much time was spent discussing DC-Cam documents and whether it is necessary for the Center's director, Youk Chhang, to testify.<sup>3</sup> The Trial Chamber ruled that any staff member with sufficient knowledge of DC-Cam's documentation process would suffice as a witness. As such, many spectators were eager to see who would be sent to testify on behalf of DC-Cam, whose documents form the bulk of the documentary evidence at the Court. The witness turned out to be DC-Cam deputy director and management team member Vanthan Peoudara.

The day's questioning began with questions from the bench, starting off with standard preliminary questions from Chamber President Nil Nonn. During this preliminary questioning, Mr. Vanthan indicated that he has worked at DC-Cam in various capacities since 1995, when he began as a volunteer, and that he is involved with the Center's core documentation work.

Following these preliminary issues, Judge Ya Sokhan put additional questions to Mr. Vanthan regarding the organizational structure and staff roles at DC-Cam. During this questioning, Mr. Vanthan testified that, for day-to-day operations, he has the authority to make decisions related to security and documentation issues at the Center. Mr. Vanthan also affirmed that he oversees all documentation work at DC-Cam and provided an overview of how the Center collects, catalogues, compiles and stores documents. He also noted that he is "fully in charge" of documentary work at DC-Cam.

When asked about the role and objectives of DC-Cam, Mr. Vanthan stated that the Center is a non-profit research organization that serves a truth-seeking function for survivors and researchers and promotes the pursuit of justice for victims of the Khmer Rouge. He further explained that DC-Cam grew out of an initial project created by Yale University.

Mr. Vanthan then explained that DC-Cam has official permission from the Royal Government of Cambodia to search for information on the Khmer Rouge throughout Cambodia, including collecting documents and conducting interviews. When asked by Judge Ya Sokhan what the "real purpose" of DC-Cam was, Mr. Vanthan responded by stating he had already explained the general mission of the Center. Mr. Vanthan reiterated and clarified that the Center has two main missions: first, to "serve the purpose of remembering" what happened during the Democratic Kampuchea (DK) period (1975-1979) and, second, to "serve the public," specifically those who wish to "seek for justice."

When asked about the sourcing of documents at DC-Cam, Mr. Vanthan responded that the Center has its own policies on how to conduct research, noting that DC-Cam has permission from the Cambodian government to conduct research anywhere throughout the country or even internationally. He further noted that DC-Cam has received documents from various individuals and organizations but that the majority of documents at DC-Cam were collected by the Center itself.

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<sup>3</sup> The defense teams, led by the Nuon Chea defense, argued that Mr. Chhang's testimony is an absolute prerequisite to the admission of any documents from DC-Cam. For more information on these arguments, see CTM Blog Reports, January 16-19, 2012, available at [www.cambodiatribunal.org](http://www.cambodiatribunal.org).

Regarding what kinds of information are kept at DC-Cam, Mr. Vanthan noted that the Center uses the term “document” for any piece of information in any form stored at DC-Cam and that this covers a variety of media related to the DK regime. He stated that the Center classifies these documents into five categories, including:

1. paper documents (approximately one million pages);
2. interviews;
3. photographs;
4. maps of grave pits; and
5. documentary films.

The next question from the judge concerned the training received by DC-Cam staff. Mr. Vanthan responded that the DC-Cam staff has received training from various international experts on documentation, interviewing techniques and other related topics. He further noted that almost all staff, except security personnel, are involved in collecting documents and interviews.

As for sources of documents, Mr. Vanthan noted that DC-Cam has received documents from various donors, ranging from the Cambodian government to private individuals. He explained that, when DC-Cam receives a document, it is first copied and then given a catalogue number and stored in a secure place. Moreover, once stored, the original copy of each document can only be accessed by the Center itself and not the general public in order to preserve the integrity of the original documents.

Regarding the practice of collecting interviews, Mr. Vanthan noted that DC-Cam does not use the term “witness” but uses available documentation in its collection to identify potential interviewees. The Center then locates identified individuals by spending time in Cambodia’s countryside and developing relationships with local individuals. Moreover, interviewees often refer DC-Cam representatives to additional candidates for future interviews.

When conducting each interview, DC-Cam assures each interviewee that he or she is free to leave anytime and can decline the interview, Mr. Vanthan explained. He also stated that interviewees are not paid for their statements but only given “gratitude and thanks” for sharing their experience.

