

KRT TRIAL MONITOR

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Case of Nuon Chea and Khieu Samphan

A project of East-West Center and the WSD HANDA Center for Human Rights and International Justice at Stanford University
(previously known as the UC Berkeley War Crimes Studies Center)

*“When we joined the Party we had to be afraid of the Party
and had to search for KGB or CIA agents.
Everyone was afraid of everyone else and we did not trust one another.”*

- Witness 2-TCW-1005

I. OVERVIEW

This week the Trial Chamber reconvened after a three-week recess, continuing the sub-segment on internal purges. Beginning on Tuesday 26 July, Witness 2-TCW-1005 testified under a pseudonym¹ about his role as a messenger in Sector 13 and later in Sector 505 in Kratie, as well as his knowledge of purges and the regulation of marriage in those areas. On Thursday morning, Parties concluded the questioning of 2-TCW-1005 and Expert Witness Mr. Henri Locard began his testimony before the Trial Chamber. Mr. Locard is a French academic who first came to Cambodia in 1964 and has studied the Democratic Kampuchea (**DK**) period extensively, publishing a number of books and papers on Cambodian history. This week, he gave expert testimony on DK security centers, but also about broader CPK ideology based on his study of KR slogans. Mr. Locard will conclude his testimony next week.

II. SUMMARY OF WITNESS AND EXPERT WITNESS TESTIMONY

Two witnesses testified before the Trial Chamber this week as the trial segment on security centers and internal purges continued. First, Witness 2-TCW-1005 testified about his time as a messenger in Sector 13 in the Southwest Zone and later in Kratie, DK's Sector 505. On Thursday, Expert Witness Henri Locard testified on security centers: the fifth expert to testify so far in Case 002/02.²

A. Summary of Testimony by Witness 2-TCW-1005

Although the biographical details of Witness 2-TCW-1005 were not read publicly due to the protective measures instituted for his testimony, during questioning it was established that the Witness was born in around 1958.³ The Witness told the Chamber that he was born in Tram Kak District in Sector 13 and joined the revolution on 15 March 1973, after his teachers were killed in a demonstration at his school in Ang Ta Saom.

1. Time in Sector 13 and Purges There

The Witness told the Court that his family had close relationships with people in the CPK, a factor which he claimed had contributed to his survival of the DK regime: “[My father] had connections. That is why I’m alive today.” Although his father died in 1967 or 68 after being arrested for joining the CPK, the Witness recalled that his father had had a close relationship with Son Sen and he himself remained close to Son Sen until his death in 1997. His mother had also joined the revolution in 1974, and worked in Office 150, assisting to carry letters and transport the wounded.

2-TCW-1005 testified that after he himself joined the revolution in 1973 he was first posted to Office 160, the messenger unit in Angkor Chey District in the Southwest Zone. He worked as a messenger until September 1975, during which time groups were divided to deliver letters and worked in a rotation system. The Witness said that during his time as a messenger he was based in Angkor Chey, north of Sen Han Mountain, then later moved to Ang Kriev. His commander was Ta Mok, also known as Ta 15.

From September 1975 to March 1977 the Witness was based in Sector 13’s Kirivong District. Here, the Witness became chairman of the messenger unit in Regiment 13, working under Pon, with whom he had a close relationship. The Witness estimated that he had 20 to 30 people under him, all of whom were messengers. They delivered every platoon’s messages, especially messages requesting meetings with the heads of units. 2-TCW-1005 made it clear that he did not deliver messages to other sectors and was not permitted to use radio communication. The leadership in Kirivong comprised Ta Tom, Secretary of Kirivong District, and Ta Tith, who was part of the District and Sector Committee.⁴

The Witness testified that a series of arrests occurred in Sector 13 in 1977. He particularly recalled Yeay Yut’s husband being arrested and set to Kampot to be executed for being a former intellectual and connected to the KGB.⁵ He also recalled Saom Choeun, who replaced Ta Soam as Secretary of Sector 13, being arrested a short time after his appointment as secretary and was taken to S-21 in 1977. The Witness theorized this was because of Saom Choeun’s connection to Vorn Vet, who was also arrested around the same time. At the time he had not known what happened to either man, however later he learned they had been sent to S-21. 2-TCW-1005 did not seem to have much contemporaneous knowledge of S-21, saying he had known it “belong[ed] to the state” and that “it was not meant for the detention of local cadres or ordinary people,” only learning after the regime that some of his relatives were detained and had died there.

Elaborating on purges in Kirivong, the Witness described the general atmosphere of fear and distrust among all cadres in Sector 13. He said: “There were purges of cadres that happened because they did not trust one another... Cadres from the Northwest were sent to replace those from the Southwest... One replaced another and another one came to replace the other cadres, and then they disappeared.” He said Ta Tom was suspected of being affiliated with the KGB as he had taken multiple visits to Vietnam. Ta Tom was arrested with Sieng from Kol Andaet and Ta Ngoy. He recalled Ta Nam; Yeay Khun’s husband, was removed from his position on Ta Mok’s orders in 1975 because he had studied in northern Vietnam. Furthermore, Ta Nam was commander of Sector 13, so he was affiliated with those coming from Hanoi. He wasn’t purged until 1978 because his wife was a member of the district committee.

2. Time in Sector 505 and Purges There

2-TCW-1005 testified that he was relocated to Kratie, DK Sector 505, in March 1977, to serve as Duty Chairman of Division 117. He stayed there until 7 January 1979 and recalled that his

successive superiors were Ta Soam and then Meas Muth.⁶ In Kratie his time there was largely characterized by fighting against the Vietnamese. When asked about his specific role, he told the Court he was in charge of approximately 100 people, including the messengers, the drivers and the telegram operators. He said he reported directly to the General Staff and not Sector 505 and was responsible for transporting ammunition from Phnom Penh to the soldiers at the battlefield, as well as radio and message operations.

