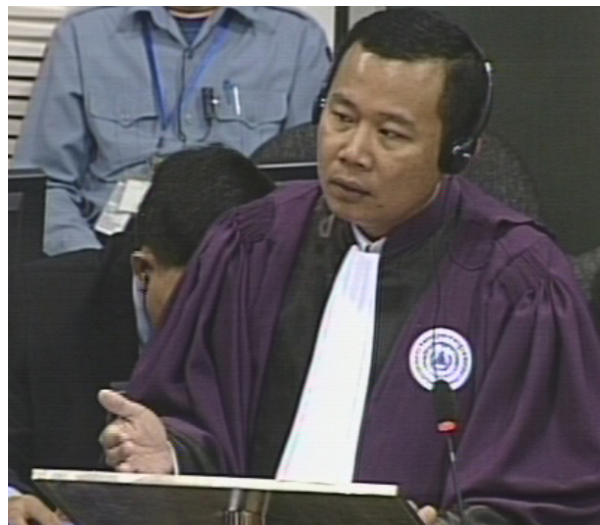


Scrutiny of DC-Cam Continues in Case 002 Evidentiary Hearings

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National Deputy Co-Prosecutor Chan Dara Reasmey continues the questioning of DC-Cam Deputy Director Peoudara Vanthan.

On Tuesday, January 24, 2012, the Trial Chamber of the Extraordinary Chambers in the Courts of Cambodia (ECCC) continued with questioning of witness Peoudara Vanthan, deputy director of the Documentation Center of Cambodia (DC-Cam).

Prosecution Continues Questioning Witness Peoudara Vanthan

ECCC National Deputy Co-Prosecutor Chan Dara Reasmey took up questioning Mr. Vanthan where his international colleague, Tarik Abdulhak, had left off the previous day, beginning with how DC-Cam determines that *Revolutionary Flag* booklets in its possession are genuine documents that were created by the Communist Party of Kampuchea (CPK) during the Democratic Kampuchea (DK) period. Mr. Vanthan explained that authentication of the documents is a lengthy process that is conducted in a holistic manner through considering the

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.

language used in the document and comparing this language to common CPK phrases, such as references to “smashing” enemies.

When asked about DC-Cam’s “bibliographic database,” Mr. Vanthan explained that the main purpose of the database is to store biographies of Khmer Rouge combatants collected by DC-Cam.

Regarding the types of documents considered “key” by DC-Cam, Mr. Vanthan responded that DC-Cam “does not do any analysis” of documents, but only categorizes them generally. As for biographies, DC-Cam has created a standardized form to enter data into the database for each document, mostly to help individuals search for missing loved ones. Mr. Vanthan further noted that DC-Cam has a manual at its offices that contains the Center’s policies for data entry into its database. Mr. Vanthan then explained that he is in charge of this data entry and supervises staff members who conduct this work. Furthermore, data entry is reviewed by DC-Cam staff members as a group, to ensure consistency and accuracy. He further noted that accuracy is important because many Cambodian people come to DC-Cam each day to search for information about loved ones who went missing during the DK period. By using the database, he stated, DC-Cam is able to provide answers to some of these people, even if the only information available is about the circumstances of the death of the missing person.

When asked additional questions about the database, Mr. Vanthan suggested that, for more information, anyone with questions should visit DC-Cam’s public website to learn more about the Center’s database.

Upon further questioning, Mr. Vanthan explained that DC-Cam also maintains a photographic database and that people searching for lost loved ones can review these photos. When a photograph is identified by a visitor to the Center, this information is then put into the photographic database.

As for legal ownership of DC-Cam’s documents, Mr. Vanthan stated that the ownership depends on the specific document and the Center’s agreement with whomever donated the document.

When asked who has provided “the most documents to DC-Cam” and who the principal person who receives such documents is, Mr. Vanthan explained that documents can be collected by any member of DC-Cam’s staff but that all such documents are vetted and inspected by Mr. Vanthan personally.

Regarding the coding of video documents, Mr. Vanthan explained that DC-Cam has a list of films available on the Center’s public website and this list includes information such as from where the video document was originally obtained.

Questioning was then turned over to the civil parties.



DC-Cam Deputy Director Peoudara Vanthan testifies before the ECCC on Tuesday, January 24.

Civil Party Questioning of Witness Peoudara Vanthan

Civil Party Lead Co-Lawyer Pich Ang then took up questioning of Mr. Vanthan on behalf of the civil parties, pledging to do his best not to be repetitive. The first topic explored by the civil parties was DC-Cam's process of becoming independent from Yale University. Mr. Vanthan explained that the initial research activities of DC-Cam were conducted as joint venture with Yale University but that, after two years, Yale's mandate expired and DC-Cam continued independently. He further explained that, from 1995-1997, DC-Cam had served as an office for Yale's general genocide studies research program. After 1997, however, DC-Cam became an independent non-governmental organization (NGO).

