



Photo: Al Rockoff

Phnom Penh: “An Isolated City under Military Siege” Prior to Its Fall

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American photographer Al Rockoff offered insight into conditions in Phnom Penh prior to its fall in his second day of testimony before the Extraordinary Chambers in the Courts of Cambodia (ECCC) on January 29, 2013. Describing Phnom Penh as an “isolated city under military siege,” Mr. Rockoff detailed how the city had a “ring of steel around it” due to the American bombing campaign, and was then inundated with two million refugees in the period from 1973 to 1975.

Conditions for refugees in Phnom Penh were harsh back then, Mr. Rockoff described. Making reference to what are today, two of Phnom Penh’s luxury landmarks — namely the five-star Cambodiana Hotel and the Hotel Raffles le Royal — Mr. Rockoff testified how the first was home to a 23,000 person refugee camp and how a park in front of the second became a makeshift, outdoor home to hundreds of refugees.

The witness also provided insight into a range of other issues surrounding the fall of Phnom Penh, including conditions, equipment and tactics of the Lon Nol military whom the witness had frequently accompanied on missions, as well as Khmer Rouge artillery and discipline.

After Mr. Rockoff’s testimony was concluded, the Chamber engaged in a brief discussion with the parties concerning their preparations for hearings that will take place on January 30 and 31, which will feature presentations of key documents of relevance to the roles of the accused persons. The hearings then adjourned half a day early.

¹ Cambodia Tribunal Monitor’s daily blog posts on the ECCC are written according to the personal observations of the writer and do not constitute a transcript of the proceedings. Official court transcripts for the ECCC’s hearings may be accessed at <http://www.eccc.gov.kh/en/case/topic/2>.

Continued Absence of Accused Persons Nuon Chea and Ieng Sary

Some 250 students from Heng Samrin Russey Srok High School in Kampong Speu province travelled to the ECCC to attend this morning's hearings and hear the conclusion of Mr. Rockoff's testimony.²

Opening the hearings this morning, Trial Chamber President Nil Nonn advised that today would feature questioning of the witness by the defense teams. Trial Chamber Greffier Se Kolvuthy gave the daily report on the day's attendance. Once again, two of the co-accused were missing in the courtroom. Accused person Nuon Chea remains admitted to the Khmer Soviet Friendship Hospital following a bout of bronchitis, while his counterpart Ieng Sary was observing the proceedings from his holding cell due to health reasons.

Only accused person Khieu Samphan was present in the courtroom, although he too may have been in delicate health, having only recently been discharged from hospital. Additionally, National Co-Counsel for Khieu Samphan Kong Sam Onn was absent today due to his personal commitments.

Details of the American Bombing Campaign

Following this report, the president ceded the floor to International Co-Counsel for Nuon Chea Victor Koppe. Addressing Mr. Rockoff, the defense counsel asked the witness whether he had "ever been approached" by the Office of the Co-Investigating Judges (OCIJ) to testify as a witness, not to testify before the Trial Chamber. However, before Mr. Rockoff could respond, International Assistant Co-Prosecutor Dale Lysak objected on two grounds. First, he was unsure this witness would know the organs of the court, and second, he argued Mr. Rockoff would not know the relevance of having been approached by OCIJ or not.

Mr. Koppe explained that Mr. Rockoff seemed to be one of the few "exceptions to the rule," namely was one of the few witnesses who had not previously been interviewed by the OCIJ. This prompted the president to state, while smiling and fidgeting with his hands, that he had asked the witness this question yesterday, and as such, Mr. Koppe's question was repetitive. Mr. Koppe explained that his was a different question; it was not whether he had testified before the OCIJ but whether he had been approached to do so. However, he withdrew the question.

Moving on, the defense counsel asked the witness whether, during his trips outside Phnom Penh in 1973, he ever personally experienced a B-52 bombing. Turning 90 degrees in his witness chair to face Mr. Koppe, Mr. Rockoff denied this but added, "You could see it; you could hear it, especially in the city as there was like a ring of steel put up around Phnom Penh, [and] bombardment day and night by B-52s. But no, I was not personally bombarded by B-52s. The closest would have been kilometers away."

Neither was Mr. Rockoff in a position to interview bombing refugees, as these interviews were undertaken by the International Committee for the Red Cross (ICRC), CARE, and World Vision,

² Mr. Rockoff began his testimony on January 28, 2013. Cambodia Tribunal Monitor's daily blog post of this testimony may be accessed at <http://www.cambodiatribunal.org/blog/2013/01/fall-phnom-penh-comes-life-photographer%E2%80%99s-eyewitness-testimony>.

and as a photographer, the conduct of interviews was outside his purview, he said. However, he did “have contact with people, traumatized and fleeing areas affected by the bombardment.”