2-TWC-1005 recalled that his transfer to Sector 505 had taken place at the same time that purges were going on in Kratie. He stated that the old cadres were summoned to Phnom Penh and replaced by new officials. He described one occasion where he had received a letter from Division 870 requesting that 11 people from the senior leadership travel to the capital. He said that *Angkar* sent a plane to pick them up. He told the Court that he had driven several of the men, including Khun Rom (Secretary of Division 117), Huong Yeng (Secretary of Kratie District), Chhum Chen Chen (Secretary of Snuol District), Meas Moeun (Secretary of Sector 505) and Chhim Khun (Deputy Secretary of Sector 505), to the nearby airfield to get on the plane. Some others, including Rath Lieng, the Deputy Secretary of Division 117, he said, had left earlier and had travelled by boat for reasons he did not know.

Asked about the fate of the 11 senior leaders, the Witness said that once they had left for Phnom Penh they disappeared and been replaced by new sector members. He said all 11 had attended a meeting held by Vorn Vet prior to being summoned. The Witness stressed that not all of the 11 men who had been summoned to Phnom Penh were sent to S-21, but some to were sent to the Kampong Chhnang Airport worksite instead. 2-TCW-1005 said Meas Muth had told them after the leaders were summoned back to Phnom Penh that they had betrayed the Party by not fighting the Vietnamese hard enough. He described the period of time after the disappearance of these 11 men as chaotic as there was no one left in charge to give orders, although Pon *alias* Ty was instated as the new Deputy Chief of Sector 505 after this

3. Enemies of the CPK

The Witness also told the Court about meetings held at Angkor Chey and Kirivong Districts where the enemies of the CPK were discussed. He recalled being instructed at these meetings to assist the CPK eliminate CIA and KGB agents. Asked if the issue of enemies was brought up regularly, 2-TWC-1005 said that while the topic was often raised at senior cadre meetings, it was not commonly discussed at military meetings, which rather focused on border incursions. He testified that senior cadres would read the content of the Revolutionary Flag magazine aloud in study sessions to instruct others on how to treat enemies, however he had never being given a copy to read himself.

2-TCW-1005 testified that during these meetings, participants were told to take an “absolute stance” against enemies of the regime: which he said meant that enemies had to be purged: “If we were not absolute in catching or purging of relatives for example... it meant we failed to adhere to guidelines of revolutionary flags.” Although he used the word “purge” in his testimony the Witness was unable to detail what exactly that involved. The Witness described a climate of fear that this talk of “enemies” imbued, saying it had led to a lot of mistrust between cadres. 2-TWC-1005 also told the Court that self-criticism sessions took place at every meeting between lower and senior cadres. Elaborating, he said: “For example, the meeting would be convened among 100 people and usually there were chiefs of the groups to criticize one another in order to improve and refashion ourselves.” The Witness was unable to explain which groups comprised “enemies” however said it was those with links to the KGB or CIA, or those who “made mistakes.”

4. Knowledge of Senior Cadres

2-TCW-1005 was able to provide some information about Ta Mok and Meas Muth. The

Witness testified that Ta Mok had been in charge of the entire Southwest Zone and could travel freely through the four sectors of the zone. He said that in 1977 the civilian and military population loved Ta Mok, saying he was: “A man of loud words but could resolve situations effectively,” who “would instruct medics to carefully treat soldiers and soldiers would complain to him about how they had been treated.” When asked by the Defense for Nuon Chea whether Ta Mok was ever called “the butcher” during the DK regime, the Witness replied, “He was not a killer or executioner... I was not aware of a title.”

The Witness also testified about Meas Muth, one of the three superiors from Sector 505 that he had communication with, to whom he would make daily reports. Meas Muth was the son-in-law of Ta Mok and his personal messengers were Thy and Kong. The Witness once had a meeting with Meas Muth, held among small forces who were meant to defend the sea and eastern area of the airport. The Witness stated that at the meeting he was told their leaders were traitors, and that Meas Muth said they had not fought hard enough and had allowed the Vietnamese to enter DK. The Witness described Meas Muth’s words as inspiring those at the meeting to fight harder, saying: “We did not get angry... We were told to be absolute and heard that *yuon* was swallowing our territory and decided to be absolute and fight against *yuon*.”⁷

5. Regulation of Marriage

The Witness also testified about his knowledge of the regulation of marriage, which he described as: “Not forced marriage but I could say it was not a voluntary one as well.” 2-TCW-1005 said that only the division headquarters had the authority to arrange for their subordinates to marry. He stated that following marriage, newlywed couples were made to stay together for three days to consummate the marriage, but afterwards would be sent back to their respective units. He testified that women were unable to freely choose the men they married, but men had the ability to request particular women as wives. Age was not a factor in making the decision, according to this Witness, although he said men usually proposed to younger women. The Witness recalled in Sector 13 people were advised at meetings that base people and 17 April people should not mix, although clarified this rule was not written down.

2-TCW-1005 said that people, particularly women, were often afraid to refuse proposals because unit chiefs could threaten to move them to a more difficult work unit should they do so. The Witness stated: “If I refused I would be considered to oppose the party and people were afraid of doing that. No one dared refuse.” The witness was asked about the sixth Revolutionary Principle, not to act in a way that would harm women. He said that although the twelve principles were “amazingly good,” they were implemented inconsistently, adding that usually the more power someone had the less attention they paid to the principles.

6. Border Clashes with the Vietnamese and Witness’s life post-1979

The Witness told the Court that when he arrived in Kratie in March 1977, fighting between Vietnamese and Cambodian troops along the border was on-going. The Witness explained that he had not been involved in the fighting itself, but was in charge of radio operations, transportation of goods and troops. However, as a result of the clashes he and his fellow soldiers from Division 707 had been sent to the East Zone border to counter the attacks. He said that the fights in the Northeastern Zone were carried out by Divisions 801 and 920. The Witness remained in Kratie until the final successful Vietnamese invasion in January 1979, at which time he fled from the area, remaining a member of the Khmer Rouge in Anlong Veng until 1997 or 1998.