When counsel continued to question Mr. Vanthan about DC-Cam's origins and relationship with Yale, Chamber President Nil Nonn interjected and stated that Mr. Vanthan had already been asked and had answered such questions. He then instructed civil party lawyer Pich Ang to use his questioning time to ask non-repetitive questions.

Pich Ang then asked Mr. Vanthan whether DC-Cam considers itself an "investigating" organization. Mr. Vanthan responded that DC-Cam never uses the term "investigate" to describe its work, which is to simply document the history of the DK period.

Regarding his training in New South Wales, Australia, Mr. Vanthan explained that he was trained in "recording" and "compiling" documents and filing them so they can be accessed easily by the public.

When asked to comment on his statement that DC-Cam does not "analyze" documents, Mr. Vanthan stated that the Center's policy is not to make statements about specific documents, especially regarding whether such documents do or do not implicate a particular individual in crimes.

When Mr. Ang then asked about the Center's filing and indexing system, Mr. Vanthan appeared frustrated and stated that he had already answered such questions. He explained that he had already discussed how the Center finds documents once they are catalogued through its indexing system. Mr. Vanthan again explained that the Center generally examines the types of paper on

which documents are printed but does not have the facilities to forensically examine documents. Furthermore, when the Center has any doubt about the source or authenticity of a document, he maintained, the Center consults with experts, such as historian David Chandler, to assist in determining whether such document is genuine.

Mr. Vanthan also reiterated that documents provided to researchers cannot be altered or damaged because only copies are provided to the public and the researchers complete their research in a specific place at DC-Cam's office.

He also affirmed that all copies of documents provided to the ECCC are accurate reproductions of the original documents at DC-Cam to the best of his knowledge. When asked about authentication again, Mr. Vanthan responded, "All documents at DC-Cam have been authenticated."

Having concluded his questioning, Mr. Ang then turned the floor over to his international colleague, Elisabeth Simonneau Fort, to continue questioning. Ms. Simonneau Fort apologized in advance to Mr. Vanthan for the "basic" questions she planned on asking but explained that sometimes simply stating such basic information in court is important.

First, Ms. Simonneau Fort explored the nature of DC-Cam's work and its methodology. She asked whether DC-Cam utilizes a "university-based scientific approach." Mr. Vanthan affirmed that this was an accurate characterization of the Center's mandate.

Upon further questioning, Mr. Vanthan testified that DC-Cam has a "clear code of ethics" for staff members who conduct field research in Cambodia's provinces. Regarding the Center's research interviews, Mr. Vanthan explained that DC-Cam's senior legal advisors review standardized questionnaires, which DC-Cam then utilizes when conducting interviews. He noted that these standardized forms have been shared with the ECCC Office of the Co-Investigating Judges (OCIJ).

Mr. Vanthan next affirmed that he considers himself an expert on historical research, as he has 17 years of experience working in the field. He also explained that DC-Cam continues to collaborate with several universities, including Rutgers University and Temple University (both in the United States) among others. When asked whether DC-Cam is renowned among foreign universities, Mr. Vanthan declined to address this subject, stating that he does not want to "boast" about his or DC-Cam's work.

When asked whether DC-Cam helps to "guide" the research of ECCC parties when they visit the Center, Mr. Vanthan explained that anyone who visits DC-Cam is instructed on how to search for documents and make requests. Thus, "each and every visitor needs to be guided" via a "general orientation session" conducted by DC-Cam staff members.

Upon further questioning, Mr. Vanthan testified that DC-Cam has been recognized by the ECCC as a donor of documents. He did not directly address whether DC-Cam had equally assisted all parties before the Court, however, preferring to state generally that the Center has been recognized and thanked by the ECCC as an institution.

Ms. Simonneau Fort then asked whether any ECCC party representative had been “critical” of DC-Cam’s research methods when conducting research at the Center. Mr. Vanthan responded by only stating generally that DC-Cam honors all documents requests from any party “in due course” and free of charge. He did affirm that DC-Cam has not met with any particular dissatisfaction from any ECCC party thus far.

Ieng Sary Retires to the Holding Cell

This concluded questioning by the civil parties, and the Chamber prepared to take its regular morning session break at 10:30 a.m. At this point, Ieng Sary defense counsel Ang Udom rose and informed the Chamber that Ieng Sary wished to waive his right to be present in the courtroom and wished to retire to the Court’s holding cell to participate via audio-visual link. As has been its usual practice throughout these hearings, the Chamber granted the request, contingent on receipt of a written waiver signed by Ieng Sary.

