

ឯកសារដើម

ORIGINAL/ORIGINAL

ថ្ងៃ ខែ ឆ្នាំ (Date):.....01-Apr-2016, 14:21

CMS/CFO:..... Sann Rada

1 MR. KOPPE:

2 As a matter of fact, I am in contact with him now and he's ready
3 come up, however, it's also quarter-to-twelve. I'm not sure if
4 Mr. Khieu Samphan is in need to get his rest, but Nuon Chea is
5 ready to come up.

6 [11.48.26]

7 MR. SMITH:

8 Thank you, Mr. President. Just in terms of procedure. We're
9 asking Defence whether Nuon Chea is waiving his right to silence
10 by making these statements or reactions and whether or not he's
11 now opening himself -- he would answer questions from the parties
12 on the basis of what he said or whether it's purely a comment?

13 MR. KOPPE:

14 He is invoking his right, I believe, to comment on whatever
15 experts or witnesses are saying and this doesn't mean that he
16 will be opening himself up to questions, certainly not from the
17 Prosecution.

18 MR. SMITH:

19 Of course, it's up to Your Honours. I mean, normally when an
20 accused speaks and gives evidence, they've waived their right to
21 silence and the parties should be able to question them.
22 Otherwise, of course, there would less value in what the accused
23 has to say.
24 We're in the civil law system and I'm aware in the first trial
25 comments were sometimes made by the accused and parties weren't

1 able to answer questions, so we're in Your Honours' hands, but --
2 in how it would work in this system.

3 [11.50.13]

4 MS. GUISSÉ:

5 Mr. President, I would like to make a practical remark. Since the
6 issue of my client's health status is mentioned, Mr. Khieu
7 Samphan says that to the extent that there will be no hearings
8 this afternoon, he can make an effort to continue somewhat if the
9 Chamber decides to hear Mr. Nuon Chea.

10 MR. SON ARUN:

11 Good morning, Mr. President, Your Honours, and everyone in and
12 around the courtroom. My name is Son Arun. I'm the Co-Counsel for
13 Nuon Chea.

14 Actually, I spoke to my client on several occasions this morning
15 and he actually follows the proceedings on a TV screen.

16 [11.51.07]

17 And he's observed that, during the proceedings, the term "Yuon"
18 was extensively discussed as last put to the expert by Counsel
19 Kong Sam Onn. And Mr. Expert still stands by his opinions that
20 the use of the word "Yuon" carries a racist connotation. For that
21 reason, my client wishes to clarify this issue and as to when the
22 term "Yuon" was deployed.

23 And, of course, if the Chamber permits then he would be here to
24 give us his speech.

25 MR. PRESIDENT:

76

1 In order to resolve this matter, the Chamber has also heard,
2 previously, reactions by Nuon Chea, and the defence team for
3 Khieu Samphan states that the client would be here since there is
4 no hearing this afternoon.

5 For that reason, the Chamber decides to hear Nuon Chea's reaction
6 now to the testimony of the expert. For that reason, security
7 personnel, you are instructed to bring Nuon Chea into the
8 courtroom.

9 (The Accused Nuon Chea enters the courtroom)

10 [11.58.05]

11 MR. PRESIDENT:

12 I would like to give the floor now to Nuon Chea so that he can
13 react to the testimony of the expert.

14 Mr. Expert, please listen to the reaction by Nuon Chea to your
15 testimony during the last <three> and-a-half days and, if it is
16 necessary, you will be given the floor to respond to his
17 reaction.

18 And, Nuon Chea, you have the floor now.

19 [11.58.46]

20 MR. NUON CHEA:

21 Thank you, Mr. President, for allowing me to provide the
22 clarification on this matter.

23 I have listened to the testimony and I feel uncomfortable with
24 that. I actually referred to the Khmer dictionary by Samdech
25 Chuon Nath, the <CE year> 1967, <and 2511 for the Buddhist Era