7. Witness Demeanor and Credibility

Witness 2-TWC-1005 was polite and attentive throughout his testimony. Early on he was reminded not to speculate in his answers and following this reminder he was mainly clear about

what knowledge he did and did not possess. When he could not provide an answer he explained why, for example his relatively low rank. He sometimes stated that he had forgotten much of the information he once knew but was able to recall circumstances after having sections of his statement read to him. He was careful to respond to questions to the best of his knowledge, at one point asking Counsel Victor Koppe: “Is that your own proposal? It is not mine,” and “It is rather difficult for me to respond to your question. I knew about the event but it seems that you’re digging deeper than what I knew.” Monitors noted some discrepancies between the testimony of 2-TCW-1005 and the prior in camera testimony Prak Yut.⁸

B. Summary of Testimony by Expert Witness Henri Locard

Following the conclusion of Witness 2-TCW-1005’s testimony, the Trial Chamber began hearing the testimony of an Expert Witness Mr. Henri Locard, who lived in Cambodia before and after DK and has written several works on Cambodian history.⁹ Mr. Locard was born on 11 June 1939 in Lyon, France and is currently a permanent resident of Phnom Penh. He has retired from the Université Lumière Lyon 2, where he used to teach English and has volunteered at the Royal University of Phnom Penh’s history department since 2000. He testified in both French and English, also using the Khmer language to describe some terms specific to DK.

1. Expert’s Academic Background and Published Works

Henri Locard, was chiefly educated in Lyon however completed his studies at the Sorbonne in Paris. After three years in England he moved to Cambodia where he taught at a French school in Phnom Penh from 1965-67. He had previously been to Cambodia on the invitation of the British Council in 1964, and in 1965 he was asked by Chao Seng to write articles for the magazine “Cambodia.”¹⁰ In 1967 he returned to Lyon to teach English and political science at the Université Lumière Lyon 2. After teaching for several years during and after the DK period, Mr. Locard took a sabbatical to research the DK period; returning to Cambodia in 1989 after learning that a friend of his had survived the regime. He said that from 1991 onwards he spent every summer academic break until retirement investigating the DK prison network. Mr. Locard said that during his time investigating security centers he came across a number of DK slogans during interviews that he began to record for fun: eventually this list became his second book *Pol Pot’s Little Red Book*, published in French in 1994 and in English in 2000. His first book was a biography of his friend Moeung Son and his wife, Paya called *Prisoner of Angkar* and in 2013 he published a book *Pourquoi les Khmers Rouge?* [Why the Khmer Rouge?] which was republished in 2016.¹¹ Henri Locard testified that his book, *Pol Pot’s Little Red Book*, was a compilation of KR slogans he had started collecting during his research, initially “just for fun”, adding that he “never thought he would have enough for a coherent whole.”¹² He has also written several articles including “The Khmer Rouge Gulag.”

2. Security Centers

Henri Locard testified about security centers within the broader DK system as well as the specifics of those he had researched. He explained that there was at least one major security, or re-education center in every district of DK, although repeatedly said it would be impossible to estimate the total number of prisons across the country. He said the prison system was set up in 1975 and that most prisons were usually based in schools or pagodas. He believed that prisons operated in a triangular hierarchy: at the bottom were smaller, lower-level prisons which only had prisoners from their commune or district and at the apex was S-21, which had jurisdiction over all of Cambodia. Mr. Locard estimated that lower level prisons could have detained between 50 and 100 prisoners and higher level prisons as many as thousands. In addition, there were prisons at Kampong Thom, Ou Reang Ov, and Prey Veng Province reserved exclusively for members of the KR. Mr. Locard stated that after the fall of the regime, there was an attempt by the new regime to make people believe that there was only S-21 and no other prisons.¹³

The Expert Witness said he did not want to describe these centers as “prisons” as they were more “interrogation, torture, execution centers.” He estimated that 33-50% of the victims of the DK regime may have been killed in such centers, although it was unclear how he came to this figure. The Witness testified that in 1976, most of the prisoners detained had been members of the former Lon Nol regime, those with educations or monks. However, in 1977 and 1978, more members of the Revolution; both civilian and military were imprisoned. He said over time the number of executions increased, and almost no one was released. Mr. Locard testified that when he interviewed Khieu Sampan, the Accused told him: “we had to rush because we came last and didn’t want to be overtaken by Vietnam.”

Mr. Locard testified that almost no one was released from DK security centers, however there were some instances where people were either released, but kept inside the prison for work or sent to re-education camps. He stated that once released, they were never sent back to their original commune in order to maintain the secrecy of the security centers. Mr. Locard testified that, in most prisons, there were three people at the interrogations: “One who asks questions, one who writes, and one who hits.” At all prisons, the first question was “why have you been brought here?” He explained that there was a belief among prison staff that *Angkar* was always right, therefore if the Party had arrested you then you must be guilty. This pattern was repeated throughout the country, which the Expert said demonstrated the CPK’s centralization. Henri Locard said the regime imprisoned and executed the wives and children of traitors so they would not take revenge on the Revolution in the future. He estimated 96%¹⁴ of prisoners were male, saying that women and children were treated a little better, detained without shackles and given small tasks to do rather than be executed immediately. He confirmed he did not believe children were usually registered when they arrived in security centers.

a. S-21

Throughout his testimony, the Expert Witness stated that he disagreed with what he considered to be an undue focus in Case 002 on S-21 security center, often repeating that it was one of many such centers. Despite this, he testified that S-21 was indeed at “the peak of the pyramid” of the prison system and, unlike the other prisons, prisoners were sent there from across the entire country. He said it was a center for both military and civilian cadres and the prisoners were sent there by Office 870 and, unlike in provincial prisons, prisoners were never released.¹⁵

b. Kraing Ta Chan

The Expert testified that most prisoners in Kraing Ta Chan were Cambodians who had tried to escape to Vietnam, Kampuchea Krom¹⁶ as well as “real criminals”: KR officials who were accused of executing too many people. He estimated that 10% of the prisoners were women; adding that the average age of male and female prisoners was 34 and 33.5 years respectively. Mr. Locard noted that the DC-Cam archives of Kraing Ta Chan, which he had accessed, are incomplete; they contained only 500 prisoners and, since the prison existed since before DK, Mr Locard estimated that the archive should contain thousands of records.¹⁷

c. Phnom Kraol and Au Kanseng

Mr. Locard also testified about Phnom Kraol in Monduliri and Au Kanseng in Ratanakiri, although he made it clear that he had less information about these two centers than S-21 and Kraing Ta Chan. He described both centers as “last tier prisons,” with only 50 to 100 prisoners in each. In lower tier prisons, he stated that prisoners were more likely to be released, torture was not used to the same extent, and there could be just one person interrogating. The Expert noted that Phnom Kraol may not have been the only detention center in Monduliri.