The witness did see “areas that had been bombed, rice fields, large craters.” Pressed for further details, Mr. Rockoff explained:

It is difficult for me to elaborate on the visual aspects of the bombing. A fair amount of the B-52 raids were at night; you could hear them at night. I mean, I have photographs over the two years I was here of people fleeing the countryside to Phnom Penh, the wounded. ... Nor did I see that up close. I would only see the after effects.

As for whether he undertook any “specific reportage” on the bombing campaigns, Mr. Rockoff explained that he typically provided photographs to the Associated Press (AP), the *New York Times*, sometimes *Newsweek* and *Time*. However, he was often unable to know how his photographs were used as it was difficult to obtain copies of foreign publications in Cambodia. Mr. Rockoff has “all the negatives, color negatives, and slides,” at his archives in the U.S.

Phnom Penh before the Fall: Filled with Refugees and a City “Under Military Siege”

Mr. Koppe turned to the witness’s prior testimony that there were about two million refugees in Phnom Penh just prior to its fall. He asked Mr. Rockoff how he arrived at this number of two million. Mr. Rockoff explained:

The rough approximation of two million refugees had been discussed by some of the refugee relief workers I interacted with. I had on occasion done work for CARE. It was possibly 400,000, the population of Phnom Penh; it was an estimated 2.4 million at the end of the war. ...

I did some photography for the ICRC. There was a villa in Phnom Penh with many, many boxes on shelves filled with filing cards. Each card had the data for a family and individuals, where they came from. ... The person in charge [of the cards] said, “We have over one million people documented.”

As I said yesterday, the Cambodiana Hotel was a refugee camp administered by World Vision [with] 23,000 people [] living there.

Asked to elaborate on the living conditions of refugees other than those at the Cambodiana Hotel, Mr. Rockoff described:

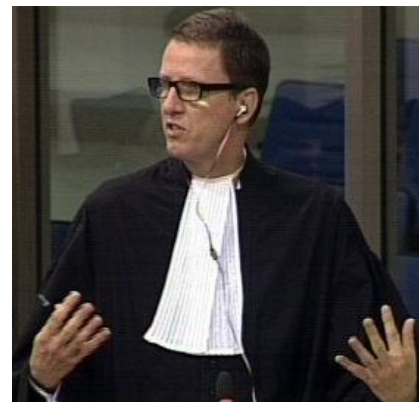
I saw many refugees living in parks, moving [to] different parts of the city, as the Khmer Rouge were shelling Phnom Penh with 107 millimeter rockets. Many were coming from the east side of the Mekong. When you had rockets coming in to parts of Phnom Penh with refugees of several thousand in exodus moving to another area, the trees of Phnom Penh started dying because would cut branches, bark off to cook. ...

The refugee camps were out on the edge of the city. ... There were many families who would not go to the camps; they just wanted to come in to Phnom Penh. That's why there were many people who ... lived in parks, such as the park in front of the Hotel Royal.³ There used to be hundreds of people who lived under the trees. ...

There were many refugees who just did not fit into the refugee camp system. The Olympic Stadium was also a refugee camp. ... The army would come by with sacks of rice, because many of these families were families of dead soldiers, and they really did not feel like going to ordinary camps ... living up in the stadium upper area. If you had family in Phnom Penh you might be lucky enough to stay with them. There were many people living in villas that had been abandoned. There were just thousands of homeless people wandering around.

At the very end of the war, around April 14, 15, I photographed a mass exodus of people fleeing rockets and other ordinances being fired at them. They were moving from Ta Khmau north, thousands and thousands of people. ... On April 17, the day of the fall of Phnom Penh, there were thousands of refugees around the [Hotel] Royal. They were not able to gain entrance. The Red Cross had declared it an international zone which was not recognized by the Khmer Rouge.

Next, Mr. Rockoff explained that his first time to Phnom Penh was in 1970. He spent two months here at that time. In this respect, Mr. Koppe asked the witness to contrast the Phnom Penh of 1970 with that of 1975. Mr. Rockoff said that at the time, "the city was very clean. Roads were perfect. No refugees at that point, nothing." In contrast, he explained that when he returned to Cambodia for a two-year period in April 1973, "war was on; [there were] many refugees. It was completely different. The military and war was all around Phnom Penh, 360 degrees. It was an isolated city under military siege."



By 1975, Mr. Rockoff said, his impression was that the war was "unwinnable" by the Lon Nol regime; "it was just a war of attrition while the U.S. played out the end game in Vietnam."

On the subject of how refugees obtained food between 1973 and 1975, Mr. Rockoff explained:

The ones who were not in the refugee camp system obviously were not fed on a regular basis. People foraged for food. ... In the period [when] I was here, there were a number of warehouses along the river. The barges would come from Vietnam up the Mekong with ammunition or rice, many thousands and thousands of tons of rice.

