

Nuon Chea continues his testimony in Case 002 before the ECCC on Wednesday.

Trial Chamber Concludes Examination of Accused Nuon Chea in Case 002

“People needed to be controlled, conquered; the more the better.”
- Nuon Chea

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On Wednesday, February 8, 2012, the Trial Chamber of the Extraordinary Chambers in the Courts of Cambodia (ECCC) resumed hearing substantive evidence in Case 002 following three days of testimony by Youk Chhang, director of the Documentation Center of Cambodia (DC-Cam), regarding the Center’s process of collecting and cataloguing documents related to the Democratic Kampuchea (DK) period (1975-1979). The accused in Case 002 are Nuon Chea, Ieng Sary and Khieu Samphan.

Ieng Sary Retires Earlier than Usual

Before the day’s proceedings could begin, national counsel for Ieng Sary, Ang Udom, rose and informed the Chamber that Ieng Sary was experiencing “swelling in his feet” and back pain. As a result, Ieng Sary wished to retire to the holding cell for the entire day’s proceedings to participate via audio-visual link. This request was early, even for Ieng Sary, who recently has adopted the custom of requesting to be excused prior to the morning session break at 10:30 a.m. Chamber

President Nil Nonn granted this request and reminded Ang Udom of the need to submit a written waiver signed by Ieng Sary.



International counsel Michiel Pestman revisits a previous application by the Nuon Chea defense.

Nuon Chea Defense Rebuked for Bringing up Prime Minister Hun Sen’s Statement Again

Next, the floor was turned to Michiel Pestman, international counsel for Nuon Chea, who made some procedural submissions to the Chamber prior to questioning. He informed the Chamber that the Nuon Chea defense planned on calling additional witnesses relevant to the current topic of the historical background of the DK period, arguing that the witnesses heard thus far had not been able to provide sufficient information. Next, Mr. Pestman stated that “reluctantly” the defense had to revisit the remarks of Cambodian Prime Minister Hun Sen.¹

This prefatory statement triggered an immediate interjection from the Chamber President, who chastised Mr. Pestman for using questioning time to make statements and reminded him that the defense can appeal the Trial Chamber’s decision regarding Hun Sen’s statements following ECCC procedures.

Mr. Pestman responded by stating that the Nuon Chea defense cannot immediately appeal any Trial Chamber decision and began to argue that the statement made by the Trial Chamber regarding Hun Sen’s statements was not a “decision” at all.

President Nil Nonn then cut off Mr. Pestman again and stated that the Chamber had been clear on the topic and forbade Mr. Pestman from discussing the topic further. At this point, the President appeared frustrated by Mr. Pestman’s persistence and referred to him with less formal language than is typically used at the ECCC. The President further warned Mr. Pestman that the defense would forfeit its remaining questioning time if it continued to push the issue.

¹ Previously, Hun Sen had been quoted in the Vietnamese media as stating that Nuon Chea had lied during his testimony at the ECCC, is a “killer” and a “perpetrator of genocide.” The Nuon Chea defense submitted a request for the Trial Chamber to condemn the statement made by Hun Sen and to request that he refrain from further statements opining on the guilt or innocence of any accused before the ECCC. The Trial Chamber recently issued an oral decision on the request that consisted of Chamber President Nil Nonn noting the right to the presumption of innocence enshrined in the Cambodian Constitution and stating that the Chamber will not take into account any outside statements when deliberating in Case 002.

Mr. Pestman then asked when the Nuon Chea defense will be allowed to raise this issue in the future. The Chamber paused before telling Mr. Pestman that the Chamber does not typically inform parties as to when they can make submissions and noted that Mr. Pestman had only fifteen minutes of questioning time remaining.² Mr. Pestman, however, was not satisfied with this answer and began to ask how the defense could make its submission if both presently barred and not provided a future opportunity to do so.

This last push by the Nuon Chea defense was clearly not appreciated by the President, who interjected one more time and stated that Nuon Chea's "counsel has an attitude that shows that counsel does not respect the bench" and proceeded to strip the Nuon Chea defense of the remainder of its allocated time to question Nuon Chea regarding the historical background of the DK period.