Additional Questioning by the Bench Regarding Annotations on Documents

Following the morning break, Judge Jean-Marc Lavergne asked witness Peoudara Vanthan some additional questions about specific DC-Cam documents. The first such document, displayed on the courtroom monitor, was a copy of a CPK telegram containing annotations in the upper right hand corner of the document. When asked about this annotated coding, Mr. Vanthan responded that, to the best of his recollection, the document is a copy of a document in DC-Cam’s Lon Nol (“L”) collection. He noted that at first, the document was misfiled in the Center’s “N” collection, which is why the letter N appears on the document with a mark crossing out the letter.

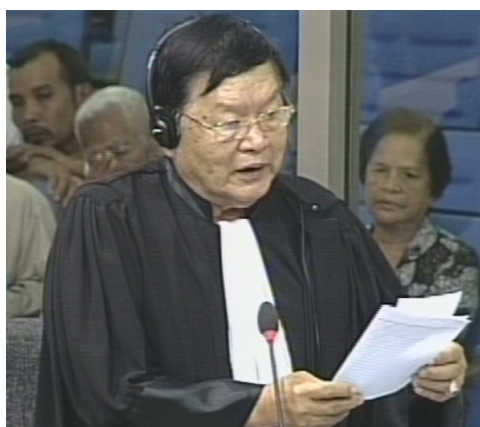
Regarding the contents of the document, Mr. Vanthan read out the addressee line on the document, stating that it was addressed to, among others, “Brother Nuon.” Mr. Vanthan noted that the use of the salutation “Brother” in CPK documents indicated that the telegram was sent to someone in a higher position than the sender. He further stated that, according to his experience, “Brother Nuon” referred to accused Nuon Chea in CPK correspondence. Beyond this information, however, Mr. Vanthan stated that he had no insights into the contents of CPK telegrams or the standard process utilized during the DK period when sending them.

At this point, Judge Lavergne turned to a second telegram that was scanned in color with annotations on it. The Judge compared this telegram to a different version of the document that contained additional annotations in the top right corner. Mr. Vanthan explained that the first document was a scan of the original document, without any DC-Cam coding on it, and the second copy was a scan of the copied document at DC-Cam which had been coded and indexed in DC-Cam’s archives.

When asked about an annotation on this document that read “Uncle Nuon,” Mr. Vanthan responded that any marks on the paper other than DC-Cam coding are original marks. When asked about other annotations, stating the telegram number and “radio band” number, Mr. Vanthan responded that all telegrams included such text indicating the telegram number and radio band but that he has no idea what the term “radio band” means.

When asked about the reference to “170” at the top of the document and the large red stroke next to the numbering, Mr. Vanthan again testified that the marks were on the document when DC-Cam received it. He further noted that the document was received from the Tuol Sleng archives and that he believes the document was given a number because it was found in a large file and the number indicated its location within the file. This document was also addressed to, amongst others, “Uncle Nuon, Uncle Van and Uncle Vorn” and Mr. Vanthan contended that these names referred to Nuon Chea, Ieng Sary and Vorn Vet respectively, as these were monikers commonly used by these men during the DK period.

The next document shown to Mr. Vanthan by Judge Lavergne contained similar annotations. Mr. Vanthan noted that the copy displayed was a scan of the original document with no DC-Cam coding on it but that the number “175” was written on the document to identify which page number corresponded to the document among the larger batch of documents received by DC-Cam at the time. Having completed his inquiries, Judge Lavergne thanked Mr. Vanthan for his testimony and passed the floor to counsel for the defense teams to question Mr. Vanthan in turn.



*Son Arun, national counsel for Nuon Chea,
kicks off the defense questioning of witness Peoudara Vanthan*

Nuon Chea Defense Team Questioning of Witness Peoudara Vanthan

The first defense team to question Peoudara Vanthan was that of Nuon Chea, beginning with national counsel Son Arun. Upon questioning, Mr. Vanthan testified that DC-Cam had provided approximately 500,000 pages of documents to the ECCC and that there is an as-of-yet unsigned memorandum between the Court and DC-Cam concerning the provision of documents and their authenticity.

Mr. Arun then asked Mr. Vanthan if he was aware that providing documents without signing a memorandum "is illegal," to which Mr. Vanthan simply responded that all documents provided were given following a request by the ECCC, according to DC-Cam's general procedures.

Next Mr. Arun asked Mr. Vanthan about a statement previously made by DC-Cam director Youk Chhang. The prosecution objected to this question, to which the Nuon Chea defense responded that the question should be considered proper because Mr. Vanthan is a representative of DC-Cam and the statement had been made by Youk Chhang on behalf of the Center. The Chamber disagreed and asked Mr. Arun to proceed with a different question not based on the testimony of

other witnesses. Mr. Arun then asked another question that prompted an objection from the prosecution, who reminded the Chamber that the question was again drawn from the testimony of a different witness. The defense counsel then apologized, explaining that he had confused different witness statement documents, prompting chuckles from the crowd.