³ This is the hotel currently known as the Hotel Raffles le Royal. In his testimony on January 28, the witness variously referred to the hotel by its previous name, Hotel le Phnom, and as "Hotel Royal" or simply "the Royal."

The people unloading the barges ... tended to be street refugees put to work. Some of the refugees would have very interesting ways of stealing rice. For example, on a very hot day, they would wear a long shirt with a metal funnel in it and would filter the rice down into their shirts. ...

There were many ways of surviving. Anything edible that was growing in Phnom Penh disappeared. As for soldiers, they could usually feed their families because they had a rice ration. But as I said, if you were a family of a dead soldier, there was nothing for you ... so they went to the Olympic Stadium and the army would provide sacks of rice to these people. [It was] a very bland diet, not a balanced diet for these people; salted fish. There weren't many fresh fish being obtained in Phnom Penh.

This prompted Mr. Koppe to ask the witness for his observations concerning changes in the price of food at that time. Mr. Rockoff relayed:

It kept going up, but I could not give you a good estimate of percentages, the inflation rate. ... Food was difficult for the average Khmer. But if you had money, you could buy food. ... There were Khmers who brought food to Phnom Penh. There were many small planes which brought food from the provinces. Sometimes plane loads of pigs were flown in. Phnom Penh was dependent on outside sources for food. But I did not know the prices of food because I did not buy food from the market.

Mr. Koppe noted how in Mr. Rockoff's prior testimony, he appeared to have remarked being "not surprised" when people were happy to go back to where they came from. Asked to elaborate on this, Mr. Rockoff said:

In the few weeks prior to the April 17 event, there were rumors going around that when the war was over, everyone would go back to where they came from before the war. For most people, that's all they wanted. They weren't interested in staying in Phnom Penh. They fled the countryside for safety. ...

I did not speak to refugees about the need to go back. Some of the Cambodian photographers and reporters that I would associate with and go out to the field with would tell me things; they would interpret. They would say these things ... but the people, I mean, I cannot conceive of two million refugees, many of them wanting to stay here after. ...

Also, on April 17, there was no real resistance from people to leave Phnom Penh. ... The initial day of liberation, people wanted to believe they could go back home. Also, it did not pass unnoticed that the Khmer Rouge were going around saying "The Americans are going to bomb Phnom Penh. You have to leave." ... It was easy for them to believe that.

Pressed to elaborate further on the lack of resistance, the witness said:

I did not see any resistance in my presence. There were sounds of explosions which probably came from grenades, gunfire. ... Sometimes you would hear these sounds and you didn't know what the cause was. The only place where there was prolonged fighting which took place for almost a week after April 17 was on the road out to what is now known as Choeung Ek ... there was a unit of the Cambodian airborne that held out there to the last man. ... They fought. There was no escape, and they lasted about a week. ... They were trapped in a glass factory. ...

The Khmer Rouge had the AK[-47]s. They had the power. What are you going to do? You were there with your family, they asked you to leave. What would you do?

Moving on, Mr. Koppe asked whether it would be fair to say that Mr. Rockoff encountered and interacted with the Khmer Rouge soldiers at the time of the evacuation. The witness replied:

My interaction with Khmer Rouge on April 17 was not very personal. It consisted of being in their midst, seeing a vehicle going in the direction I wanted to go and hitching a ride ... I was able to move around at will the first two hours. But interacting with them on a personal basis, I did not. I'm also not fluent in Khmer; I'm not a reporter. ...

Probably the closest personal basis interaction was on one vehicle when I was just going south past Independence Monument. The vehicle stopped, many people were going north. ... I didn't like the look or the mood of the Khmer Rouge heading north so I headed further south to the American Embassy. ...

Things were friendly between [students and the Khmer Rouge] at that point. ... I did not have personal interaction with any of the Khmer Rouge that morning. ... Nobody questioned me, nothing.

Then the incident at the Preah Ket Mealea Hospital that morning [took place], and then [we were] being taken to the Japanese Bridge.⁴ Still [there was] nobody questioning me, asking what was going on. And that was good; ... we were very lucky [not to be revealed as Americans].

Asked whether the Khmer Rouge were a "monolithic" group or had internal differences, Mr. Rockoff first responded by providing comments on the available artillery, describing:

[In] different areas of the country, the Khmer Rouge seemed to have some using better equipment. Some [units] were primarily or 100 percent [using] AK[-47s]. Then some other Khmer Rouge units, you would find M-16s on the battlefield afterwards, so you knew there was a mix of weapons there. ...

⁴ Mr. Rockoff described these incidents in detail in his testimony on January 28.

