



BORDER CLASHES BETWEEN VIETNAM AND CAMBODIA; PROCEDURAL CLASHES BETWEEN THE PROSECUTION AND THE DEFENSE

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By Laura MacDonald, Member of the New York Bar and Consultant to the Center for International Human Rights, Northwestern University School of Law

Vietnam versus Cambodia

The Trial Chamber took a break from resident expert Craig Etcheson's testimony on the structure and policies of the Khmer Rouge to hear visiting expert Nayan Chanda's testimony on the armed conflict that waged between Vietnam and Cambodia from 1975 to 1979. Among his many qualifications, Chanda covered Indochina for the *Far Eastern Economic Review* during the relevant time period and later wrote a book on his findings entitled, *Brother Enemy: The War After the War*. He is currently the Director of Publications and the Editor of YaleGlobal Online Magazine at the Yale Center for the Study of Globalization.

Under hours of questioning from Judge Silvia Cartwright, Chanda detailed armed conflict along the Vietnam-Cambodia border – which started in 1975, slowed in 1976, and then gradually intensified from mid-1977 until January 7, 1979 when Vietnamese forces captured Phnom Penh. Chanda described battles over several islands in the Gulf of Thailand, air raids on villages on both sides of the border, and the expulsion of Vietnamese nationals and sympathizers from Cambodia. Given that thirty-plus years have passed, Chanda's recollection of some specifics in *Brother Enemy* was understandably lacking; however, at moments, he was able to describe events and interviews vividly. Chanda recalled a March 1978 visit to a Vietnamese border town about which he still has nightmares. He said the village looked like it had been "hit by a storm" and the bodies of civilian men, women, and children lined the streets. In a mud hut, he saw the words "this is our land" scribbled in Khmer.

Chanda explained that the international community was ill-informed during the early years of the conflict because both Vietnamese and Cambodian officials sought to keep the hostilities secret. Despite attacks on Vietnamese soil in the beginning, the Vietnamese were careful not to anger the Khmer Rouge as they did not want a full-scale war. In mid-1977, however, the Khmer Rouge severed diplomatic relations with Vietnam and denounced the country publicly. Shortly thereafter, the Vietnamese commenced major attacks on Cambodian territory.

The judges and the prosecution spent much time questioning Chanda about the rationale and origins of the conflict. In short, Chanda explained that Vietnam sought a “special relationship” with Laos and Cambodia believing the three countries should cooperate to protect their sovereignty and social systems. When Pol Pot came to power, he decided and made known that his party was something original, not in any way related to Vietnam. Chanda discussed “racist” Khmer Rouge propaganda describing all Vietnamese people as brutal, aggressive, and expansionist. This party line made anyone with sympathy for or relations with the Vietnamese an enemy of Cambodia. While territorial disputes were the flashpoints of the conflict, Chanda tried to illuminate the long, complex history behind them.

The Accused Person, Kaing Guek Eav (Duch), does not contest the existence of an armed conflict. He claims that he heard about the conflict, but never in detail. Duch noted today that he had confidence that Pol Pot would maintain the sovereignty of Cambodia.

Civil Law versus Common Law

After the prosecution had questioned Chanda for an hour or so, international defense counsel Francois Roux rose to his feet in passionate objection. Roux argued that the prosecution’s common law-style cross-examination of Chanda was completely unnecessary and a “waste of time” in this civil law context where over a year of investigation had been done and the judges had thoroughly questioned the witness. Roux further suggested the prosecution was unfairly using this witness to build evidence against Ieng Sary and Khieu Samphan, other indicted Khmer Rouge officials whose names had been mentioned during Chanda’s testimony.

International co-prosecutor Alex Bates responded that Roux’s objections were the waste of time and that he would not dignify the other accusations with a response. Bates noted that Chanda was not heard during the investigation phase of this case and, therefore, the prosecution was seeking to establish his expertise and allow him to express his knowledge of Cambodian and Vietnamese policies.

Each of the four civil party groups spoke in support of the prosecution, including civil party lawyer Silke Studzinsky who insisted that everyone has heard Roux’s impressions about the common law and civil law systems and they need not be repeated. The Chamber ruled Roux’s objection “ungrounded” and allowed the prosecution to continue questioning Chanda.

Chanda will return tomorrow to finish his testimony on armed conflict.