Upon further questioning, Mr. Vanthan explained that DC-Cam accepts both original and copied documents but takes certain steps to assess the authenticity of each document it receives. He stated that DC-Cam examines factors such as the language used and the type of paper on which a donated document is printed. Mr. Vanthan stated that, to his recollection, DC-Cam has completely rejected only one document submitted to it, which concerned the kidnapping of two tourists for ransom. He stated that this document was rejected because the language used in the document was inconsistent with typical Khmer Rouge language. As for security, Mr. Vanthan explained that all original documents are stored in fire-proof units under strict measures to ensure their physical integrity, such as maintaining temperature and humidity levels.

When asked for more information about DC-Cam’s interviewing process, Mr. Vanthan explained that Center representatives typically travel to rural Cambodia in teams of two or three to conduct

interviews. Interviews are also audio-recorded and transcribed to hard copies by DC-Cam's staff, who then compile and organize documents based on the topics covered. These transcriptions are stored with other documents collected by DC-Cam.

Regarding former Khmer Rouge periodicals *Revolutionary Flag* and *Revolutionary Youth*, Mr. Vanthan stated that DC-Cam has collected many of the booklets, but the Center is unsure how many of these periodicals the Khmer Rouge created in total. He noted that DC-Cam has copied all issues of Khmer Rouge periodicals it possesses in order to assist researchers and the public but that originals are not provided in order to prevent their degradation through physical handling.

As for the source of these periodicals, Mr. Vanthan noted that many of the copies of Khmer Rouge periodicals it possesses were received from residents who had returned to Phnom Penh after January 7, 1979, and found the booklets in houses and apartments used by Khmer Rouge cadres during the Khmer Rouge period.

Judge Jean-Marc Lavergne then took over questioning on behalf of the Chamber and began by asking about the date of the formation of DC-Cam. There appeared to be a problem with the French interpretation, which had incorrectly stated that DC-Cam was formed in 1955 instead of 1995. Although this mistake was quickly rectified, translation problems from French to Khmer appeared to plague the entirety of Judge Lavergne's questioning, resulting in some confusion and apparent misunderstanding between the judge and Mr. Vanthan, who often had to request the repetition of questions.

Despite these difficulties, Judge Lavergne pressed on and next asked about the legal setup of DC-Cam and its independence from Yale University. Mr. Vanthan responded by stating that the initial Yale University research project ended in 1997 after a two-year mandate and that, after this date, DC-Cam continued as an independent non-governmental organization (NGO). He further testified that DC-Cam's objectives and mission remained the same after the Center became independent from Yale.

As for DC-Cam's finances, Mr. Vanthan stated that he is not competent to discuss this issue, as he focuses his work on documentation.

Regarding the types of research projects that are undertaken by DC-Cam, Mr. Vanthan noted that the Center has various ongoing projects with each led by a team leader. When asked specifically about DC-Cam's "Mapping Project" of mass graves in Cambodia, Mr. Vanthan stated that the project has been active since 1995. He did note, however, that the project has been less active for the last few years.

According to Mr. Vanthan, the other main projects of DC-Cam involve interviewing former Khmer Rouge cadres, publicizing DC-Cam's work, training teachers to teach the Khmer Rouge history in Cambodian schools, collecting oral histories of survivors, publishing issues of *Searching for the Truth* magazine, as well as other projects.

Upon further questioning, Mr. Vanthan also clarified that DC-Cam freely provides copies of any document to the public for research and that there is no restriction on the use of such documents.

### ***Ieng Sary and Nuon Chea Retire to the Holding Cell***

At this juncture, the Chamber prepared to adjourn for its regular morning break. Prior to the adjournment, the Ieng Sary defense informed the Chamber that Ieng Sary wished to waive his right to be present and retire to the courtroom holding cell for the remainder of the day. This request, which has become a predictable morning occurrence for both Ieng Sary and Nuon Chea, was granted, and counsel for Ieng Sary was instructed to provide the Chamber with a written waiver.

Following the break but before questioning resumed, Nuon Chea also submitted his now-daily request to retire to the holding cell for the remainder of the day. This request was also granted with the same stipulation that Nuon Chea submit a written waiver of his right to be present in the courtroom.

### ***Questioning of Peoudara Vanthan Continues***

Following the morning break and the request of Ieng Sary and Nuon Chea to be excused from the courtroom, Mr. Vanthan continued to answer questions posed by Judge Lavergne. Mr. Vanthan noted that DC-Cam holds both primary Khmer Rouge documents from the DK period and secondary documents, such as news reports and documents authored before or after the DK period, but added that the Center does not prioritize or comment upon the relative value of any particular document. He further stated that the Center's collection contains documents authored in languages other than Khmer and that, while the Center translates some documents, it provides original-language copies of documents to outside researchers, who may use their own translators.