The Khmer Rouge did have access to many, many weapons, but the ammunition was plentiful. Towards the end, you could see the ammunition for the AKs change. They were coming from American sources. ... The AK tracer ammunition has a green glow to it ... and then the American-provided ammunition was red.

Some had good uniforms; they seemed fairly well equipped. But the uniforms were well worn; all the gear was well used.

Mr. Koppe asked the witness to elaborate more specifically on differences in behavior between Khmer Rouge units. Mr. Rockoff explained:

I would say they weren't all one cohesive unit. There were elements, and there was one element of about 600 that came over to the Lon Nol side. Prior to coming over, they were staying at a pagoda not very far from here, near Ang Snoul. ... They considered themselves primarily as pro-Sihanouk royalists ... and the U.S. Embassy was trying to facilitate their coming over to the government. ... It was a big show.

And then, the army, as part of the agreement, was supposed to keep these people intact as a unit. They were all sent to the Sihanoukville area, never paid, and they all just melted away. ... They were not like other Khmer Rouge. They considered themselves "Khmer Rumdo," and they were royalists. But it was very interesting interacting with these people later on. Their tactics, equipment, everything remained the same, despite changing allegiance.

However, Mr. Rockoff could not comment, when asked, on any differences between Khmer Rouge units in the north and south of Phnom Penh. The defense counsel moved on to ask the witness whether any of the Khmer Rouge seemed "unfamiliar with the trappings of a big city." Mr. Rockoff explained, "I have many photographs of the Khmer Rouge on April 17 looking at buildings and things in amazement" He recounted, "A truck came by and dropped off ice, cases of soda. Some of these Khmer Rouge had not seen ice in a very long time, if ever. They were asking people for cigarettes with the international sign language for cigarettes."



On whether some Khmer Rouge seemed "more serious" or strict, the witness immediately replied:

Yes, and the more serious ones tended to be older, but I think that's the norm for any army. The discipline: you could see they were well-controlled. No visible signs of rank that I could see, but the people in a squad or company ... they knew who was in charge. They seemed very orderly and disciplined, at least in my

presence. As I related yesterday, Christoph Maria Fröhder, the AP lifted one frame from his film of a Khmer Rouge firing an M-16. ... It seems that he was just ordering his men — or the Khmer Rouge in that area, right by Psar Thmey⁵ —out of a shop they were going into. [Was this] to stop looting? I don't know. ... But with the Khmer Rouge, there was a long hunt for cigarettes. I know it sounds strange: a lot of smokers.

Pressed on whether there was a correlation between areas of the city and attitudes of Khmer Rouge units, Mr. Rockoff explained, “As I perceived it, the only really bad attitude would have been from the group headed north towards the Independence Monument. That is why I got out of that area rather quickly.” He continued, “The Khmer Rouge that came in to the center of the city riding north on armored personnel carriers to pick up cadres ... they seemed in a good mood.”

Changing direction at this point, Mr. Koppe asked the witness if he knew a person named Douglas Sapper. Mr. Rockoff confirmed this and relayed his limited knowledge of Mr. Sapper:

He's an American army veteran. He worked here towards the end for an American airline. There were maybe a dozen airlines here. He was chief of security for an airline and he was here at the end, he was in the French Embassy with the rest of us. He was one of those who wanted to get out but was stuck here. I can't say I know much about him.

Asked whether he had any discussions with Mr. Sapper about Khmer Rouge troops, Mr. Rockoff said he could not comment on this, and he thought Mr. Sapper “knew even less than I did,” since his job did not involve “interacting with [Cambodian] people.”

Moving to his final question, Mr. Koppe asked whether Mr. Rockoff had ever seen the *Killing Fields* film. The witness replied:

I get asked that all the time. ... Of course I've seen the movie, many times. I have my own thoughts on the movie that may not be shared with the public because of how I'm portrayed in the movie, but I consider it a work of art. ... It's an important movie. It's *the*⁶ movie that put Cambodia and the tragedy that occurred here in the mindset of the international community. It shows that the Cambodian war was not the Vietnam War.

Mr. Koppe explained that he was asking this question because part of Mr. Rockoff's experiences had been depicted in the film. He asked whether the director had depicted these experiences in an accurate manner. Mr. Lysak objected to this, however, as the film was not in evidence before the Chamber, as it was a “dramatic portrayal of events.” He did not see the point of this exercise. This prompted Mr. Koppe to withdraw his question, apologize, and then conclude his team's questioning.

⁵ This is the market known in English as the Central Market.

⁶ This emphasis is in the original.