Mr. Arun then moved to the subject of *Revolutionary Flag* booklets. Mr. Vanthan testified that the booklets have red covers and that the copies of the booklets he has read were typed, not handwritten. He noted that he cannot comment on the size of the booklets because DC-Cam has never measured the thickness of the booklets.

Son Arun next sought to involve Nuon Chea directly in questioning, by allowing him to question Mr. Vanthan concerning the details of *Revolutionary Flag* booklets. Chamber President Nil Nonn interrupted the inquiries and stated that the defense cannot go down this path, as the booklets had already been discussed extensively and counsel should remain focused on documentary evidentiary issues related to DC-Cam documents.

Defense counsel then asked what “categories” of documents DC-Cam has received from individual donors. Mr. Vanthan responded by stating that these documents are all vetted via the Center’s standard practices and personally inspected by Mr. Vanthan himself. He further noted that DC-Cam attempts to verify the authenticity of every document it receives.

Next Son Arun asked about DC-Cam’s textbook *A History of Democratic Kampuchea*. He questioned how DC-Cam could feel confident as an organization that the textbook is accurate and proper to use to teach Cambodia’s children when the ECCC itself has not yet been satisfied as to the true history of the DK period. Mr. Vanthan responded by stating that he was called by the Chamber to discuss documents contained at DC-Cam only, declining to comment directly on the Center’s history textbook.

Upon further questioning about DC-Cam’s collection of purported contemporaneous documents from the DK period and whether the Center is ever suspicious that such documents were “fabricated or made up by individuals or agencies to implicate the leaders of [DK],” Mr. Vanthan responded that the Center had rejected one document because it suspected that the document was a fake. He did not elaborate any further, however, about any other potential “fake” CPK documents.

Son Arun then proceeded to ask several questions, prefaced by his own opinions and “research” on the Khmer Rouge history and communist regimes in general. This prompted Judge Nil Nonn to interject twice and remind Son Arun to simplify his questions and limit them to discussions of documents on the case file, rather than his own opinions.

Son Arun then asked about the “Black Paper” document allegedly published by the government of DK in 1978.¹ After some confusion, the document was located and displayed on the courtroom monitors. Mr. Arun then asked whether DC-Cam holds the original of the Black Paper

¹ The document known commonly as the “Black Paper” is allegedly a CPK statement discussing the regime’s falling out with the Vietnamese communist government. The paper purportedly accuses the Vietnamese of committing acts of territorial aggression against DK.

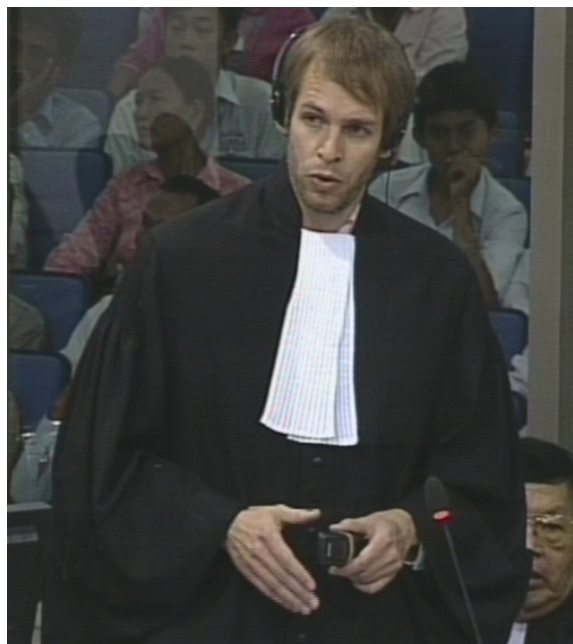
document. Confusion continued to muddle the questioning, however, as Mr. Vanthan stated that he was unsure whether Son Arun was referring to DC-Cam’s textbook, *A History of Democratic Kampuchea*, which also has a black cover. President Nil Nonn then stepped in and helped to clarify that Son Arun had asked specifically about the “Black Paper” and not *A History of Democratic Kampuchea*. The Chamber further noted that Mr. Vanthan had not answered this question and provided him with a copy of the document to inspect before providing his opinion on whether DC-Cam holds an original of such document. The Chamber then adjourned for lunch.

Nuon Chea Retires to the Holding Cell

Following the lunch break, Nuon Chea’s defense counsel rose and informed that Chamber that Nuon Chea wished to waive his right to be present in the courtroom. This waiver was granted, contingent upon receipt of a written waiver signed by Nuon Chea. Nuon Chea then retired to the court’s holding cell to participate via audio-visual link. As with Ieng Sary, Nuon Chea’s absence from the courtroom for the afternoon session has become a regular occurrence at recent Case 002 proceedings.