This tempestuous back and forth appeared to be a carryover from the previous day's proceedings, when the Chamber repeatedly chastised Nuon Chea's other international counsel, Jasper Pauw, for veering into what the Chamber considered irrelevant matters. Mr. Pauw's statements also concerned alleged interference with the ECCC's work by the government and named current Cambodian officials.

Conspicuously absent from both these back-and-forth discussions and the Chamber's decision on the Nuon Chea defense's initial submission was the mention by the judges of any names, most notably the person who allegedly made the statement.



Judge Jean-Marc Lavergne questions the accused Nuon Chea.

Questioning of Nuon Chea by Judge Lavergne

The President then gave the floor to Judge Jean-Marc Lavergne to pose questions to Nuon Chea. Judge Lavergne began by asking Nuon Chea about the abolishment of currency in the liberated

² This statement appeared to be somewhat confusing to the audience in the gallery, as Mr. Pestman was clearly forbade from raising the issue immediately, yet the Chamber refused to answer whether he could make his submission on the issue in open court at some point in the future. Although it was not stated, it is possible that the President was inferring that the Nuon Chea defense must submit solely written submission on this matter if the defense wished to pursue it.

zones in 1973, especially what happened to the actual bank notes in these areas that were already in circulation. Nuon Chea responded by stating yet again that the situation in 1973 “was confusing” and that the Khmer Rouge planned on waiting until the situation was better organized before reintroducing new bank notes. He then veered off on a usual tangent for him – the role of the Vietnamese, stating that in May 1975, Vietnamese troops invaded Cambodia along the coast of Kampot province. Chamber President Nil Nonn then interjected and instructed Nuon Chea that it was not necessary for him to go into this topic yet again.

Judge Lavergne asked his question again more carefully, noting that he was specifically interested in how the Khmer Rouge traded and whether they used money or a barter system to get weapons and munitions. Nuon Chea responded that the Khmer Rouge did not engage in trade at this time but received assistance from China in the form of weapons.

Next, Judge Lavergne asked how local populations could meet their needs for things such as food and medicine in this climate. Nuon Chea responded that the practice depended on different locations, for example, the Khmer Rouge traded using Thai Baht along the Thai border, but within cooperatives themselves, a barter system was used.

When asked how he personally managed to eat and get medicine, Nuon Chea responded by only generally stating that there was some currency and goods traded with Thailand and that the Chinese provided some aid to the Khmer Rouge. Judge Lavergne then asked who was responsible for distributing goods at the cooperative level to ensure that people met their needs. Nuon Chea answered that each cooperative was responsible for distributing goods, without specifying which individual(s) were personally responsible for this task.

Judge Lavergne next asked Nuon Chea whether, during his extensive travels to conduct training, he made an effort to determine living conditions in the cooperatives and villages. Nuon Chea responded that he did not often visit individual villages, but did proceed to acknowledge that some places had “shortages” while others did not. When asked what “shortages” there were, Nuon Chea denied that the Khmer Rouge had any problems with food shortages, as food was planted wherever it was needed to meet the needs of the people. Upon further questioning on this issue, Nuon Chea stated that the Khmer Rouge “mutually assisted each other during times of shortage” by bartering for items such as rice between cooperatives. He admitted that in some areas there were shortages, but he claimed that the party had to scrape by and adopted a “live and let live” policy. When pushed to explain further, Nuon Chea stated that the Khmer Rouge lacked sufficient labor forces at times because many people had been conscripted into the military.

Next, Judge Lavergne requested Nuon Chea provide details on the aid that China provided to the Khmer Rouge. Nuon Chea responded by denying that he had knowledge of the details but stated that even the assistance from China was “confusing” because arms shipments from China were often redirected to groups other than the Khmer Rouge. Upon further questioning, Nuon Chea stated that as far as he was aware, the assistance from China was given free of charge and without condition. Nuon Chea also stated that China provided technical assistance to the Khmer Rouge in reconstructing Cambodia’s railways but that there was no political assistance, only technical assistance. When asked what kinds of weapons China provided, Nuon Chea responded that these weapons were mostly handguns but rockets and grenades were also provided.