1 year>. At page <955>, at line number 5, the term "Yuon" is
2 defined as a noun to refer to those who resided in <Tonkin,>
3 Annam, <> Cochinchine, and they <simply> refer to "Yuon Tonkin"
4 <as> "Yuon Hanoi" and "Yuon Annam" as "Yuon Hue" and "Yuon
5 Cochinchine" as "Yuon Prey Nokor".
6 So Democratic Kampuchea did not mean to incite anyone and this is
7 -- and the term is clearly defined in that dictionary. And,
8 actually, Pol Pot gave instructions <> that we should not regard
9 them as our hereditary enemy <because Vietnamese> were our
10 friends, but we had contradictions with them, and that is the
11 express instructions from Pol Pot. He said that we had
12 contradictions with them, although he did not elaborate further
13 on those contradictions.
14 Cambodian people may consider "Yuon" as hereditary enemy, but for
15 Pol Pot, he only said that we were friends but we had
16 contradictions, and I'd like to clarify this point <again and
17 again>.
18 And that is the point that I wish to focus on. So there is -- in
19 no way there is any incitement in regard to this term. <For the
20 story> that we consider, the population <ratio between> Khmer and
21 <> Vietnam, <in terms of how many Vietnamese one could kill, that
22 is also wrong>.
23 [12.01.22]
24 And as for the military tactics, actually Pol Pot said that we
25 should deploy smaller number against the larger number. <If there

1 were 100 Vietnamese, there should be only 10 of us,> because we
2 had only a limited number of troops, and if one of us actually
3 shot one "Yuong" and one <"Yuong"> was injured, it meant they had
4 to deploy four soldiers to carry <> that <one> wounded soldier.
5 <So, what if we shot 10 of them? How many would carry the
6 injured? It would be about 40 of them.> And that was the militia
7 -- military tactics <of> Democratic Kampuchea and it did not in
8 any way refer to the killing of any "Yuong" civilians. <This is
9 what I want to clarify.>

10 And, actually, I have a question to put to the expert. Thus far,
11 does Vietnam actually forfeit their ambition to swallow and to
12 grab Cambodia?

13 [12.02.23]

14 And my second question also to Mr. Expert. You are an American
15 citizen and you know that - actually, US dropped <3 million tons
16 of> bombs in Cambodia for 300 days and nights and, as a result,
17 many houses, pagodas and infrastructures were destroyed,
18 including the lives of Cambodian people. Do you consider that <a
19 genocide,> a crime of war?

20 That is all. Thank you. <>

21 MR. PRESIDENT:

22 Thank you, Mr. Nuon Chea for your reaction and questions to the
23 expert.

24 And, Mr. Expert, if you wish, you may respond to the two
25 questions put to you by Nuon Chea.

1 And before that, I'd like to give the floor to the International
2 Deputy Co-Prosecutor.

3 MR. SMITH:

4 Thank you, Your Honour. Many of the statements made by Nuon Chea
5 do not tally with what the Prosecution says is the evidence and
6 the expert is being asked to comment.

7 Obviously, the expert hasn't -- he hasn't had access to the case
8 file with all of the evidence on the case file at this stage, I
9 mean other than the documents he refers to. And the question is;
10 is whether or not the expert should comment without access to
11 that information as to the veracity of what Mr. Nuon Chea has
12 said.

13 [12.04.06

14 And perhaps, if just by one example, if I can just state, Nuon
15 Chea just stated that Pol Pot never said that Vietnam or "Yuon"
16 was the hereditary enemy.

17 I'd just like to refer to --

18 MR. KOPPE:

19 He is pleading, Mr. President. I would like you to stop the
20 Prosecution from pleading now.

21 We've heard the evidence of the expert for about two and-a-half
22 days. My client comes up, gives a reaction. Mr. Hinton is man
23 enough to be able to give a reaction. He really doesn't need your
24 guidance, Mr. Prosecutor.

25 [12.04.44]

1 MR. SMITH:

2 Your Honours, I'm about to get to my question to Your Honours
3 and, unfortunately, I was interrupted by my friend. And if we're
4 talking about speeches, I think we've heard many of them, many,
5 many of them, from our friend yesterday.

6 But just to give you an example, and I'd just like to put this
7 to, Your Honours. Where Nuon Chea states that Pol Pot never used
8 the word "hereditary enemy", I refer, Your Honours, to the
9 statement of the government of Democratic Kampuchea dated the 2nd
10 of January 1979, E3/8404, English, 00419728; Khmer, 00716183; and
11 French, 00017542; and this is from the statement of the
12 government of Kampuchea on the 2nd of January 1979, and in that
13 statement it states:

14 "Kampuchea's people are against Vietnam which is the hereditary
15 enemy."

16 Which is a complete contrast to what Nuon Chea stated.

17 My point -- my point is, Your Honours, do you wish to get a
18 comment from the expert without him reviewing the other prior
19 statements of Nuon Chea that contradict some of the claims he
20 makes, or are you happy that he gives this comment now?

21 We're in Your Honours' hands on this issue.

22 [12.06.18]

23 MR. KOPPE:

24 Mr. President, if I may. I really do object to these remarks from
25 the Prosecution. First of all, he is feeding the expert an

1 answer, he's basically helping him saying, well, maybe you should
2 refer to this file while giving a reaction. That is totally
3 uncalled for.