Regarding the process of cataloguing documents, Mr. Vanthan explained that letters are used to denote the category of each document when collected. For example, general documents are coded with the prefix "D." He noted that this encoding does not alter the documents in any way, as the code is written only on copies of the original documents. Furthermore, DC-Cam does not annotate any documents, he stated, and only copies are provided to visiting researchers, ensuring that originals are not altered in any way.

Regarding documents sourced from the National Archive of the Royal Government of Cambodia, Mr. Vanthan stated that DC-Cam copied all documents it found within the archives relevant to the Khmer Rouge period. Mr. Vanthan further noted that, with its permission letter from the Government, DC-Cam can access all government archives relevant to the Khmer Rouge period. As for the selection process for identifying relevant Khmer Rouge documents to copy, Mr. Vanthan stated that "any document" relevant to the DK period is gathered, copied and stored by DC-Cam.

Next, Mr. Vanthan discussed documents received from individual sources. He explained that, when the Center conducts research in an area, it is sometimes provided documents by individuals. DC-Cam verifies every such document and records its source and historical custody, he stated. Center representatives also question the donor of each document concerning the "provenance" of the document.

When asked whether DC-Cam sometimes receives copied documents that it accepts as *bona fide*, even when the location of the original remains unknown, Mr. Vanthan responded that the Center questions individual sources and that the Chamber can call such individual donors as witnesses if it sees fit.

Regarding DC-Cam's "Swedish Collection" of documents, Mr. Vanthan stated that the Center simply received and catalogued these documents but that it has no expertise in the Swedish language. He noted that the Chamber can question the original authors of the documents if it sees fit.

When asked about other sources, such as those from French archives, Mr. Vanthan simply responded that all documents submitted to DC-Cam are inspected, vetted, catalogued and stored and that this process is uniform for all documents.

Regarding King Norodom Sihanouk's personal archive, Mr. Vanthan noted that this archive had been available on the former King's website but that this website is currently non-operational. Mr. Vanthan also confirmed that DC-Cam's government permission letter allowed the Center to search in any archive in Cambodia, including that of the Cambodian People's Party (CPP).

When asked about any criminal investigations conducted by Vietnamese authorities of the People's Republic of Kampuchea<sup>4</sup>, Mr. Vanthan noted that Vietnamese experts assisted in the compilation of documents in the 1980s, such as in the archives at the *Tuol Sleng* "S-21" Khmer Rouge prison in Phnom Penh. He further noted that DC-Cam had received some documentary films from Vietnamese authorities related to the DK period.

As for other foreign-sourced documents, Mr. Vanthan explained that DC-Cam has appealed generally for documents and has received some documents from scholars, such as a professor named Laura Summers. Mr. Vanthan also noted that he has received Khmer Rouge-related photographs personally on behalf of DC-Cam from individual donors.

Judge Lavergne then switched gears to explore the relationship between DC-Cam and the ECCC Office of the Co-Prosecutors (OCP). Mr. Vanthan stated that DC-Cam has worked with "almost all offices and organs of the ECCC . . . not confined to the [OCP]" or any other organ of the Court. He explained that documents are provided to all ECCC organs upon request freely and without limitation. Following this line of questioning, the Chamber adjourned for lunch.

Following the midday break, Chamber President Nil Nonn reminded all parties to stand when addressing or being addressed by the Court. He noted that this is a normal practice in Cambodian domestic courts and that this requirement can be excused upon request. Judge Lavergne then continued questioning of DC-Cam deputy director Peoudara Vanthan regarding documentary evidence obtained from the Center.

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<sup>4</sup> The Vietnamese-installed government of Cambodia following the ouster of the Khmer Rouge regime in 1979.

Judge Lavergne first questioned Mr. Vanthan about a specific confession from Tuol Sleng prison provided to the ECCC by DC-Cam. Mr. Vanthan affirmed that he recognized the document and that it was the cover page of a confession with notations from the Communist Party of Kampuchea (CPK) Ministry of National Defense, headed by Son Sen. He further noted that there was no DC-Cam documentation number on the document because it was a scan of the original document and that a copy would have such numbers on its face. As for the annotations appearing on the document, Mr. Vanthan observed that the ink appearing on the letter is old and that in some other confessions, the names of the individuals who had annotated the confession appeared on the face of the document. He further stated that, although no name appeared on the displayed document, based on his experience with numerous annotated confessions, Mr. Vanthan could identify the author from the handwriting as Son Sen. Mr. Vanthan then read out the annotations on the document and further observed that he had personally compiled this document and that, in his opinion, the annotations on the confession were made by only one author, Son Sen.