This concluded questioning by Judge Lavergne and he proceeded to put some documents before the Court, inviting commentary from Nuon Chea and Khieu Samphan for each document.

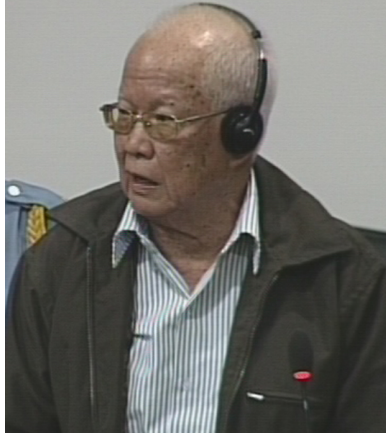
The first such document purportedly consisted of the transcript of a speech given by Pol Pot celebrating the victory of the Communist Party of Kampuchea (CPK) over the Lon Nol regime. This document explained the various activities taken by the CPK to “agitate the masses” ranging from “open” to “clandestine” work and also “legal” to “illegal” forms of struggle. Nuon Chea commented that he does not remember the speech precisely but proceeded to comment on the process of guerilla warfare utilized by the Khmer Rouge, such as indoctrinating people using political lines and utilizing “underground” activities.

When asked further about the statements in the speech, Nuon Chea repeated a statement he made during a previous hearing that Pol Pot had instructed him not to concern himself with intellectuals and so he did not. Khieu Samphan declined to comment on the speech, stating that events prior to 1969, when he joined the CPK were outside of his knowledge.

The second document submitted by Judge Lavergne was an article in a *Revolutionary Flag* booklet and concerned population transfers and the CPK party line of “conquer[ing] the population.” The document concluded that it was “vital that [the CPK] totally control the population.” Nuon Chea commented that during the civil war, the Khmer Rouge “needed to grasp the people” in order to gain support from the population. He further stated that “people needed to controlled, conquered; the more the better.”

Judge Lavergne asked Nuon Chea “what degree of force” was used in “conquering” the population. Nuon Chea responded that people did not need to be mobilized via force. He further explained that at the time, bombing raids by United States (US) B-52 planes drove Cambodians to flee their villages and join the Khmer Rouge voluntarily. Thus, Nuon Chea stated, the US bombing created a series of voluntary evacuations out of sheer necessity. Nuon Chea then opined that Cambodians caught up in the bombings were “between a hard place and a rock” and were forced to flee their homes. He further stated that to understand this situation, one must have experienced combat first-hand.

Judge Lavergne then asked Nuon Chea if he had ever experienced combat. This question appeared to take some of the fire out of Nuon Chea, and he responded that he had never been at battlefields because he had been assigned to conduct education in the back lines.



Khieu Samphan invokes his right to remain silent in response to questioning by Judge Lavergne.

Judge Lavergne then turned to another document already discussed before the Chamber. This document was a speech purportedly delivered by Khieu Samphan and discussed the defeat of enemy forces at Uddong. The speech stated that 5,000 troops were defeated and 1,500 captured, and Judge Lavergne asked Nuon Chea about what happened to the population of Uddong. Nuon Chea commented that this event was a long time ago, and he does not know any specifics because he was at the back lines at the time. Khieu Samphan then exercised his right to remain silent and declined to comment on his own purported former speech. At this point the Chamber paused the proceedings for its usual morning break.

Judge Cartwright Chastises Nuon Chea Defense Counsel for Dress and Tardiness

Following the morning session break, Judge Sylvia Cartwright made some comments on the Nuon Chea defense request to question other individuals related to the historical background of the DK period. First, however, Judge Cartwright requested that Nuon Chea counsel Michiel Pestman return to the courtroom on time and “properly attired” following each break. Judge Cartwright then sternly reminded Mr. Pestman that none of his colleagues had any similar problems with the Court’s schedule or dress code. She then instructed Mr. Pestman to submit a list of its proposed additional witnesses in writing to the Chamber by the following morning.