4 Secondly, if that word was used, I would argue it was rightfully
5 used. Vietnam just invaded with a massive army of 100,000 troops,
6 the whole world except for the Soviet pact condemned this
7 flagrant act of aggression. Of course, in the heat of the moment,
8 maybe that term was used though it doesn't mean that was used
9 during the DK regime.

10 [12.07.06]

11 MR. PRESIDENT:

12 I just instructed the expert to react or to respond to the
13 reaction by Nuon Chea if he wishes to do so, if not, that is all
14 right. Actually, the matter had been debated extensively and this
15 is the last part of the proceedings. What has been said by Nuon
16 Chea may be outside of the scope of the debate or probably
17 outside of the expertise of Mr. Expert, but it is up to Mr.
18 Expert whether he wishes to respond to that.

19 And I'd like now to hand the floor to the expert.

20 MR. HINTON:

21 Thank you, Mr. President, and I'd like to thank the Accused for
22 coming here to express his views. I think it's very important
23 that his view is heard, his voice his heard. It's been, at least
24 from my perspective watching, too absent and he has -- certainly
25 his perspective should be aired in these proceedings.

1 I'd like to start by thanking him for coming and for saying that.
2 In terms of the -- and in some ways he should have the -- as the
3 defendant to have the last word, but since he's asked me a couple
4 of questions I will briefly respond to them, but I'll be very
5 short.

6 [12.08.52]

7 In terms of the question about the Vietnamese fulfilling a
8 long-standing goal, I think we've discussed in the proceedings
9 that this view -- at least I've expressed the view -- that this
10 is a very standardized, reductive, teleological view of what
11 occurred. It ignores historical and temporal and spatial
12 variation. It reduces a complex, historical and political
13 situation in a reductive manner that seems as if everyone's just
14 guided in a singular manner towards a goal. So I, with respect, I
15 respectfully would say that that's not the case.

16 With regard to the second question about the US Bombing,
17 certainly, people have argued that it's possible in international
18 law it might have violated international law, and it certainly
19 had an awful impact. I think that's -- no-one would contest that.
20 And, as I've said before, the bombing was part of a process of
21 upheaval that combined with the CPKs vision of society,
22 ultimately, and unfortunately once people were labelled as class
23 enemies, as subversives, as counter-revolutionaries burrowing
24 within, led to genocide.

25 [12.10.24]

1 I think, you know, again I thought you should have the last word.
2 You know, you refer back to me so maybe I'll just end by saying
3 that I'm glad that the discussion here about the word "Yuon"
4 hopefully can provoke critical thought and discussion about this
5 term, it's use, it's connotations.

6 I think that's a valuable pedagogical exercise in general, but in
7 the end I stand strongly by my stance that the word "Yuon" can be
8 a very incendiary word. It's a word that can incite hatred and
9 violence and in the context of DK it was an incitement to
10 genocide.

11 Thank you, Mr. President, and thank you, Mr. Nuon Chea.

12 [12.11.14]

13 MR. PRESIDENT:

14 Thank you, Mr. Expert.

15 The Chamber will adjourn today's proceedings now and resume on
16 Monday, 21 March 2016, commencing from 9 o'clock in the morning.

17 For Monday and Tuesday next week, the Chamber will hear the oral
18 submissions and responses to the additional witnesses request in
19 relation to Phnom Kraol Security Centre submitted by the
20 Co-Prosecutors. As well as to hear testimony of Witness
21 2-TCW-900, in relation to Au Kanseng Security Centre via a video
22 link.

23 [12.12.20]

24 And Mr. Professor and Expert, Alexander Hinton, the Chamber is
25 grateful of your time and testimony; that you have made a very

1 long journey to be here for the last <three> and a half days with
2 patience and professionalism. Your testimony may contribute to
3 ascertainment of truth in this matter.

4 Your testimony is now concluded and you are no longer required to
5 be in the courtroom. For that reason, you may return to your
6 residence or wherever you wish to return to, and the Chamber
7 wishes you all the very best and a very safe trip back home.

8 Court officer, in collaboration with WESU, please make necessary
9 transport arrangements for Mr. Hinton to return to his
10 accommodation.

11 Security personnel, you are instructed to take the two Accused,
12 Nuon Chea and Khieu Samphan, to the detention facility and have
13 them returned to attend the proceedings on Monday, 21 March 2016,
14 before 9 o'clock in the morning.

15 The Court now is adjourned.

16 (Court adjourns at 1213H)

17

18

19

20

21

22

23

24

25