

~~002/19-09-2007~~



ព្រះរាជាណាចក្រកម្ពុជា

ជាតិ សាសនា ព្រះមហាក្សត្រ

Kingdom of Cambodia

Nation Religion King

អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា

Extraordinary Chambers in the
Courts of Cambodia

ការិយាល័យសហចៅក្រមស៊ើបអង្កេត

Office of the Co-Investigating Judges
Bureau des Co-juges d'instruction

សំណុំរឿងព្រហ្មទណ្ឌ

Criminal Case File /Dossier pénal

លេខ/No: 002/14-08-2006

លេខស៊ើបអង្កេត/Investigation/Instruction

លេខ/No: 002/19-09-2007

កំណត់ហេតុនៃការចូលខ្លួនដំបូង

Written Record of Initial Appearance
Procès-verbal de première comparution

The year two thousand and seven, the nineteenth of September at two forty p.m.

We, **You Bunleng យូ ប៊ុនឡេង** and **Marcel Lemonde**, Co-Investigating judges of the
Extraordinary Chambers, with Mr. Ham Hel and Mr. Ly Chantola as Greffiers,

Noting the Law on the Establishment of the Extraordinary Chambers, dated 27 October
2004,

Noting Rule 57 of the Internal Rules of the Extraordinary Chambers,

Noting the Introductory Submission by the Co-Prosecutors, dated 18 July 2007

In the presence of Ouch Channora អ៊ូច ចាន់ណូរ៉ា and Heng Ham Kheng ហេង ហាំខេង,
sworn interpreters of the Extraordinary Chambers.

Having been brought before us and having provided the following information regarding
his personal identity:

Name: **NUON Chea. ឆួន ជា**

Name at birth: **Lao Kim Lorn ឡៅ គីមលិន**, which has not been used for a long time.

អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា មានទីតាំងស្ថិតនៅ ផ្លូវជាតិលេខ៤ សង្កាត់ ចោមចៅ ខណ្ឌ ដង្កោ ក្រុង ភ្នំពេញ ប្រអប់សំបុត្រលេខ៧១

ទូរស័ព្ទលេខ +៨៥៥(០)២៣ ២១៨៩១៤ ទូរសារលេខ +៨៥៥(០)២៣ ២១៨៩៤១

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With other names used during the Democratic Kampuchea regime, I have forgotten them all.

Sex: male, born on 7th July, 1926, in Voat Kor Village ភូមិវត្តគរ, Voat Kor Sub-District

ឃុំវត្តគរ, Sangke District ស្រុកសង្កែ, Battambang province ខេត្តបាត់ដំបង, Cambodia;

nationality Cambodian;

present occupation: none; occupation before the revolution: a clerk at the Thai Ministry of Foreign Affairs, in Indochina and Burma Section.

Name of father: Lao Liv ឡៅ លីវ (deceased).

Name of mother: Dos Peanh ដុស ពាញ (deceased).

Name of wife: Ly Kim Seng លី គីមសេង (living). Having 3 biological children and one adopted child.

Present address is Psar Prum Village ភូមិផ្សារព្រហ្ម, Pailin District ខណ្ឌប៉ៃលិន, Pailin Town ក្រុងប៉ៃលិន.

Previous criminal record: None.

- Having declared that he is able to read, write, and understand Khmer and Thai languages well; understands English and French a little, and understands Laotian and Vietnamese a little better. Therefore, the original of this Written Record of Initial Appearance is written in the Khmer language.

After having recorded the identity of this person, we advised him of each of the acts with which we have been seised in the Introductory Submission of the Co-Prosecutors of the Extraordinary Chambers, dated 18 July 2007, and for which he has been brought before us. We informed him that the acts set out in the Introductory Submission by the Co-Prosecutors are open to legal characterisation as:

- Violations of the 1956 PENAL CODE (Homicide; Torture; and Religious Persecution of Buddhists and Cham);
- GENOCIDE (of Buddhists, Cham and Vietnamese);
- CRIMES AGAINST HUMANITY (Murder; Extermination; Enslavement; Deportation; Imprisonment; Torture; Rape; Persecutions on political, racial and religious grounds of former officials of the Khmer Republic, feudalists, capitalists and bourgeoisie, “new people”, suspected “bad elements”, Buddhists, Cham, and Vietnamese; and Other Inhumane Acts);
- GRAVE BREACHES OF THE GENEVA CONVENTIONS OF 12 AUGUST 1949 (Wilful Killing; Torture or Inhumane Treatment; Wilfully Causing Great Suffering or Serious Injury to Body or Health; Destruction and Serious Damage to Property not justified by military necessity and carried out unlawfully and wantonly; Wilfully Depriving a Prisoner of

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War or Civilian the Rights of Fair and Regular Trial; and Unlawful Deportation or Transfer or Unlawful Confinement of a Civilian).