Judge Lavergne Continues to Put Documents before the Chamber

Following this instruction, Judge Lavergne continued his discussion of specific documents with Nuon Chea and Khieu Samphan. However, following the break, Nuon Chea proved somewhat less willing to discuss the documents with the bench.

When he did respond to Judge Lavergne’s questions about the nature of the education he provided as a Khmer Rouge educator, Nuon Chea stated that he taught people to reject “individualism, corruption [and] build[] the stance [of] loving the party, loving the country . . . [and] abandoning personal interests.” During this answer Nuon Chea yet again voiced his clear distaste for gambling, the consumption of alcohol, and “immoral” behavior by men towards women.



*Nuon Chea greets a foreign delegate during the Democratic Kampuchea regime.
(Source: Documentation Center of Cambodia.)*

When asked what “true democracy” means to him, Nuon Chea stated that democracy is about “democratic decentralization” and that for true democracy “we also need to listen to the small voices,” clarifying that he was referring to minority voices. Judge Lavergne then asked Nuon Chea who controlled the army of the Khmer Rouge. Nuon Chea responded that, although he is unsure about specifics, there existed a committee that controlled the military headed by Pol Pot. He then denied that he was a member of this military committee.

Next, Judge Lavergne asked Nuon Chea about a long list of individuals, such as Hou Yuon, who were allegedly members of the GRUNK (“Royal Government of the National Union of Kampuchea”) movement.³ Nuon Chea admitted that he had heard of Hou Yuon⁴ but declined to comment directly on what happened to Hou Yuon during the DK period, stating only, “I heard [Hou Yuon] had contradictions with his bodyguards.” When asked what happened next, Nuon Chea stated only, “I heard there was fighting” and that Hou Yuon’s bodyguards escaped. Nuon Chea then claimed that he did not “follow up” on this incident and so does not know what happened to Hou Yuon. When pushed, Nuon Chea stated that Hou Yuon was reportedly shot by his bodyguard but continued to claim that he did not know the ultimate fate of Hou Yuon.

Judge Lavergne then asked what happened to Hu Nim, another prominent Cambodian leftist politician from the pre-DK era. Nuon Chea again admitted that he knew of Hu Nim but claimed that he does not know what happened to Hu Nim.⁵

In response, Judge Lavergne listed numerous other former GRUNK officials and asked Nuon Chea about his knowledge of each of these individuals. Nuon Chea did acknowledge that he knew some of these individuals but consistently denied having close ties or knowledge of the fates of any of these individuals. For example, when asked about Koy Thuon, Nuon Chea stated

³ This was the government-in-exile formed by the Khmer Rouge and ousted King Norodom Sihanouk during the 1970-1975 civil war in Cambodia. The King was ostensibly the head of this organization.

⁴ Hou Yuon was a prominent leftist politician in pre-DK Cambodia, along with Khieu Samphan and Hu Nim. It has been alleged that he was purged by the Khmer Rouge shortly after the 1975 victory due to his vocal opposition to especially radical CPK policies.

⁵ Hu Nim was allegedly purged in 1977, and confessions purportedly made by him under torture were found at *Tuol Sleng* prison.

that he knew the man, but only had “heard” that Koy Thuon was killed because of “love affairs.”⁶

At this point, Khieu Samphan again declined to comment, and Judge Lavergne turned to another document. This document was a statement purportedly made by the CPK that provided the party’s policies and called for the execution of the so-called “seven super-traitors” who were officials of the previous Lon Nol government. After Judge Lavergne read out this final document, both Nuon Chea and Khieu Samphan declined to comment on its contents.

Judge Lavergne then concluded his questioning of Nuon Chea, and the Chamber judges conferred briefly before President Nil Nonn addressed the courtroom and announced the closure of the hearing on the topic of the historic background of the DK period. The President then stated that the Chamber would adjourn for the day to hold an internal meeting. He further announced that proceedings would resume the following morning at 9 a.m., with the continuation of placing documents before Chamber by the parties and judges.

⁶ Koy Thuon had been Secretary of DK’s Northern Zone who was allegedly executed at *Tuol Sleng* prison.