



*Tuesday's presentations focused mainly on Ieng Sary and his role in the CPK.*

**Contextualization or Characterization?  
Document Presentation Continues in Case 002**

*"I have to say that Pol Pot was a patriot."  
- Khieu Samphan in 2006 interview*

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On Tuesday, February 14, 2012, the Trial Chamber of the Extraordinary Chambers in the Courts of Cambodia (ECCC) continued to hear evidence in Case 002 against accused Nuon Chea, Ieng Sary and Khieu Samphan. The day's proceedings were dedicated to the ongoing process of parties placing documents before the Chamber in order to highlight them and read out excerpts in open court.

***Prosecution Presents Video Footage of Khieu Samphan***

International counsel Tarik Abdulhak began the prosecution's submissions for the day by airing excerpts from the documentary film *Facing Genocide: Khieu Samphan and Pol Pot*, containing contemporaneous footage from the Democratic Kampuchea (DK) period (1975-1979) and also a 2006 interview with Khieu Samphan. The video showed Khieu Samphan being greeted by a Vietnamese delegation during a visit to Hanoi, Vietnam, in 1974. Ieng Sary also appeared in the background of the footage.

The next clip shown was footage of a recent interview with Khieu Samphan, shot while driving in a car in rural Cambodia in 2006. In the interview, Khieu Samphan explained the feeling of universal comradeship among communists during his studies in France and how he turned to the Khmer Rouge movement after former King Norodom Sihanouk ordered his arrest. He stated that he was won over by the Khmer Rouge's insistence on achieving revolution through violence once the King was overthrown and the United States (US)-backed Lon Nol regime took power and began bombing the countryside. Khieu Samphan stated that at the time, the Khmer Rouge was the only viable military force and Pol Pot chose Khieu Samphan to serve as the movement's emissary to the deposed King. He explained in the film that he was chosen because of his recognized "integrity" that made him the only Khmer Rouge figure the King would recognize. The film also demonstrated how Khieu Samphan allegedly acted as the nominal head of the Khmer Rouge regime, while Pol Pot held true power from the shadows.



*Khieu Samphan (front, right) meets with Burmese head of state Ne Win (front, left) in 1977.  
(Source: Documentation Center of Cambodia)*

In the interview shown in court, Khieu Samphan also stated that he could not "spit on Pol Pot's grave" to save his own reputation but instead stated that he believes Pol Pot was a "patriot" who tried to save his country and lift people out of poverty, though failed to do so. He stated that Pol Pot "demanded from all the cadres that they live and think like peasants." Khieu Samphan added that he "tried [his] best" but could not successfully live this way. He further explained that Pol Pot taught disciples to analyze situations "coldly" and to take appropriate action. When asked in the film if he missed Pol Pot, Khieu Samphan responded, "Yes, because he was such an exceptional thinker."

### ***Prosecution Presents Documents Related to Ieng Sary***

After Mr. Abdulhak completed presenting video clips of Khieu Samphan, he turned the floor over to national counsel Chan Dara Reasmey to highlight documents related to Ieng Sary. Chan Dara Reasmey introduced the documents by noting the especially important evidentiary value of contemporaneous documents containing statements by Ieng Sary, which were made without the passage of time and without the looming specter of prosecution.

The first document put before the Chamber was the list of the facts agreed upon by the prosecution and the Ieng Sary defense. Chan Dara Reasmey stated that he would not read out the document again in court but characterized the facts as establishing a timeline of Ieng Sary's

participation in the Khmer Rouge period and his high standing in the regime. This submission prompted an objection from Ieng Sary's international defense counsel Michael Karnavas, who argued that Chan Dara Reasmey was providing an "opening statement" and not presenting documents. Mr. Karnavas advised counsel either to continue putting documents "or sit down."

International deputy co-prosecutor William Smith responded and stated that Mr. Karnavas' statement to his colleague to "sit down" was inappropriate. In substance, he argued that the prosecution was not overstepping the boundary set by the Chamber during the previous day's proceedings, which permitted some contextualization of presented documents.

Mr. Karnavas, seemingly unfazed, responded by again stating that the prosecution was giving speeches and not presenting documents. He stated that if this were allowed, everyone might as well sit down and let the judges deliberate without the presentation of any further evidence.