Mr. Koppe's counterpart, the National Co-Counsel for Nuon Chea Son Arun, took the floor next. He first asked Mr. Rockoff whether he was a freelance photographer or attached to a particular agency. The witness explained:

The two years I worked in Cambodia as a freelance photographer. I was providing to different outlets. I was not on contract to a particular company. ... I am more or less self-taught in photography ... I have been interested in this type of photography since I was 13 years old. ... When the end of the war came in April 1975, I made the decision to stay here on my own, despite not working [for any particular outlet]. I was interested in [making a] historical record.



Mr. Arun asked Mr. Rockoff to clarify precisely when he left Phnom Penh. The witness explained that he was on the second convoy that left Phnom Penh, and arrived in Thailand on approximately May 9. This was the last group of foreigners to leave Phnom Penh. He also clarified that he spent two months in Cambodia during the two months of the American invasion in 1970, then returned to Vietnam, and then came back to Cambodia in April 1973. When he returned at that time, "I [had already] left the military. I worked here as a civilian."

The defense counsel referred back to Mr. Rockoff's testimony concerning the "phony Khmer Rouge." He asked the witness to identify how he was able to differentiate

The "unreal" ones were too well dressed, [had] shined shoes, [were] well-kept people. The gold lettering in their baseball caps, the fact that some of them showed up at the Ministry of Information ... they were not a big group, there were just some [scraps]. ... The name they gave that group, I had not heard this until much later. They were not genuine Khmer Rouge. I could see there was something different about them. ... These "phony" ones didn't come into the city. They were here all along.

Mr. Arun asked whether the Khmer Rouge all arrived at the same time or in a staggered fashion. Mr. Rockoff said, "Khmer Rouge were streaming into the city all day." The defense counsel queried whether the two groups of Khmer Rouge that the witness saw coming into the city had about the same numbers and had the same orders. Mr. Rockoff responded, "On April 17, I had no idea that there was more than one group of Khmer Rouge. I had no idea that there might have been different command groups. I assumed it was all unified."

Turning to the Ministry of Information and the "phony" Khmer Rouge there, Mr. Arun asked how Mr. Rockoff knew they were not genuine. The witness denied knowing this at the time and explained that he found this out only later, when reading the *New York Times*, "As I stated, [*New York Times* reporter] Sydney Schanberg pretty quickly caught on that these were not genuine. But they were not in charge. They were nothing in the long run. But because he had the chance to talk to them, they sought him out. ... Also Dith Pran, his assistant, could confirm these

suspicions.” He clarified that he only read about the “phony” Khmer Rouge “many weeks later,” after returning to the U.S.

Moving to his next topic, Mr. Arun asked whether the witness had ever heard Khmer radio broadcasts. This prompted an objection from Mr. Lysak on the basis that this was repetitive. He also noted that Mr. Arun had mischaracterized the witness’s evidence about seeing two groups of Khmer Rouge, stating that Mr. Rockoff had said seeing only one group and a smaller group of “phony” Khmer Rouge. Mr. Arun explained that he was interested in how Mr. Rockoff perceived the differences between the operations of the real Khmer Rouge and the “phony” ones.

At this point, the Trial Chamber judges gathered in conference. Shortly afterward, the president advised that the question was repetitive and could confuse the witness. Mr. Arun duly advised that he had no further questions and took his seat.

International Co-Counsel for Ieng Sary Michael Karnavas rose, advised that his team had no questions for Mr. Rockoff and thanked the witness for coming, ceding the floor to International Co-Counsel for Khieu Samphan Anta Guissé.

Khieu Samphan Defense Team Seeks Clarification from the Witness on Various Issues

Ms. Guissé first asked the witness when he joined the U.S. army and in what corps. Mr. Rockoff explained:

It’s a long story [which has already been told on] Wikipedia. ... I was in the U.S. Navy for one year. ... I enlisted in the U.S. Army. I had eight years active duty. ... I was in Vietnam. ... My first experience with photography was when I was stationed in Germany. ... I came to Vietnam. I was in the army, which accounts for my being in Cambodia for two months in 1970. I was working here for two months as an army photographer here in Cambodia. I was an army photographer.

Mr. Rockoff explained that he was 17 when he joined the army and was 16 when he fraudulently joined the navy using falsified identity documents. When he went to Vietnam, he was 18.

Ms. Guissé moved on to the witness’s time following Lon Nol soldiers in 1973. She asked the witness whether he often followed Lon Nol troops and how frequently he did so. Mr. Rockoff explained:

To accompany Lon Nol soldiers was not difficult. What was difficult was getting into position. ... A very good trick of mine was going to the hospital to find out what was going on. ... The hotel I was staying at ... the family who owned it allowed on the very top floor medical students who were drafted in the army, or ambulance drivers, to stay there. I could get up at 4.30 a.m., get picked up by an ambulance, [and go to the field,] sometimes along Highway 4. ... The way to get out to the battlefield was not difficult. I did not hang out with other journalists, go to the press conference ... and then get into the nice Mercedes and drive out on the highway. ...