We advised this person that he is hereby placed under judicial investigation for the acts of which he has just been notified and specified the offences with which he is charged in relation thereto:

- **Crimes Against Humanity** (Murder, Torture, Imprisonment, Persecution, Extermination, Enslavement, Deportation and Forcible Transfer, and Other Inhumane Acts), and
- **Grave Breaches of the Geneva Conventions of 1949** (Wilful Killing, Torture, Inhumane Acts, Wilfully Causing Great Suffering or Serious Injury to Body or Health, Wilful Deprivation of Rights to a Fair Trial, Unlawful Confinement, and Unlawful Deportation or Transfer),

offences defined and punishable under Articles 5, 6, 29 (new) and 39 (new) of the Law on the Establishment of the Extraordinary Chambers, dated 27 October 2004;

for having, throughout Cambodia during the period from 17 April 1975 to 6 January 1979:

- in particular, in his capacity as the Deputy Secretary of the Communist Party of Kampuchea, a member of the CPK Central and Standing Committees, the Chairman of the Democratic Kampuchea People's Assembly, the acting prime minister and the Vice Chairman of the CPK Centre Military Committee,
 - planned, instigated, ordered, directed or otherwise aided and abetted in the commission of the aforementioned crimes, by exercising authority and effective control over the internal security apparatus of Democratic Kampuchea (detention centres) and by directing, implementing and enforcing Party policy characterised by forcible transfers of the population, enslavement, forced labour and other inhumane acts,
 - being a widespread or systematic policy targeting a civilian population, and
 - noting that there was a state of international armed conflict between Democratic Kampuchea and the Socialist Republic of Vietnam during all or part of the period between 17 April 1975 and 6 January 1979.
- As the charged person does not yet have a defense lawyer, we advised him of his right to have a defense lawyer of his own choosing or a lawyer named in the list provided for in Rule 11(2)(d) of the Internal Rules of the Extraordinary Chambers.

The charged person declared that:

- I would like to appoint a Cambodian lawyer, Mr. Sun Arun ស៊ុន អារុណ។
As regards the appointment of an international lawyer, I will consult my lawyer, Sun Arun, later.
- We informed the charged person that the notification of these charges will be audio and video recorded.

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- We informed the charged person that he has the right to remain silent and can refuse to answer to any questions. However, if he wishes to make a statement, we will record it immediately. We informed him of his right to consult his lawyer before being interviewed and to request that his lawyer be present while making his statement.

The charged person also made the following declaration:

- I would like to make a statement despite the absence of my lawyer. First, I would like to declare that I deny all of these charges on the ground that I joined the Revolution honestly in order to liberate the nation and the people from French colonialism. In 1950, I joined the resistant sincerely in order to liberate the nation from the French. I gave up my studies and government employment because the country was occupied by the French colonists. In 1954, as I remember, the Geneva Agreement required all foreign forces to withdraw from Kampuchea, and that the Khmer resistant groups split up and came back to live in society. Following this decision, I decided to return and live in society. The coup that overthrew Prince Sihanouk in 1970 destroyed Kampuchean neutrality. I went back to join the resistance again. From 1970 to 1975, the country was freed. During this period, the situation was very complicated. There were American CIA and Soviet KGB agents, the Free Khmer and Vietnamese secret agents who were hiding within the Party, among the population and in our cooperatives; they were the ones who caused the Party line to be “raw” and “burnt”, and then destroyed the country, Party and people. As for myself, after the liberation, I was in the legislative body, so I was not involved with the executive. Besides the Party, there was a Military Committee of the Party whose chairman was Pol Pot, with Son Sen and Ta Mok as deputies, and Sao Phim and Ke Pauk as members. So I was not in the Military Committee. I was Deputy Secretary of the Party and President of the Assembly. Besides that I was in charge of educating cadres and party members. So I was not involved in anything related to these charges. At that time, the Military were the strongest group because they were the ones who defeated Lon Nol. As for the Politicians, they were not strong. They received less esteem.
- We informed the Charged Person that at all times during the judicial investigation, he has the right to request the Co-Investigating judges to make a decision or take any investigative action which he considers useful.
- We advised the charged person that we will hold an Adversarial Hearing in order to decide on possible provisional detention.

The charged person stated and observed that: Although my lawyer is not yet present, I want the Adversarial Hearing to take place immediately.

- The original of the audio and video recording has been labeled and sealed in the presence of the Charged Person, and has been signed by the greffiers and the Charged Person.
- A copy of the audio and video recording was given to the Charged Person.

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At three forty five p.m., we had the greffiers read aloud the Written Record of the Initial Appearance of the Charged Person as recorded.

- The Record having been read aloud and heard, the Charged Person had no objections, and agreed to sign.

Charged Person	Interpreter	Greffiers	Co-Investing Judges
Thumb print	Signatures	Signatures	Signatures