Clarification of the “Black Paper” Document Confusion

Nuon Chea defense counsel began the afternoon’s testimony by seeking to clear up the confusion that had arisen during the closing minutes of the morning session regarding the so-called CPK “Black Paper.” Mr. Vanthan affirmed that DC-Cam holds the original of the document but noted that the copy provided to him for inspection was not a photocopy of the original, as it had DC-Cam document coding on it.



Jasper Pauw, international co-counsel for Nuon Chea, argues for the defense.

Continued Questioning by the Nuon Chea Defense

Nuon Chea’s international defense counsel Jasper Pauw then took over questioning. Prior to commencing with questioning, Mr. Pauw sought clarification regarding questions about statements by “another witness” from DC-Cam, clearly referring to DC-Cam director Youk

Chhang, who had already been mentioned by counsel Son Arun during the morning session. Mr. Pauw argued that it would be “somewhat surreal” for the Chamber to allow questioning of Mr. Vanthan as a representative of DC-Cam as an organization without affording parties the opportunity to explore the statements made by Youk Chhang, as, Mr. Pauw argued, all parties and Mr. Vanthan were aware of the existence and substance of such statements.

The Trial Chamber judges then spent several minutes conferring before addressing this request for instruction from the Nuon Chea defense. Eventually Chamber President Nil Nonn asked for “clarification” from the Mr. Pauw regarding precisely which witness statements the defense was seeking to use. The Chamber further noted that the statements of the director of DC-Cam are “relevant when this witness is called to give testimony before this Chamber,” stating that “only when [Youk Chhang] is called again” can his statements be discussed.²

The President then asked what other witnesses made the six statements the Nuon Chea defense hoped to explore. Mr. Pauw clarified that the defense sought only to explore the testimony of one particular individual, who is “well-known to everyone in this courtroom” and that this witness has made six statements.

After a brief pause, President Nil Nonn announced that questioning is limited solely to discussion of documents provided by DC-Cam and that no reference to other witness statements can be made. Mr. Pauw did not let the issue rest, however, stating that director Youk Chhang does not have a witness pseudonym assigned by the ECCC and claimed that he remained unclear as to if and how he can use Youk Chhang’s previous witness statements.

Judge Lavergne then took over for the Chamber to avoid any translation errors and asked the Nuon Chea defense if they wished to question Youk Chhang. Mr. Pauw responded that the Nuon Chea defense continues to maintain that Youk Chhang should testify but that the defense also believes that it would be proper to question Mr. Vanthan utilizing relevant statements made by Youk Chhang.

Judge Lavergne responded by denying the Nuon Chea defense request, stating that it is “improper” to ask questions based on witness statements of a witness who will testify and who has not yet appeared before the Court.

Following this exchange, Mr. Pauw began questioning Mr. Vanthan. The first topic explored by the Nuon Chea defense was the goals of DC-Cam as an organization and Mr. Pauw asked if DC-Cam has “any other goals” other than the ones Mr. Vanthan previously stated. To this, Mr. Vanthan responded that he had already “clearly” stated the goals of DC-Cam.

When asked whether DC-Cam has ever “stated a desire to have Nuon Chea prosecuted,” Mr. Vanthan first stated that this question was not related to the topic of DC-Cam’s documentary work, appearing reluctant to enter into this area of discussion. The Trial Chamber then reminded the Nuon Chea defense to stay on the topic of evidentiary documentation. Mr. Pauw responded

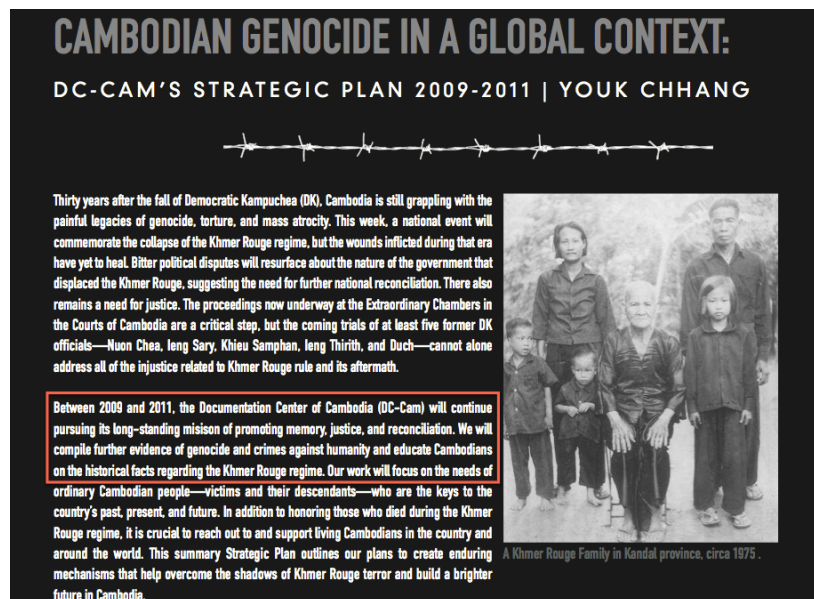
² This statement suggested that the Trial Chamber plans on calling Mr. Chhang as a witness, but there has been no official indication from the ECCC that such a request has or will occur, leading to speculation among the audience on the topic.