I photographed many other things, sometimes refugee camps. I did pro bono work on occasion [for CARE, the ICRC, and the Catholic Relief Service]. But what was critical to the 2.4 million people living in Phnom Penh was safety that evening, whether they were going to be in rocket range. ...

There was a lot more than just the war. But the war affected all aspects of life here.

Pressing further on the issue of Mr. Rockoff's missions with the Lon Nol soldiers, Ms. Guissé was given permission to show to the witness a photo previously shown to the witness by Judge Jean-Marc Lavergne, depicting a young soldier with a machine gun slung over his shoulder with a flower sticking out of it. Mr. Rockoff explained that it was a Lon Nol soldier.

At this point, Judge Silvia Cartwright could be heard for a brief moment, whispering to the president, "He answered this yesterday. He said it was a Lon Nol soldier," perhaps suggesting the president should interject and rule the question repetitive and not to be answered. However, the president instead directed the witness to re-answer the question. Mr. Rockoff duly confirmed again that it was a Lon Nol soldier.

Ms. Guissé sought to move to another line of questioning, which prompted the president to advise that the court would first adjourn for the mid-morning break. However, Judge Cartwright could be observed lightly touching the president's arm and then craning behind the president to confer briefly with Judge You Ottara and then the president. The president asked Ms. Guissé how long she anticipated she would need to conclude her questioning. She advised that she thought she would require a "solid 25 minutes." Upon hearing this, the president advised that they would accordingly adjourn first.

Question over Witness's Photograph Exhibited by DC-Cam

After the break, Ms. Guissé asked the witness whether Mr. Rockoff believed the Lon Nol troops had a fleet of airplanes. Denying this, Mr. Rockoff explained:

I would not call it a fleet. It was not a very big air force. But yes, after the American bombing halt of August 15, the Khmer air force had very limited assets. Other than helicopters for attack, they had the American single engine T-28 which would drop 250 pound bombs. That was the extent of what the Cambodian air force was capable of. I could not give you an estimate of how many aircraft. They had reconnaissance aircraft, C-47s, twin engine aircraft, American made, that [were] for transport. C-123s, which were American Air Force, but it was limited, the Cambodian air force. So the air war was easily reduced by 95 percent by August 15.

The witness confirmed that none of the equipment the Lon Nol soldiers used originated in Cambodia; rather, it "just ended up in Cambodia."

The defense counsel asked the witness to provide further details on how the Lon Nol military tactics changed after the American bombing campaign ended on August 15, 1973. Mr. Rockoff explained:

When the U.S. was supporting, you could always count on American air strikes assisting the Cambodian army unit if it was in trouble. You could not rely on that afterwards. The Cambodian air force had limited resources and you just could not count on them in a bad situation. So the army was very conservative in how they deployed soldiers ... after the bombing halt, probably to avoid having a large number of soldiers cut off, isolated.

Ms. Guissé showed the witness another photograph which Judge Lavergne had shown the witness yesterday from a Documentation Center of Cambodia (DC-Cam) compilation entitled *17 April 1975: Genocide in Cambodia: A Permanent Exhibition at the Documentation Center of Cambodia*.⁷ This photograph showed a woman sitting cross-legged in the right foreground of the frame, cradling a baby, while in the top left there was what appeared to be a person covered in a sheet, which Mr. Rockoff had testified on January 28 was the woman's husband.



Photo: Al Rockoff

Ms. Guissé requested to show the caption of the photograph, which read “A woman weeps while holding her baby near the body of her dead husband, April 17, 1975.” However, she noted that the witness had testified on January 28 that this photograph had actually been taken earlier, perhaps a month earlier. Asked to elaborate on this, Mr. Rockoff obliged and stated:

I wish I had been contacted by Mr. Youk Chhang regarding this. He received a number of photographs regarding this from [Khmer Rouge historian] Mr. Peter Maguire. The caption is wrong. It was not April 17. It is a mistake ... I also intend

⁷ This compilation may be accessed at http://www.dccam.org/Archives/Protographs/Photos/17_April_1975/index.html.

to cooperate with DC-Cam to add other photos to the collection. But I'm sorry, the caption was wrong.

Revisiting Refugee Conditions in Phnom Penh

Ms. Guissé turned to the subject of Mr. Rockoff's pro bono work with the ICRC, Catholic Relief Service, and another organization. She asked the witness whether he could recall any other organization working on the refugee situation in Phnom Penh and around the city. Mr. Rockoff advised, "There were very few organizations here during the war, and the term 'NGO' ... was not used in those days. ... There were not many relief agencies here during the war."