The Chamber judges conferred briefly before Chamber President Nil Nonn observed that the statement by the prosecution was "rather broad" and amounted nearly to submitting a "pleading." He then reminded the parties of the purpose of placing documents, which is to keep the public informed and to highlight especially important documents. The President advised the prosecution to proceed but reminded all parties to be mindful of the purpose of the hearing.

Chan Dara Reasmey then turned to an interview with Ieng Sary. He stated that a person who was in the first US delegation to visit the regime conducted the interview. The interviewer described Ieng Sary as a warm and happy individual, who was one of the "founders" of the Cambodian communist movement. Also during this interview, Ieng Sary allegedly repeated much of the information about the early period of the regime adduced during recent proceedings. He also purportedly stated that some international leftist governments viewed the Khmer Rouge as especially extreme. Later in the interview, Ieng Sary purportedly stated that during the early period of the struggle, the Khmer Rouge leaders relied heavily on ethnic tribesmen in Cambodia to help them hide in the jungles and to provide them with food, stating that sometimes these tribesmen were captured but they never betrayed Khmer Rouge leaders, even under torture.

Later in the interview, Ieng Sary is attributed with stating that, although the Khmer Rouge leaders operated in secret, the movement was known among the people in Cambodia. The remainder of the interview touched on other aspects of the early Khmer Rouge movement, such as the uprising of peasants in Samlot, the US bombing campaign, and aid the regime received from China.

This interview also shed further light on the difficult relationship between Cambodian and Vietnamese communists, even during the 1970-1975 civil war. Ieng Sary is quoted as stating that Communist Party of Kampuchea (CPK) members "went hungry" in order to provide rice to its "Vietnamese brothers" but that Vietnam did not provide the arms it had promised in return.

Regarding the period immediately following the Khmer Rouge's victory on April 17, 1975, Ieng Sary is quoted in the interview as stating that various enemies, including the US Central Intelligence Agency (CIA), Soviet Intelligence organization (KGB) and the Vietnamese, sought to infiltrate and dominate the CPK.

### ***Ieng Sary Retires at his Usual Hour***

Chan Dara Reasmey concluded his presentation with this interview, and the Chamber prepared to take its regular morning break. At this point, Ieng Sary defense counsel Ang Udom rose and made his now-daily request that Ieng Sary be permitted to retire to the courtroom holding cell for the day because of pain and swelling in his feet. This request was granted, as usual, by Chamber President Nil Nonn, who instructed the Ieng Sary defense to submit a written waiver, signed by Ieng Sary.



*International Deputy Co-Prosecutor William Smith presents to the Court a number of documents related to Ieng Sary's role in the CPK.*

### ***Prosecution Resumes Highlighting Documents Relevant to Ieng Sary***

Despite Ieng Sary's absence in the courtroom, prosecution counsel William Smith continued highlighting documents related specifically to Ieng Sary. Mr. Smith prefaced his presentation by asserting that interviews given by Ieng Sary following his defection to the Cambodian government should be viewed with scrutiny because Ieng Sary made such statements with the knowledge of his potential prosecution. Secondly, Mr. Smith indicated that Ieng Sary was interviewed numerous times prior to and during the DK period, and thus the prosecution would not highlight all interviews but would move thematically through certain interviews.

Mr. Smith then highlighted a video clip of the meeting between King Norodom Sihanouk and the Khmer Rouge leaders in the early 1970s.

Next, Mr. Smith discussed an interview with Ieng Sary conducted by researcher Steve Heder. In this interview, Ieng Sary purportedly stated that he was a "liaison" between the CPK and the "Democratic Party" in order to bring people from the latter group into the CPK movement. Ieng Sary is also attributed as saying that the Vietnamese believed that Cambodia lacked the Stalinist requirements to form a true nation and, thus, were forbidden from forming an independent communist movement separate from the Indochinese Communist Party. During this interview, Ieng Sary also allegedly affirmed that he had recruited certain of his former friends and colleagues into the CPK while in Beijing, serving as an emissary.