3. Treatment of Lon Nol soldiers

Although not a major focus of his testimony, the Expert also testified about the treatment of former soldiers and officials of the Lon Nol regime. He said he was disappointed the Trial Chamber chose only to focus on the massacre of Lon Nol officials at Tuol Po Chrey, drawing the Court's attention to another massacre he had studied in Phnom Thoeb Padei in Moung District, east of Battambang. He said on this occasion former Lon Nol officials were taken in trucks about two kilometers from Thoeb Padei Mountain, at which point they were told to get off the trucks and then all shot dead. He said he heard this from witnesses, who said that the dead bodies remained there for a long time to instill fear in the population. Mr. Locard said that Lon Nol soldiers were targeted from the beginning of the DK regime, but that in 1976 and 1977 their wives and families began to be targeted too.

4. Treatment of Minorities

The Expert also provided some testimony on the treatment of minorities under the DK regime. Making it clear he did not have primary sources on these groups, he did say that all languages except Khmer were forbidden under the DK regime and that minorities had to abandon their traditional ceremonies and ways of life and merge with popular communes. He described the forced use of the Khmer language by minorities as "barbaric." Interestingly, at the beginning of his testimony before he had even begun to be questioned by the President, the Witness raised the issue of a Cambodian minority, which he believed had been forgotten; the Khloeng: an Indo-European minority targeted and killed for their ethnicity. He did not expand on this group.

5. Khmer Rouge Ideology and Use of Slogans

Henri Locard also testified about CPK slogans, a number of which he compiled in his book *Pot's Little Red Book*. The existence of slogans across the country and the fact that slogans used "learned" words¹⁸ was, Mr. Locard argued, proof of the centralization of the KR regime, as those lower down would not have been able to invent such language. Although he did not have exact information on how the slogans were disseminated, he said they were used in ceremonial and Youth League meetings. Henri Locard said Cambodians secretly made fun of slogans, whispering counter-slogans to one another.¹⁹

The Expert testified that DK slogans revealed the ideology of the KR, which was "a way of thinking reduced to zero . . . very hollow." Most slogans were simple, like "society is divided into good and bad, proletariat and capitalists, enemies and friends." This simplistic ideology was, Henri Locard argued, aimed at appealing to the youth and educating them about revolutionary ideas. He went on to say that children were considered the property of the revolution and therefore the revolution was responsible for their education.

The Prosecution questioned Henri Locard about several specific slogans and what they revealed about KR ideology. Mr. Locard explained the meanings behind a number of slogans, including the belief that enemies were less than human, that the ends justify the means, the need for the revolution to remain "pure", and the negative impact of religion. When asked about the use of racist slogans during the KR Regime, the Expert Witness said he believed that the KR were not in fact racist, and that historians tended to mistranslate slogans about race. For example, Mr Locard told the Court that the Khmer word "*chiet*" means both nation as well as race, adding that those who translate it solely as "race" could misconstrue a racist motivation that he does not believe exists. He also testified about the regime's treatment of the sick, saying that this was a unique aspect of DK that differed from other communist regimes. When presented with three slogans²⁰ from his book related to targeting the sick, he explained that "They wanted a super leap forward, so they did not want to have any people who fell sick. This was very specific to the DK revolution."²¹ Mr. Locard said he did not regard the slogans found on the walls at S-21 as genuine because they "did not sound like Khmer Rouge slogans,"

adding that he agreed with Duch's testimony that the slogans were put there later on the advice of East German advisors who helped set up S-21 as a museum.

6. Role and Character of Khieu Samphan and Nuon Chea

The Witness also testified to an extent about the character and roles of the two Accused. He acknowledged that his description of Nuon Chea as a highly educated intellectual was based on second hand sources as Nuon Chea himself had declined to be interviewed by him. With regard to Khieu Samphan, the Expert Witness told the Court that he had interviewed him in person and found him to be "kind", "charming, polite and cultivated." He added that Khieu Samphan "did not take advantage of the regime to become richer." The Witness further said that, as the Secretary of the Standing Committee, Khieu Samphan was "always at the heart of power." While acknowledging that roles within the DK hierarchy could be difficult to pin down,²² he believed Khieu Samphan held a very high rank because he "was still there at K-3 within the party leadership until the very end. If he was only marginal, why didn't he leave in 1979?". He explained it was hard to pin down precise roles of every member of the CPK as: "The position of each person not clearly defined, they didn't function as normal government that we know now."

7. Witness Demeanor and Credibility

Henri Locard appeared at ease with his position as an Expert Witness and seemed eager to share his opinions clear before the Trial Chamber. He stated at the outset that: "I am voice of ordinary Cambodians who suffered horrendous death and to [sic] speak in name of their families." Mr. Locard mentioned repeatedly how closely he had followed both Case 001 and Case 002, and he often cited evidence that had come to light during these cases, particularly Duch's testimony. Indeed, the Expert appeared to have a great deal of knowledge of the DK regime, and often responded to questions enthusiastically, quoting other scholars or his own research in his answers, however, he sometimes made claims based on statements such as "everyone knows that" without providing a specific source. Additionally, the Expert would occasionally cite exact percentages, for example "96% of prisoners were men," without supporting his statements with research or evidence of any kind. Henri Locard's responses were often quite long and the Judges and the Prosecution both reminded him to be brief in his responses. He also interjected a number of times to express his own opinions about the trial process, making his frustration over the limited scope known.²³ At one stage President Nil Nonn responded directly to this criticism, citing the Court's limited resources and time.