Significant sanitary problems were reportedly dominant in refugee camps, Ms. Guissé noted next. She asked the witness whether anyone ever discussed these conditions with him. Mr. Rockoff responded, "No, it was very self-evident what the situation was in the camps. Then you had the sanitation problems in the parks where you had thousands of people living. It was self-evident to me. I can't say anybody discussed it with me."

Finally, on this subject, Ms. Guissé turned to the question of the pace of the swelling of Phnom Penh's refugee population. She asked whether it was sudden or occurred over a prolonged period of time, for example. Mr. Rockoff explained:

[It occurred over a] prolonged period of time. I could not say what percentage of the two million plus became refugees before or after August 15. The stream of refugees fleeing contested areas continued way after the American bombing halt. It was very intense in the couple of weeks prior to April 17 because many of the refugee camps outside of Phnom Penh: the people fled. The fighting was too close and it was not safe for people to stay there, so the camps dissolved and people fled into the city.

I would say the refugee influx continued the entire two years I was here. I could not say if it was more intense after August 15. I don't have statistics. People like the ICRC have documentation to that effect.

He reiterated that, as previously testified, the ICRC not only maintained cards recording information on the refugees but also held copies of these cards in Geneva.

A Telegram from the U.S. Embassy in Bangkok and the Witness's Journalistic Contacts

At this point, Ms. Guissé asked whether any of the witness's colleagues at the U.S. Embassy in Bangkok spoke to him about his observations of Cambodia after he was evacuated from the country. The witness stated:

I have no colleagues at the embassy in Bangkok. I did discuss with colleagues who are journalists. When I crossed into Thailand, first comments I made ... was an interview with Edward Bradley of *60 Minutes*. His Thai cameraman filmed me ... I loosened my belt and pulled the 23 rolls of film that I had wrapped in plastic and taped to my leg, a nice trick. I pulled the film out and he panned the camera down, a nice sequence. The questions that Bradley asked were [questions] such as,

“Do you believe there will be a bloodbath?” I said, “Yes.” He said, “How many do you think?” I said, “Who knows. 1,000. 10,000. How many does it take to make a bloodbath?”

Throughout that statement, Ms. Guissé could be heard trying to interrupt but being unable to do so, occasionally sighing in amused exasperation. Eventually, the defense counsel explained that there may have been some confusion. She sought to know whether Mr. Rockoff ever had any discussion or interview with someone at the American Embassy in Bangkok. Mr. Rockoff explained that in 1975, he did not, but he did have “a few drinks in a bar ... and a bowl of Shanghai noodles” with a former U.S. Embassy in Phnom Penh employee in Bangkok. However, he did not consider this a formal interview.

This prompted Ms. Guissé to show a telegram from the U.S. Embassy in Bangkok.⁸ In response, Mr. Lysak said that this document was not included on either the defense or OCP exhibit lists and there did not appear to be any motion from counsel being brought with respect to the



document. However, the OCP would nonetheless refrain from objecting to its use. Ms. Guissé explained that this was not a document they intended to use; the interest in using it only emerged during the course of Mr. Rockoff’s testimony, and Mr. Rockoff would be the person in the best position to address these issues.

The president looked left and right at this point and was swiftly joined by his colleagues on the bench. At one point, Judge Lavergne leaned over in discussion with Trial Chamber Greffier Roger Phillips, before returning to the discussion with his colleagues. The president then advised that parties were not allowed to put such documents for examination before witnesses.

Ms. Guissé acknowledged this ruling but stated “for the record” that the parties’ list of documents had been submitted in relation to the list of witnesses given at the time, which did not include Mr. Rockoff’s name. However, she attempted to make her question more generally. She advised Mr. Rockoff that his name was mentioned in a telegram and he was described as having seen three Khmer Rouge factions on April 17, 1975. She asked the witness whether this was an accurate reflection of what he saw. Mr. Rockoff responded:

I did not tell a worker from the U.S. Embassy anything. ... Maybe he’s relaying stuff second, third hand, to somebody at the American Embassy in Bangkok. If I referred to Khmer Rouge coming into the city from three different directions I did not and never did use the terms “factions” back then. You don’t refer to people from different platoons as “factions.” ... I also did not see that document prior to your bringing it up. It was flashed on the screen momentarily and I read it. ... I

⁸ This telegram has the document number D291/6.3.2.31, and the relevant ERN is 00495450 (in English).

don't know who is the source of this document but he should be reeducated as to the inaccuracies.

Moving on, Ms. Guissé asked the witness whether there were any soldiers he recognized among the Khmer Rouge at the Ministry of Information. Mr. Rockoff denied this. The defense counsel asked whether the witness only saw soldiers and officers among the Khmer Rouge or also civilians. Mr. Rockoff explained that the Lon Nol representatives "were all in civilian clothes," and he was unsure whether they might have had military ranks. "There was a mix of civilians and military there that morning," Mr. Rockoff went on. He denied recognizing anybody at the Ministry of Information.