Mr. Vanthan was then presented with a second document with annotations written on it. He noted that he had already read the document displayed at DC-Cam and that the annotations were written by “Khiev” in the same handwriting as the first displayed document. Mr. Vanthan then noted that the term “strictly confidential” was underlined in the document and that this was because the document “related to the East.” The document’s annotation was dated July 31, 1977, and Mr. Vanthan testified that the name “Khiev” was an alias used regularly by Son Sen. This concluded the questioning by Judge Lavergne and the Chamber for the day.

#### ***Questioning of Peoudara Vanthan by the Prosecution***

The floor was then turned over to International Co-Prosecutor Tarik Abdulhak to conduct the prosecution’s questioning. First, the prosecution further explored Mr. Vanthan’s educational background. Mr. Vanthan noted that he holds a law degree from the Royal University School of Law and Economics in Phnom Penh and a Master’s degree in Human Rights and Humanitarian Law from Notre Dame University in the United States. He was also trained in documentation and investigation by the University of New South Wales in Australia and an unspecified organization in Ireland, respectively.

Mr. Vanthan then testified that generally funding from DC-Cam’s donors does not come with any conditions and that DC-Cam works independently. He also noted that DC-Cam does not receive any money or assistance from the Cambodian Government, other than general permission to conduct research, and stated that DC-Cam has never received “instructions” from the government besides this general permission.

After testifying on several matters related to the administration and staff procedures at DC-Cam, Mr. Vanthan was questioned about specific interview processes. Mr. Vanthan explained that many interviews of former Khmer Rouge cadres were conducted by DC-Cam’s Promoting Accountability project. He explained that DC-Cam staff members interview both former cadres and other survivors of the DK period and utilize a standardized set of questions prepared in advance by DC-Cam’s legal advisors. Mr. Vanthan also explained that DC-Cam chooses to interview both alleged perpetrators and alleged victims of the DK period because the purpose of DC-Cam’s work is to record the history of the DK period and publish a history book on the subject and that this goal requires all information available is collected.

As for DC-Cam publications, Mr. Vanthan explained that the Center publishes its magazine *Searching for the Truth* and other periodical publications related to the Khmer Rouge history. He explained that it is also part of the “primary work” of DC-Cam to train national teachers to teach the history of the DK period and thereby seek reconciliation in Cambodia.

Upon further questioning, Mr. Vanthan explained that DC-Cam’s mass grave mapping project has covered most of Cambodia’s 186 districts but has not yet mapped areas that remained Khmer Rouge strongholds until recently. He noted that DC-Cam first identified potential locations of mass graves using information from documents the Center had collected, data received from the People’s Republic of Kampuchea government, complaints made by survivors, and Khmer Rouge propaganda documents. He noted that DC-Cam also heard from some individuals who had participated in digging up mass graves after the end of the DK period. As for recording the sites, Mr. Vanthan explained that DC-Cam utilized Global Positioning System (GPS) technology to record the latitude and longitude of each grave site identified. The results of this project were also placed on DC-Cam’s public website.

When asked about the fate of most primary Khmer Rouge documents following the collapse of the CPK government in January of 1979, Mr. Vanthan noted that the documents were scattered throughout Cambodia during the fighting between Khmer Rouge and Vietnamese forces. He further noted that an incomplete set of contemporaneous DK period documents still exists and that DC-Cam has managed to collect only a portion of these surviving documents.

As for sources of documents, Mr. Vanthan noted that many documents other than confessions were found at Tuol Sleng prison. He explained that many DC-Cam staff members had collected documents and that he had personally inspected and collected many documents from Tuol Sleng. Mr. Vanthan explained that Tuol Sleng prison was used as a museum immediately following the collapse of the Khmer Rouge and that the documents had remained in the prison largely untouched until collected by DC-Cam.

The prosecution then turned to documents from the archives of the Ministry of the Interior of the Cambodian Government. Mr. Vanthan explained that these documents include confessions, documents from the Lon Nol regime, and other documents. He further testified that, to the best of his knowledge, these documents were collected by the Cambodian government as the remnants of the DK period and the originals were subsequently turned over to DC-Cam.<sup>5</sup>

When asked why there might be two sets of originals for certain documents and confessions, *i.e.*, at Tuol Sleng and the national archives, Mr. Vanthan stated that he believes certain documents were transmitted from Tuol Sleng to the CPK Ministry of Defense under the command of Son Sen. Thus, both the original and the transmitted copy could exist for many documents, he contended.