III. LEGAL AND PROCEDURAL ISSUES

This week there were questions raised about the scope of the internal purge segment and questions that strayed beyond the Closing Order and the scope of Case 002/02.²⁴ The Trial Chamber heard oral arguments on this issue last month, following a written request by the Khieu Samphan Defense team for clarification on the scope of Case 002/02 concerning internal purges. A written memorandum was issued on 1 July 2016.²⁵ The issue was revisited again briefly this week, as the Defense team for Khieu Samphan voiced disagreement with the decision and again argued that the Trial Chamber should not be considering facts outside the scope of Case 002/02. Several lines of questioning were challenged during the questioning of Witness 2-TCW-1005 due to issues related to scope, but the Chamber dismissed the objections. In addition to this, Parties also spent time discussing whether to admit the 2013 or 2016 editions of Henri Locard's book into evidence, ultimately admitting parts of each to the case file.

A. Defense Disagreement with Trial Chamber Memorandum on Issues related to Scope of Case 002/02 concerning Internal Purges

Before the July recess, the Defense Team for Khieu Samphan had requested clarification over the scope of the internal purges segment in Case 002/02, arguing that the Trial Chamber's decision to call Witness 2-TCW-1005 to testify on purges in Kratie was outside the limited territorial and temporal scope of purges in the North Zone in 1976 and the East Zone in 1978.²⁶ On 1 July 2016, the Trial Chamber issued a written memorandum that dismissed the Defense' objections to hearing 2-TCW-1005, and further clarified the Chamber's position on the scope of the internal purges segment. The memorandum reiterates that although "internal purges" is not an underlying offence, it is relevant to the Chamber's consideration of CPK policies alleged to have been followed by the CPK leaders—one of which is "the reeducation of bad elements and the killings of 'enemies' both inside and outside the Party ranks". Since the internal purges were alleged to have occurred in parallel with this policy, evidence heard during the segment is not, in the Trial Chambers opinion, restricted to the specific security centers listed in its' decision ordering the sequencing of the proceedings.²⁷ The Chamber reminded Parties that as the Severance Order had previously indicated, no clear lines could be drawn between each topic, explaining that certain witnesses may provide evidence on other topics including the role of the Accused and their participation in the alleged policies.

Counsel Guissé expressed her disagreement with the Trial Chamber's written memorandum and raised concerns with what the Khieu Samphan Defense team considers to be a recurring issue regarding the use of evidence outside the scope of the trial. Monitors note that the Parties have raised issues related to the scope of the trial on a number of occasions throughout the proceedings in Case 002/02 and that similar issues are currently on appeal before the Supreme Court Chamber in relation to Case 002/01. Ultimately, the Trial Chamber is responsible for ensuring that the evidence relied upon in its Judgment is restricted to the factual allegations within the Closing Order in accordance with the Internal Rules.²⁸

B. Objections on Questions outside the Scope of Case 002/02

In court this week, the Defense teams objected to several lines of questioning they considered to be outside the scope of Case 002/02. The Chamber, in accordance with its earlier ruling on the scope, overruled all objections. Both Expert Witness Henri Locard and Witness 2-TCW-1005 gave testimony related to the Kampuchea Krom community, however, no objection was made over this line of questioning. The Defense teams also objected to the OCP's questions to Witness 2-TCW-1005 regarding a security center in Kirivong District at Preah Theat Pagoda, and purges in Sector 505, Kratie. In line with their ruling, the Trial Chamber overruled the objections and allowed the questioning.

C. Decision to Admit the New Edition of Henri Locard's Book into Evidence

On Tuesday afternoon the Trial Chamber addressed a number of requests from Parties to admit documents into evidence ahead of the testimony of Expert Witness Henri Locard. Previous statements, one document, and one article²⁹ related to the testimony of Mr. Locard were admitted after the Chamber found they met the criteria for the Rule 87(4) request being both timely and relevant. Written reasons for the decision will follow. The Parties engaged in a more lengthy discussion regarding the admission of Mr Locard's book *Pourquoi Les Khmers Rouges?*, for which there are two editions: one in 2013 and 2016.³⁰ On Thursday afternoon, after the Expert Witness had testified for most of the day, Defense Counsel for Khieu Samphan made an oral request to admit the corresponding chapters from the 2013 edition of Mr. Locard's book into evidence in order to make direct comparisons between the two texts. All other Parties supported the request. For his part, Mr. Locard emphasized the number of changes he had made to the 2013 version before re-releasing it in 2016, including removing paragraphs that were "too controversial," including new information he had gained through reading, interviews

conducted with former Khmer Rouge cadres and from his extensive viewing of court proceedings in Case 002.

D. Disclosure of Documents from Case 003 and 004

On Wednesday, the Defense for Khieu Samphan requested documents that were part of a previous OCIJ disclosure of 27 documents from the ongoing investigations into Cases 003 and 004 be made available. Counsel Guissé pointed out that although the documents had been disclosed via an OCP, the Trial Chamber had not released the documents, making it impossible for the Defense Teams to ascertain whether they would seek their admission as evidence. Counsel Guissé argued this was particularly pertinent as some documents related to the upcoming appearance of Witness 2-TCW-976 who is to appear immediately after Henri Locard, and might contain exculpatory information related to the segment on purges. The Trial Chamber agreed there was a practical issue and assured the Parties they would resolve the matter as soon as possible.

IV. TRIAL MANAGEMENT

This week, the Trial Chamber concluded the testimony of Witness 2-TCW-1005 under protective pseudonym due to his involvement in ongoing investigations. The Chamber also began to hear Expert Witness Henri Locard in relation to segment of security centers and internal purges in Case 002/02.

A. Attendance

This week Nuon Chea continued to waive his right to be present in the courtroom and observed proceedings via video link from the holding cell due to his poor health. Khieu Samphan was present in the courtroom throughout the week.

