

## **Defence Sees ‘Prejudice’ Trend**

**Bridget Di Certo with additional reporting by Cheang Sokha**

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Ongoing tension between the Khmer Rouge tribunal trial judges and defence counsel for Brother No 2 Nuon Chea erupted yesterday, with the former Khmer Rouge ideologue’s counsel accusing Trial Chamber president Nil Nonn of rude and inappropriate behaviour.

Dutch lawyer Michiel Pestman addressed Nil Nonn before substantive proceedings began and accused him of using the Khmer words neak eng to refer to Pestman during court.

“I understand the language is inappropriate, if not rude, and could be misinterpreted as intimidating not just me, but also my client,” Pestman said, adding that Nil Nonn used the word 12 times in court last Wednesday to refer to him. “It further undermines the integrity of the court and could give the impression of bias.”

Nil Nonn thanked Pestman for his “observation” before turning to the prosecution, who were introducing a selection of documents to the open court.

Cambodian legal expert Sok Sam Oeun agreed use of the Khmer word neak eng in court is impolite and could give an impression of bias, but added that it is not unfamiliar in the Kingdom’s courtrooms. “I think the judge should set a good example for the Cambodian courts,” Sok Sam Oeun said. “Local court judges commonly use this word – and much worse!”

A former tribunal Cambodian prosecutor, who did not wish to be named, similarly said the word was frequently used by judges in Cambodian courts. “Of course, it is an impolite word, but there are no laws or judicial advice against using it in court,” he said.

Nuon Chea’s defence team has frequently been at loggerheads with the Trial Chamber. Counsel has previously requested the disqualification of the entire Trial Chamber bench, and more recently the disqualification of New Zealand judge Silvia Cartwright for perceptions of bias against their client. All these requests have been rejected by the Chamber.

Contacted by the Post yesterday, Pestman said there was an emerging trend of prejudice against his client and defence team “because we are asking the right questions about the ongoing government interference in the work of the court”.

He added they would file another request for disqualification of Judge Cartwright today over comments she has made to New Zealand media.

Yesterday's proceedings centred on the prosecution's presentation of documents that in their view showed that from as early as the late '60s, senior Khmer Rouge leadership had begun formulating a policy to turn Cambodia into a nationwide slave camp.

The prosecution presented documents detailing the party line and establishment of the first cooperatives, or alleged forced labour sites, in the Khmer Rouge "liberated" areas from the early 1970s.

The prosecution also presented documents demonstrating an alleged Communist Party of Kampuchea agenda to destroy and uproot all private enterprise in the Kingdom, and especially to shake apart the social fabric of cities, which the prosecution alleges the accused did through the evacuation of urban areas.

While some of the co-accused had attributed the evacuation of Phnom Penh to the threat of US bombing, prosecutors picked out several documents in which Khieu Samphan applauded the success of Khmer Rouge cadre in stemming the flow of food and medical aid into Phnom Penh prior to the capital's fall.