Mr. Smith then played an audio recording of an excerpt from Mr. Heder's interviews with Ieng Sary. In this recording, Ieng Sary stated that he attended a meeting with Pol Pot in 1974 where plans for post-liberation Phnom Penh were discussed at the behest of Chinese official Zhou Enlai. Ieng Sary stated that, at the meeting, plans were made to evacuate the city but it was unclear whether this would be a complete or partial evacuation and whether the evacuation would be permanent. He further stated that the leaders eventually decided the evacuation "needed to be done" while "assessing the reaction" of certain groups, such as the US, Vietnamese and other "imperialists."

Mr. Smith then juxtaposed this interview with an interview given by Ieng Sary four months prior to ABC News, wherein Ieng Sary stated that he had advised Pol Pot that "everything must be arranged" before people were evacuated from Phnom Penh. Mr. Smith stated that these interviews demonstrate that Ieng Sary participated in the decision-making prior to the evacuation of Phnom Penh.

This triggered another objection by Ieng Sary defense counsel Michael Karnavas, who argued that Mr. Smith was again making submissions rather than solely highlighting documents. Mr. Karnavas inquired rhetorically to Mr. Smith, "What part don't you get?" referring to the distinction between providing context to documents and making submissions.

Mr. Smith responded that there is "nothing not to get" and that the prosecution was following the guidelines of the Chamber. However, he moved on to another, post-DK period interview, wherein Ieng Sary claimed that he had numerous disagreements with Pol Pot and that he was not a true decision-maker in the CPK during the DK period. In this interview, Ieng Sary denied responsibility for any killings, stating that Pol Pot, Nuon Chea, Son Sen and others were responsible for killing all those who opposed the CPK.

The final document placed before the Chamber by Mr. Smith during the morning session outlined a trip by Ieng Sary to China to solicit aid for the CPK in 1974. In the document, it is purported that the Khmer Rouge delegation officially called for the execution of the seven highest-level officials of the Lon Nol regime (allegedly dubbed by the CPK as the "seven super-traitors") along with any Lon Nol official who did not renounce their support for the regime.

Following this document, Nuon Chea's defense counsel informed the Chamber that, as usual, Nuon Chea wished to retire to the courtroom holding cell for the afternoon session. This request was granted by Chamber President Nil Nonn, who instructed the defense to submit a request for signed by Nuon Chea.

### ***Prosecution Completes Its Highlighting of Documents***

Following the lunch break, Mr. Smith completed the highlighting of documents for the prosecution relative to Ieng Sary. First, Mr. Smith read out excerpts from an interview purportedly given by Ieng Sary to a Norwegian friendship delegation during the DK period. In this interview, Ieng Sary discussed the early seeds of the CPK movement and the beginning of the armed struggle in 1968 using guerrilla warfare tactics. Ieng Sary also allegedly described

how the Khmer Rouge blocked roads, set traps, and used poison to fight against enemy troops in Ratanakiri during the first months of the armed struggle.

Next, Mr. Smith read out excerpts from an interview Ieng Sary purportedly provided to the French newspaper *Le Monde* in 1972. In this interview, Ieng Sary stated that the countryside was “the bosom of the people” and, thus, supported the Khmer Rouge revolutionaries. In the interview, Ieng Sary also discussed the CPK hierarchical structure, including the military. He allegedly stated the need to “sweep[] away Phnom Penh traitors” and that the Khmer Rouge would fight against the Lon Nol regime and its US backers until victory.

Ieng Sary was also quoted as stating that, during the civil war, the Khmer Rouge placed great emphasis on growing food, raising pigs, and obtaining a second rice crop in order to feed its fighters.

Mr. Smith concluded his presentation by submitting that these documents from which he had read demonstrate that Ieng Sary maintained a high-level position in the CPK well before 1975.



*Ang Udom, national counsel for Ieng Sary, raises the issue of translation errors before the Chamber.*

At this point, Ang Udom, national counsel for Ieng Sary, rose and submitted to the Chamber that certain statements included in the English translation of Steve Heder’s interview of Ieng Sary (discussed above) were incorrect. He then provided a specific example of what he believed was an incorrect translation and requested that the entire document be retranslated to ensure accuracy.

The Chamber President asked the prosecution to comment on the apparent discrepancies, noting that the document was a translated transcript of an audio interview and that therefore mistakes may be repeated throughout it.