Judge Attendance: All Judges were present in courtroom this week with the exception of national Judge You Ottara who was absent on Tuesday morning for personal reasons. National reserve Judge Thou Mony was appointed to replace him. International reserve Judge Martin Karopkin were also absent on Tuesday and Wednesday this week without any explanation from the Chamber.

Parties: On Wednesday 27 July, Ms. Marie Guiraud, international Lead Co-Lawyer for Civil Parties for personal reasons, but her national colleague, Mr. Pich Ang was present to properly represent the Civil Parties. Mr. Liv Sovanna, national Defense Lawyer for Nuon Chea arrived late on Wednesday morning, but informed the court beforehand.

Attendance by the public:

DATE	MORNING	AFTERNOON
Tuesday 26/07/2016	<ul style="list-style-type: none"> ▪ 120 villagers from Ksach Kandal District, Kandal Province ▪ 10 foreign observers ▪ 10 Civil Parties 	<ul style="list-style-type: none"> ▪ 118 villagers from Ksach Kandal District, Kandal Province ▪ Seven Civil Parties
Wednesday 27/07/2016	<ul style="list-style-type: none"> ▪ 121 villagers from Ksach Kandal District, Kandal Province ▪ 15 foreign observers ▪ 10 Civil Parties 	<ul style="list-style-type: none"> ▪ 84 villagers from Ksach Kandal District, Kandal Province ▪ Seven Civil Parties

Thursday 28/07/2016	<ul style="list-style-type: none"> ▪ Approximately 150 villagers from Oudong District, Kampong Speu Province ▪ Six foreign observers ▪ Nine Civil Parties 	<ul style="list-style-type: none"> ▪ Approximately 120 villagers from Oudong District, Kampong Speu Province ▪ Three foreign observers ▪ Nine Civil Parties
Friday 29/07/2016	<ul style="list-style-type: none"> ▪ Approximately 150 villagers from Oudong District, Kampong Speu Province ▪ Seven foreign observers ▪ Seven Civil Parties 	<ul style="list-style-type: none"> ▪ Approximately 150 villagers from Oudong District, Kampong Speu Province ▪ One foreign observer ▪ Seven Civil Parties

B. Time Management

After returning from a three-week mid-year judicial recess, the Trial Chamber successfully concluded the testimony of one witness related to the segment of internal purges and began to hear Expert Witness Mr. Henri Locard. The Trial Chamber balanced the time allocated to Parties and allotted extra time when necessary to make up for time lost discussing legal or procedural issues.³¹ On Thursday 28 July, the Chamber granted 10 additional minutes for Mr. Kong Sam Onn, national Defense Lawyer for Khieu Samphan to conclude his line of questioning of Witness 2-TCW-1005.

C. Courtroom Etiquette

There were no significant breaches of courtroom etiquette this week.

D. Translation and Technical Issues

Expert Witness Henri Locard spoke both English and French fluently during the week's proceedings and also often used Khmer for terms that were particular to the DK regime such as *Kamapebal* (cadres), *Knors* (shackles), *Munti* (office), *Phum Phiek* (zone), *Dambon* (sector), *Srok* (district), *Kang Chalot* (Mobile Unit), *Borisot* (purity). This switching between languages caused a few minor delays in translation however these were resolved quickly. Monitors also noted some mistranslation and incomplete transition, possibly caused by the speed at which the Expert testified³² There were no significant technical interruptions this week.

E. Time Table

DATE	START	MORNING BREAK	LUNCH	AFTERNOON BREAK	RECESS	TOTAL HOURS
Tuesday 26/07/2016	9:02	10:14-10:38	11:36-13:32	14:50-15:12	16:02	4 hours 18 minutes
Wednesday 27/07/2016	9:04	10:19-10:39	11:29-13:31	14:40-15:00	16:03	4 hours 17 minutes
Thursday 28/07/2016	8:58	10:24-10:44	11:36-13:30	14:49-15:11	15:39	4 hours 5 minutes
Friday 29/07/2016	9:00	10:15-10:35	11:35-13:30	14:44-15:03	16:03	4 hours 29 minutes

Average number of hours in session	4 hours and 17 minutes
Total number of hours this week	17 hours and 9 minutes
Total number of hours, day, weeks at trial	781 hours and 14 minutes
209 TRIAL DAYS OVER 60 WEEKS	

*This report was authored by Britni Olina Chau, Lena Harris-Pomeroy, Melanie Hyde, Caitlin McCaffrie, Visot Nom, Lina Tay, Sathapor Thom, Alina Utrata, and Penelope Van Tuyl as part of the KRT Trial Monitoring and Community Outreach Program. KRT Trial Monitor is a collaborative project between the East-West Center, in Honolulu, and the WSD HANDA Center for Human Rights and International Justice at Stanford University (previously known as the UC Berkeley War Crimes Studies Center). Since 2003, the two Centers have been collaborating on projects relating to the establishment of justice initiatives and capacity-building programs in the human rights sector in Southeast Asia.



Unless specified otherwise,

- the documents cited in this report pertain to the *Case of Nuon Chea and Khieu Samphan* before the ECCC;
- the quotes are based on the personal notes of the trial monitors during the proceedings;
- the figures in the *Public Attendance* section of the report are only approximations made By AIJI staff; and
- photos are courtesy of the ECCC.