that this question goes to the heart of whether any bias exists, either official or unstated, at DC-Cam toward the prosecution of Nuon Chea.

These continued attempts to explore DC-Cam’s motivations appeared to anger Chamber President Nil Nonn, who reminded Mr. Pauw to stay on topic. He warned that, if the Nuon Chea defense team continued to stray off topic, the Chamber would assume that the defense had no further questions and would consequently turn the floor over to another defense team.

Mr. Pauw then sought to explore a document entitled DC-Cam’s “Strategic Plan” and, specifically, a statement therein claiming that DC-Cam planned to continue collecting “evidence” of “genocide” and “crimes against humanity.” Mr. Vanthan responded by seeking clarification from the Chamber, as the document was not referenced in the summons he received to testify. The Chamber eventually asked Mr. Vanthan to respond to the questioning. Mr. Vanthan then stated that the document was a poster published by DC-Cam, but did not elaborate further.

When asked again whether DC-Cam’s goals include documenting specific crimes, Mr. Vanthan responded by repeating the Center’s general overall goals of promoting “memory and justice.” He further noted that DC-Cam does not internally use the term “evidence” but considers its work to be “collect[ing] documents.” Mr. Pauw then noted for the record that the word “evidence” does appear on the displayed DC-Cam document.



A portion of the document “DC-Cam’s Strategic Plan” that came under scrutiny by the Nuon Chea defense during hearings on Tuesday afternoon. The defense’s questions focused on the highlighted text.

The defense then questioned Mr. Vanthan about his role as a member of DC-Cam’s “Accountability Team.” Mr. Vanthan responded that this project seeks to compile information on people’s experiences during the DK period. He further noted that this information could be used for other purposes by unaffiliated groups or individuals, such as publishing books.

When asked whether this information could be used by a court such as the ECCC to prosecute Nuon Chea, Mr. Vanthan responded that the ECCC has requested some of this information. As for whether the information was collected with possible prosecutions in mind, Mr. Vanthan did not directly respond but simply stated that the Center provides documents to any requesting individual or organization.

In response, the Nuon Chea defense displayed a web page from DC-Cam's public website³ that explains the Center's Promoting Accountability project. Mr. Pauw then read out a section from this web page that stated that the project's work "can help hold DK leaders accountable for atrocities."

Mr. Pauw then turned to the questionnaire DC-Cam utilizes when conducting interviews in the field. He provided Mr. Vanthan with a copy of the document and asked what use DC-Cam makes of the questionnaire. Mr. Vanthan responded that the document provides a standardized way to collect information on the DK period regime. He affirmed that the document is given to DC-Cam researchers when they conduct fieldwork.

After laying this groundwork, Mr. Pauw stated that he was "puzzled" by some of the terminology used in the document, including such terms as "homicides", "torture", "religious persecution", "destruction of cultural sites", and various sub-topics under the headings "genocide," "crimes against humanity" and "war crimes", respectively. Mr. Pauw then stated that the document "strikes [him] as a blueprint for prosecution of certain individuals" and not a tool for "comprehensive and historical research." When asked if he agrees with this assessment, Mr. Vanthan stated that, "in collecting documents and information," DC-Cam also wished to assist those who "wish to find justice for the DK regime."

Next Mr. Pauw inquired whether there were "personal meetings" between representatives of the Office of the Co-Prosecutor (OCP) and DC-Cam prior to the provision of any documents to the OCP by DC-Cam. Mr. Vanthan responded that he had been assigned to act as a contact person for ECCC document requests and that sometimes DC-Cam also holds general meetings where visitors are allowed to meet at DC-Cam to discuss the Center's documents.

At this point, the prosecution objected, stating the questions referred to an unclear time period. Chamber President Nil Nonn then intervened and overruled the objection. The President then instructed Mr. Vanthan to respond by answering simply "yes," "no" or "I don't know" to the question about any meetings between OCP and DC-Cam representatives prior to the handing over of any documents. Mr. Vanthan responded by stating that he had not personally met any representatives from the OCP.

Pressed for time, Mr. Pauw then sought to note for the record that Mr. Vanthan was not clearly answering the questions put to him and that, according to the Nuon Chea defense team, this was not a translation issue.