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<sup>5</sup> Interestingly, Mr. Vanthan stated that the government requested that DC-Cam take the documents when the Ministry sought to clear more office space.



Mr. Vanthan was then questioned on certain subsets of DC-Cam documents, such as *Santebal*<sup>6</sup> and Lon Nol documents, and he explained the method of documenting and categorizing such documents. To determine what category in which to place documents, DC-Cam studies the age and contents of the documents and any annotations thereon, he explained.

When asked about research conducted by David Hawk for the Cambodia Documentation Commission, Mr. Vanthan testified that the documents collected as part of this endeavor were turned over to DC-Cam and included in its general “D” category. These documents were collected originally from Cambodia by international researchers, such as Mr. Hawk and Professor Ben Kiernan and then eventually returned to Cambodia, where they are currently held by DC-Cam, he stated.

Mr. Vanthan also testified that, in addition to Mr. Hawk and Professor Kiernan, Professor David Chandler provided DC-Cam with some documents. He stated that, when DC-Cam received such documents, the Center questioned the provider to verify the document’s authenticity. Moreover, all documents are examined and screened to ensure their authenticity, following DC-Cam’s general policies, Mr. Vanthan reiterated. He then stated that, based on his 17 years of experience, he is able to personally determine the authenticity of purported DK period documents with confidence.

The prosecution then presented Mr. Vanthan with a series of documents received from DC-Cam. The first was a document from DC-Cam’s “D” collection. Mr. Vanthan testified that the document was coded according to DC-Cam’s cataloguing system. He stated that the numbers appearing on the document are used to identify the location of the original in the Center’s archives. The prosecution then demonstrated in real-time on the DC-Cam database that the document could be accurately located by searching its number, in this case “D01648.”

Mr. Vanthan then proceeded to identify several additional documents upon questioning by the prosecution. These included documents collected from Tuol Sleng and a copy of a *Revolutionary Flag* booklet. Mr. Vanthan explained that copies of *Revolutionary Flag* were provided to DC-Cam from individual donors, as well as being collected from Tuol Sleng; copies of the periodical were disseminated to Khmer Rouge cadres throughout Cambodia during the DK period and were left scattered wherever such individuals abandoned them when the regime collapsed, he maintained.

Following the presentation of this series of documents, the prosecution asked questions about other work conducted by DC-Cam related to ECCC proceedings. Mr. Vanthan stated that DC-Cam has assisted civil parties and their lawyers at the ECCC. He explained that DC-Cam has provided documents related to the fates of relatives of civil parties in order to assist them in filing civil party applications. He further noted that such documentary assistance is available to all parties at the ECCC.

When asked for commentary on allegations that DC-Cam’s work is biased, Mr. Vanthan repeated the primary purposes of the Center, which are memory and documentation of the DK

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<sup>6</sup> The *Santebal* was the Khmer Rouge secret police force responsible for security within the ranks of the regime.

period to serve justice-seeking purposes. He stated that, in this capacity, DC-Cam has provided documents to all parties without any restrictions. Mr. Vanthan also reiterated that DC-Cam does not “analyze” the documents in its possession but simply catalogues them and provides copies thereof to anyone upon request.

At this point the Chamber adjourned for the day and will resume Tuesday morning with the continued testimony of Mr. Vanthan.

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***Correction of CTM Blog Post from January 19, 2012:***

In the blog for Thursday, January 19, 2012, on page four of the PDF version, the following is stated:

“The prosecution argued that FBIS [United States’ Foreign Broadcast Information Service] reports provide an ‘invaluable snapshot of the past’ and proceeded to read aloud a FBIS report from 1975 stating that the Khmer Rouge had announced that ‘it is absolutely necessary to kill’ seven former Lon Nol regime leaders who had been labeled ‘super-traitors.’ The statement was purportedly signed by accused Khieu Samphan. Furthermore, **various reports at the time confirmed that the seven individuals were indeed executed soon thereafter . . .**”

This statement should have stated that “various reports at the time confirmed that **both of the two named individuals, Prince Sirik Matak and Long Boret, who remained in Cambodia were indeed executed soon thereafter.**” The prosecution did not argue that all seven individuals were subsequently executed, as the other five individuals had fled Cambodia.