Glossary of Terms

Case001	<i>The Case of Kaing Guek Eavalias “Duch” (CaseNo.001/18-07-2007-ECCC)</i>
Case002	<i>The Case of Nuon Chea, Ieng Sary, Ieng Thirith, and Khieu Samphan (CaseNo.002/19-09-2007-ECCC)</i>
CPC	Code of Criminal Procedure of the Kingdom of Cambodia (2007)
CPK	Communist Party of Kampuchea
CPLCL	Civil Party Lead Co-Lawyer
DK	Democratic Kampuchea
DSS	Defense Support Section
ECCC	Extraordinary Chambers in the Courts of Cambodia (also referred to as the Khmer Rouge Tribunal or “KRT”)
ECCC Law	Law on the Establishment of the ECCC, as amended (2004)
ERN	Evidence Reference Number (the page number of each piece of documentary evidence in the Case File)
FUNK	National United Front of Kampuchea
GRUNK	Royal Government of National Union of Kampuchea
ICC	International Criminal Court
IR	Internal Rules of the ECCC Rev.8 (2011)
KR	Khmer Rouge
OCIJ	Office of the Co-Investigating Judges
OCP	Office of the Co-Prosecutors of the ECCC
VSS	Victims Support Section
WESU	Witness and Expert Support Unit

¹ The use of a pseudonym is permitted under Internal Rule 29.4(b) which provides for protective measures for witnesses who are part of ongoing investigations at the ECCC: see Extraordinary Chambers in the Courts of Cambodia, “Internal Rules (rev. 9) (16 January 2015) p. 30.

² Expert Witnesses are sought to provide insight and clarification on specific issues of a technical nature deemed necessary to the proceedings. (see Internal Rule 31(1)). An expert is appointed through a judicial order specifying their exact assignment (see Internal Rule 31(3)) The Chamber has decided that the role of Expert Witnesses is to enlighten the Chamber on specific issues of a technical nature, requiring special knowledge in a specific field. Experts are entitled to provide their opinions and may give speculative answers insofar as they are informed by the Expert’s broader knowledge about a topic (see Trial Chamber, “Decision on Assignment of Experts” (5 July 2012), E215, [hereinafter **DECISION ON EXPERTS**]). However, this Decision also provides that “Expert Witnesses may not express opinions on ultimate issues of fact, as only the Chamber is competent to make a judicial determination on the issues in the case.” The July 2012 Decision relied on international jurisprudence (for one example, see Trial Chamber, *Prosecutor v. Karemera*, Decision on Joseph Nzirorera’s motion to limit the scope of testimony of expert witnesses Alison Des Forges and Andrew Guichaoua (21 August 2007), ICTR-98-44-T, para. 3). Previous Witnesses who appeared as Experts were Mr. Alexander HINTON, Mr. YSA Osman, Ms. Elizabeth BECKER, Mr. Richard DUDMAN. For summaries of their prior expert testimony please see: CASE 002/02 KRT TRIAL MONITOR, Issue 48, Hearings on Evidence week 45 (21-24 March 2016); CASE 002/02 KRT TRIAL MONITOR, Issue 47, Hearings on Evidence week 44 (14-17 March 2016); CASE 002/02 KRT TRIAL MONITOR, Issue 43, Hearings on Evidence week 40 (9 – 10 February 2016); CASE 002/02 KRT TRIAL MONITOR, Issue 15, Hearings on Evidence week 12 (30 March – 3 April 2015) CASE 002/02 KRT TRIAL MONITOR, Issue 8, Hearings on Evidence week 5 (9 – 12 February 2015).

³ Witness 2-TCW-1005 was interviewed in the following order: President NIL Nonn; international deputy co-prosecutor William SMITH; international deputy co-prosecutor SONG Chorvoin; international co-lawyer for Nuon Chea, Victor KOPPE; President NIL Nonn; international Judge Jean-Marc LAVERGNE; international co-lawyer for

Nuon Chea, Victor KOPPE; international co-lawyer for Khieu Samphan, Anta GUISSÉ; national co-lawyer for Khieu Samphan, KONG Sam Onn.

⁴ Ta Tith is also known as YIM Tith and has been charged in Case 004 in an ongoing investigation.

⁵ Yeay Yut is also known as PRAK Yut, was a district secretary in Kampong Cham Province during DK. PRAK Yut testified before the Chamber as a witness in both Case 002/01 and 002/02. During her Case 002/02 testimony she said her husband was arrested for links to the CIA, not KGB. For summaries of her prior testimony see CASE 002 KRT TRIAL MONITOR, Issue 10, Hearings on Evidence Week 5 (23-26 January 2012); CASE 002 KRT TRIAL MONITOR, Issue 11, Hearings on Evidence Week 6 (29 January – 2 February 2012) and CASE 002/02 KRT TRIAL MONITOR, Issue 57, Hearings on Evidence Week 54 (13-16 June 2016). Expert Witness Alexander HINTON testified that the arrest of Yeay Yut's husband and her perceived indifference to his fate was seen by her subordinates as indicative of her dedication to the CPK.

⁶ MEAS Muth is charged in Case 004 and his case is still under investigation.

⁷ The Khmer term *vuon* can be used in a derogatory way to refer to the Vietnamese.

⁸ PRAK Yut testified in closed session in Case 002/02 on 19, 20 and 21 January 2016. A redacted version of her testimony became public in June 2016 and was summarized in CASE 002/02 KRT TRIAL MONITOR, Issue 57, Hearings on Evidence Week 54 (13-16 June 2016). In her testimony PRAK Yut testified to being married in either 1973 or 1975 to a man chosen for her by *Angkar*. She said they only met occasionally, and then after some time Ta Mok met her in the Southwest Zone to tell her that her husband had been arrested for his connections to the CIA, which surprised her. YOU Vann, the witness to testify immediately prior to PRAK Yut, testified to attending a wedding ceremony for PRAK Yut during the DK regime at which there was a "feast." In court this week however, 2-TCW-1005 testified to marrying PRAK Yut in 1983 and then remarrying another woman in the 1990s. This discrepancy was not raised by any Party nor was it probed further. Monitors note it is possible the issue may be more clear in an unredacted version of PRAK Yut's testimony.

⁹ Expert Witness Henri LOCARD (2-TCE-90) was questioned in the following order: President NIL Nonn; Judge Jean-Marc LAVERGNE; international senior assistant prosecutor Vincent DE WILDE D'ESTMAEL;

¹⁰ CHAO Seng was the former Minister for Education who was arrested and sent to S-21 in around August 1977 where he died. His brother Chao Kim is a Civil Party in Case 002/02 based on the suffering caused by the death of Chao Seng. During his testimony, KAING Guek Eav, *alias* Duch, described Chao Seng as a man who "did many good things" and when he arrived at S-21 he was registered at the Security Center under a pseudonym because he was a high profile prisoner. Duch appeared to regret that Chao Seng had been "smashed."