Mr. Smith responded for the prosecution by suggesting that the ECCC translation team examine the particular segment of the interview challenged by the Ieng Sary defense but submitted that an entire retranslation would be result in an inefficient use of court resources.

Ang Udom responded that the error he identified was very important because it completely changed the meaning of the relevant statement. He asserted that therefore the entire document should be retranslated to avoid serious errors that may permeate it.

The Chamber instructed the Ieng Sary defense to submit its request in writing, with precise information as to what the mistakes are in the document, in order for the Chamber judges to consider the request and issue an appropriate decision.

The floor was then given back to the prosecution, and Chan Dara Reasmey resumed placing documents before the Chamber, returning to documents related to Nuon Chea. Before turning to the documents, he began to comment on Nuon Chea's testimony to date before the ECCC, which prompted an objection by Nuon Chea international defense counsel Andrew Ianuzzi, who argued that the prosecution should refrain from making submissions.

This objection was upheld, and Chan Dara Reasmey moved on to a transcript of Nuon Chea's previous testimony before the Chamber, reading out a portion wherein Nuon Chea discussed his early revolutionary activities. Chan Dara Reasmey then compared this testimony to Nuon Chea's previous testimony provided to the ECCC Co-Investigating Judges (CIJs), wherein he characterized differently his activities during the period of 1954-1970.



*Nuon Chea allegedly educating CPK party members during the DK period.  
(Source: Documentation Center of Cambodia)*

Chan Dara Reasmey then began to state again the significance of Nuon Chea's statements, prompting another successful objection by Mr. Ianuzzi.

After sustaining the objection, Chamber President Nil Nonn commented that the prosecution is permitted to compare documents but cannot submit its own pleadings or conclusions with regard to the documents. The President warned Chan Dara Reasmey that, if he continued to stray from the Chamber's instructions, the President would consider that the prosecution is improperly attempting to make submissions.

Chan Dara Reasmey then turned to other statements made by Nuon Chea during previous Trial Chamber proceedings and compared these statements to those Noun Chea made to the CIJs.

After the prosecutor completed this comparison of Nuon Chea's various testimonial statements, he turned the floor over to Mr. Lysak to place certain photographs before the Chamber. Prior to beginning his portion of the prosecution's submissions for the day, Mr. Lysak commented on the objections of the defense teams. Mr. Lysak explained that the prosecution had been juxtaposing various statements by Nuon Chea to demonstrate the changes in Nuon Chea's testimony over time. Mr. Lysak then observed that Ieng Sary and Khieu Samphan "seem to have become ghosts in Nuon Chea's testimony before this Chamber" recently and that the prosecution therefore sought to highlight Nuon Chea's testimony to the CIJs because he discussed Ieng Sary and Khieu Samphan much more during these earlier statements.

Mr. Lysak then presented three photographs allegedly taken at the CPK's 1971 Party Congress. Each of these photographs showed important CPK figures. He also provided a hard copy of the photos to the Nuon Chea defense team, so that Nuon Chea could examine them at his leisure and comment if he wished to do so.

This concluded the prosecution's submission of documents, and Mr. Lysak sought to turn the floor over to the civil parties to present documents. At this point, Khieu Samphan's national counsel, Kong Sam Onn, interjected and objected to any placing of documents before the Chamber by the civil parties. He objected specifically to the use of documents related to civil parties who had not yet been accepted by the Chamber. He also noted that some of the documents had not been translated into all of the Court's three official languages.

Civil party international co-lead lawyer Elisabeth Simonneau-Fort responded that the civil party applications had been submitted almost a year earlier and were therefore properly before the Chamber for some time. Ms. Simonneau-Fort explained that the Chamber had previously instructed the civil parties to translate the documents it wished to place before the Chamber into Khmer and either English or French. She offered to facilitate additional translation as directed by the Chamber but noted the time constraints on the proceedings.

Kong Sam Onn responded that the list of documents included the names of civil parties and witnesses who are not currently scheduled to be summoned by the Chamber. He argued that the civil parties may not use this process to place before the Chamber any witness testimony that would not otherwise be heard.

The Chamber judges then conferred briefly, after which Chamber President Nil Nonn announced that the Chamber would consider the objection by the Khieu Samphan defense but would adjourn for the day before issuing a decision.

Proceedings will continue on Wednesday, February 14, at 9 a.m.