³ Available at http://www.d.dccam.org/Projects/Promoting/Promoting_Accountability.htm.

When asked whether DC-Cam provided a list of documents to the OCP that could be useful for prosecutions, Mr. Vanthan responded by stating that all documents provided to the OCP were only given after a request was received by DC-Cam. This answer caused Mr. Pauw again to maintain, for the record, that Mr. Vanthan was not clearly answering the questions put to him and that this left many relevant topics unaddressed.

The Nuon Chea defense then moved on to the organization of documents at DC-Cam. Mr. Pauw asked whether documents are ever organized at DC-Cam according to their relevance to a particular ECCC accused, such as Nuon Chea. Mr. Vanthan stated that, when voluminous sets of documents are collected, they are sometimes categorized by the annotations on them, such as those annotated with Nuon Chea or Ieng Sary's name. When asked if there was a file at DC-Cam labeled "Nuon Chea," Mr. Vanthan asked to be provided a specific document to comment upon related to this question. Mr. Pauw then stated that he could not provide such documents because he does not have any and is rather seeking such information from Mr. Vanthan. Again, Mr. Vanthan's answer did not satisfy Mr. Pauw, who again asserted that Mr. Vanthan had not answered the question.

Next the defense asked about DC-Cam's document examination process, whereupon Mr. Vanthan affirmed that he views every document that comes into DC-Cam. Upon further questioning about whether DC-Cam keeps records of where documents were initially found and who submitted them to DC-Cam, Mr. Vanthan stated that DC-Cam's database website contains information about from where documents are sourced, but he did not elaborate further.

Mr. Pauw then sought to make some final observations about Mr. Vanthan as a witness as he was running out of time. He argued that Mr. Vanthan had not answered fully all questions put to him over the nearly two days of questioning and that the Nuon Chea defense is very interested in the answers to many of these questions. Moreover, according to Mr. Pauw, questions about DC-Cam's work and policies and the chain of custody of documents in its possession would be best answered by DC-Cam director Youk Chhang. He further requested that the Chamber direct Mr. Chhang to provide a list of documents provided to the Court with information about the chain of custody for all such documents. The Chamber then adjourned for its regular afternoon break.

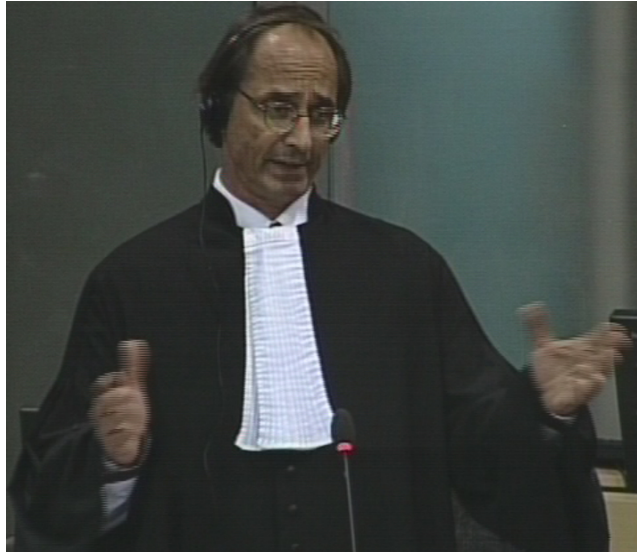
Prosecution Responds to Nuon Chea Defense Application

Following the afternoon break, the prosecution sought to comment on the request by the Nuon Chea defense that the Chamber require the production of a chain of custody listing from DC-Cam for all documents submitted by the Center to the ECCC. The prosecution was granted several minutes to reply and used this time to argue that applicable international jurisprudence does not require any proof of the chain of custody for each document entered into evidence but only *prima facie* evidence of reliability and relevance. In support of this argument, counsel Tarik Abdulhak cited various cases from the International Criminal Tribunal for the Former Yugoslavia (ICTY).

The Nuon Chea defense then responded by arguing that the testimony of Peoudara Vanthan was intended to clarify issues of authenticity and reliability relating to DC-Cam documents and that, even after this testimony, there still exists a "black hole" of missing information related to the

provenance of DC-Cam documents. Counsel continued by arguing that this alleged lack of clarity is what necessitates further inquiry into DC-Cam documents.

Chamber President Nil Nonn then thanked both parties for their submissions and turned the floor over to the Ieng Sary defense to continue questioning.



Questioning by Michael Karnavas, international counsel for Ieng Sary, closed out Thursday's hearings on evidentiary issues.