¹¹ See Section III.B.

¹² Henri LOCARD said he collected these slogans approximately 10 – 15 years after the fall of the regime and would put them up in the staff room at his work for everyone to read.

¹³ He noted that when the Vietnamese invaded there were many prison archives, but they were systematically destroyed, in particular in CHEA Sim's district.

¹⁴ Later Mr. Locard testified that 10% of the prison population in Kraing Ta Chan were women and children. It is unclear what he was basing these percentage figures on.

¹⁵ CHUM Mey testified as a Civil Party in Case 002/02. He identified as one of the only seven prisoners who survived S-21, see CASE 002 KRT TRIAL MONITOR, Issue 51, Hearings on Evidence Week 48 (4-7 March 2016).

¹⁶ It has been argued by the Defense that the treatment of the ethnic minority of Khmer Krom people is outside the scope of the trial as it is not part of the Case 002 Closing Order, see: CASE 002/02 KRT TRIAL MONITOR, Issue 16, Hearings on Evidence Week 13 (21-24 April 2015) p. 6 and CASE 002/02 KRT TRIAL MONITOR, Issue 8, Hearings on Evidence Week 5 (9-12 February 2015) p. 10.

¹⁷ Henri LOCARD mentioned on a number of occasions the difficulty he had had accessing the archives at the Documentation Center of Cambodia (DC-Cam). He accused the Youk Chhang, Director of DC-Cam, of having an anti-French bias for not providing him access to the archives. He also admitted that the archives he used from DC-Cam were not originals, and it is not clear whether they were photocopies of originals or photocopies of photocopies. It seemed that the documents he did access from the Center were copied for him unofficially by a friend of his who worked there.

¹⁸ By "learned words" Mr. LOCARD said he meant words in Sanskrit and Portuguese for which most Cambodians would not know the meaning.

¹⁹ For example, the slogan "*Angkar* has the eyes of a pineapple" was intended to mean that the top leadership sees all. However, Cambodians whispered the counter-slogan "*Angkar* has pineapple eyes, but cannot see the misery of the people."

²⁰ The three slogans cited by senior assistant prosecutor Vincent de Wilde d'Estmael from Henri Locard's book *Pot's Little Red Book* were: "The sick are victims of their imagination"; "We must destroy all imaginary sick people and throw them out of society"; and "The sick don't need to eat because disease deprives one of appetite and famine will kill them."

²¹ KAING Guek Eav (*alias* Duch) testified that at S-21, where he was chief, the sick and weak would often be executed because they lacked the medical care to treat them and feared they would infect other inmates. In addition to this reason he also cited the DK slogan: "to keep you is no gain, to lose you is no loss." For a summary of his testimony on the treatment of the sick see CASE 002/02 KRT TRIAL MONITOR, Issue 57, Hearings on Evidence week 54 (13 – 16 June 2016) pp. 2.

²² To this end Mr. Locard said "The position of each person was not clearly defined. They did not function as a normal government like we know now."

²³ During the President's preliminary questioning, Henri LOCARD stated that he believed the Trial Chamber had forgotten the *Khloeng* people, an Indo-European people who he claimed had been purposefully exterminated during the regime. He also said he wished the court focused more on "ordinary Cambodians."

²⁴ The only security centers contained in the Case 002/02 Severance Order are: S-21, Phnom Kraol and Au Kanseng, as well as the Kraing Ta Chan Security Center as it relates to the Tram Kak Cooperatives: see Trial Chamber, "Decision on Additional Severance of Case 002 and the Scope of Case 002/02" (4 April 2014) E301/9/1.

²⁵ Trial Chamber: "Decision on Khieu Samphan urgent request for clarification of the scope of Case 002/02 concerning internal purges" (1 July 2016) E420/1.

²⁶ For an elaboration of the arguments raised by Parties on this issue see: CASE 002/02 KRT TRIAL MONITOR, Issue 59, Hearings on Evidence week 56 (6 – 9 June 2016) pp. 7-8.

²⁷ Trial Chamber, "Decision on Khieu Samphan Urgent Request for Clarification of the Scope of Case 002/02 concerning Internal Purges" (1 July 2016) E420/1.

²⁸ This is in accordance with Internal Rule 98 (2) amended on 1 February 2008 and 6 March 2009: "The judgment shall be limited to the facts set out in the Indictment. The Chamber may, however, change the legal characterisation of the crime as set out in the Indictment, as long as no new constitutive elements are introduced." See: Extraordinary Chambers in the Courts of Cambodia, "Internal Rules (rev. 9) (16 January 2015) p. 71.

²⁹ Henri Locard, 'In Questioning of Becker, Nuon Chea's False History Prevails' *Cambodia Daily*, 17 February 2015.

³⁰ The Khieu Samphan Defense Team had previously filed a request on 11 May 2016 for sections of the 2013 edition of this book to be admitted, however later amended its request to refer to the more recent and extended 2016 version of the text. On 25 July 2016 the OCP then clarified that they too were requesting the 2016 version of the text, and the Trial Chamber ultimately decided to grant the request to admit Chapters 3 to 11 into evidence.

³¹ For example: after hearing arguments from the Parties over Prosecution and Defense Team requests to admit documents ahead of questioning both witnesses, the Trial Chamber agreed to allow 30 additional minutes to both sides to make up their time lost due to this discussion

³² Monitors noted errors in translation from Khmer to English; including, 'other seniors' to 'my other siblings'; 'severe lung disease' to 'his disease'; 'by ship' to 'by sea'; 'rubber plantation in Snuol' to 'in Snuol'; 'late 1977' to 'late 1978'; '11 October 1978' to '10 November 1978.' From English to Khmer; including 'Ta Tom' to 'Ta Soam'; 'collude' to 'defeat.'