Ieng Sary Defense Questioning of Peoudara Vanthan

Ieng Sary's international counsel Michael Karnavas then rose and made some preliminary statements before beginning his questioning of Mr. Vanthan. First, Mr. Karnavas stated that in the future, legal arguments should take place outside of the presence of the witness, especially a witness who is a lawyer, such as Mr. Vanthan. Next Mr. Karnavas accused Mr. Vanthan of "confabulating" portions of his testimony and being less than forthright in his answering and asked the Chamber to remind Mr. Vanthan of the witness oath he had taken.

Chamber President Nil Nonn did not appear pleased by this request and simply stated that the Chamber saw no reason to restate an oath that had already been administered.

The Ieng Sary defense then began its questioning of the witness by asking again whether any files exist at DC-Cam that are labeled with the names of the three Case 002 accused. Mr. Vanthan denied that any such files exist.

Mr. Karnavas then asked how old Mr. Vanthan was when he began working at DC-Cam, prompting a series of exchanges between Mr. Karnavas and Mr. Vanthan on the math necessary to calculate Mr. Vanthan's age in 1995. Though Mr. Vanthan appeared annoyed at the tone of Mr. Karnavas' questioning, it was eventually established that Mr. Vanthan was 23 years old when he began working at DC-Cam.

Mr. Karnavas then explored Mr. Vanthan's education at Notre Dame University in the United States. During this questioning, it quickly became clear that Mr. Karnavas' goal was to establish that Mr. Vanthan is fluent in English. After several questions, Mr. Vanthan explained that he did indeed obtain a Master's degree from Notre Dame and speaks English but further stated that he had been listening to the Khmer channel of the ECCC translation service throughout the day and had not heard the questions posed by Mr. Pauw in English, noting that the translation headphones drown out the sound of other languages.

Next Mr. Karnavas inquired about whether DC-Cam employs a legal advisor. Mr. Vanthan responded that DC-Cam does not have any legal officers and that he was not instructed by anyone prior to testifying. When Mr. Karnavas pushed this issue, referring to a person regularly quoted in the press as being a "DC-Cam Legal Advisor," Mr. Vanthan stated that DC-Cam has no lawyers on its staff that are "like you," apparently referring to Mr. Karnavas in his role as defense counsel to Ieng Sary.

Mr. Vanthan further testified that he had not discussed his testimony with DC-Cam director Youk Chhang prior to testifying or following the previous week's proceedings, explaining that he had been traveling in Cambodia's provinces during the previous week.

Following this line of questioning, Mr. Karnavas sought to explore the relationship between DC-Cam and Steve Heder, a Khmer Rouge researcher who is listed as an advisor to the Center on the DC-Cam website and who has also worked at the ECCC both in the OCP and OCIJ. Mr. Vanthan affirmed that he had met Steve Heder at DC-Cam's offices on several occasions, when Mr. Heder had come to scan documents for the OCIJ. Mr. Vanthan explained that, on these occasions, he had interacted with Mr. Heder in a professional capacity, as Mr. Heder had presented him with requests for documents in the form of rogatory letters. Mr. Vanthan added that he had then processed these requests and provided the documents to Mr. Heder.

Moving back to Mr. Vanthan's training, Mr. Karnavas asked if Mr. Vanthan considers himself "an analyst." Mr. Vanthan responded that he has a lot of experience working with documents but admitted that he has no specific training in analyzing and authenticating documents. Mr. Karnavas then asked what Mr. Vanthan refers to as the process of "analysis"; Mr. Vanthan responded that DC-Cam's analysis is limited to determining whether each document it receives is authentic and relevant to the DK period, calling it a process of "assessment" rather than "analysis."

Next Mr. Karnavas explored DC-Cam publications, such as *Searching for the Truth* magazine, asking whether Mr. Vanthan authored articles in this and other DC-Cam publications. Mr. Vanthan responded that he had indeed written articles and stated that the process of writing articles varies according to the type of article and stated that he could not comment further unless questioned about specific articles.

Following this exchange, Mr. Karnavas asked Mr. Vanthan to affirm his previous statement that "all documents at DC-Cam are authentic." Mr. Vanthan affirmed that this is his opinion, based on his knowledge and experience. Mr. Karnavas then asked Mr. Vanthan to explain the methodology utilized by the DC-Cam staff in assessing the authenticity of documents. Mr.

Vanthan responded that, with regard to the authenticity of documents, DC-Cam normally asks individuals who provide documents about the source of the document. Mr. Karnavas then sought to explore how this process worked for documents received from the National Archives of Cambodia. In response, Mr. Vanthan solely stated that DC-Cam obtained information from a representative from the National Archives whose duty it is to keep the documents.

At this point, Mr. Karnavas broke off questioning and informed the Chamber that it was 4 p.m. and he could continue his questioning the following morning. The Chamber then thanked Mr. Vanthan for his testimony thus far and noted that it will require further testimony from him the following morning. The Chamber then adjourned for the day.