Regarding the witness's listening to information on the BBC while at the French Embassy, Ms. Guissé asked whether Mr. Rockoff had access to any other sources of information while there. Mr. Rockoff answered:

Not while in the French Embassy, but there was access to radio transcripts which would sometimes be relayed to me by other journalists. I did not have access to these documents personally ... the U.S. Information Service Reading Room had Foreign Broadcast Information Service transcripts. ...

We were allowed to keep our radios. There was one day where the Khmer Rouge came into the embassy and searched for transmitters. The allegation was that there was an unauthorized radio transmission from the area. The Khmer Rouge came by, made sure there were no two-ways. There were radio broadcasts coming from the building due east of the French Embassy, which at the time was the South Korean embassy. ... I could listen to shortwave on my radio. I could listen to BBC ... VOA, but VOA did not tell us much about where we were at. There was not much available other than BBC, at least as far as reception in our compound went.

Finally, Ms. Guissé asked if the witness was familiar with correspondents named Fay Willey and Paul Brinkler⁹ of *Newsweek*. Mr. Rockoff denied this and noted that correspondents sometimes "rotated in and out." He noted that he did know a Paul Brinkley Rogers and asked if this was the person who Ms. Guissé referred to. He then made it clear that he was never considered an employee of news outlets and reiterated the outlets to which he most often sold photographs.

On the subject of Mr. Paul Brinkley Rogers, Ms. Guissé asked if this person was present with the witness at the French Embassy. Mr. Rockoff said this person "was not in Cambodia for the fall of Phnom Penh" and that there were seven Americans at the French Embassy.

This question marked the conclusion of Mr. Rockoff's testimony. The president excused the witness with the court's thanks. As he was led from the courtroom, Mr. Rockoff could be seen making the traditional Cambodian salutation, a bow while pressing his palms together, in the direction of the president.

⁹ The spelling of this name was unclear in the English language.

Proper Procedure for Document Use

At this point, Ms. Guissé sought to discuss the issue concerning the use of the U.S. Embassy telegram. This was a memorandum from the Trial Chamber's Senior Legal Officer, Susan Lamb, stating that parties did not have to adduce documents relating to witnesses who would be called by the Chamber.¹⁰ Ms. Guissé said that it was unfortunate if parties were unable to use documents that were relevant and contained on the case file. Ms. Guissé also noted that Mr. Samphan was still very weak and that he requested to "rest at the detention facility entirely" for the Chamber's documents hearings on January 29 and 30, 2013.

Mr. Lysak responded that "counsel should understand that there's a procedure" and that it was necessary to file a motion identifying documents they wished to use. The OCP had no objection where this procedure was adopted, but he wished to make it clear that this was not the case in this instance. In addition, he said, whenever the OCP attempted to follow such procedure, the Khieu Samphan Defense Team was a regular objector. Notwithstanding this, the OCP would not object to that team's attempt to do the same.

The Trial Chamber judges huddled in conference at this point. Several minutes later, the president advised that, on the documents, the Chamber "still maintains its firm position concerning the practice maintained so far" and that the points made by Mr. Lysak were "very valid."

Regarding the request for Mr. Samphan to retire to the detention facility, the president advised that it would be necessary for treating doctors to examine him and then report to the Chamber before the Chamber could rule on this request.

Preparations for Documents on Roles of the Accused

At this juncture, the president requested advice from the parties concerning their prepared presentations on the roles of the accused. Mr. Lysak advised that the OCP would be prepared to give these presentations from the morning of Wednesday, January 30, 2013, and would require two days, beginning with documents relating to Mr. Sary, then Mr. Samphan, and then Mr. Chea.

International Lead Co-Lawyer for the civil parties Elisabeth Simonneau Fort advised that the civil party lawyers did not wish to present their documents on this now but wished to do so after hearing all relevant witnesses' and civil parties' testimony on this point before presenting its documents.

On the part of the defense, Mr. Koppe advised that it was difficult to give an informed position on this. They would visit Mr. Chea this afternoon. They had heard reports that he was getting better, and thought he might be more capable of giving instructions. As such, his team would advise the Chamber of this in written form.

National Co-Counsel for Ieng Sary Ang Udom advised that his team held a similar position, and would like to first ask Mr. Sary how to proceed. His team was still uncertain they were ready, but in any case needed to discuss this with Mr. Sary first and had not done so yet.

¹⁰ This memorandum has the document number E9/27.

Ms. Guissé advised that her team did not intend to present any documents at this stage and that if they had any documents to present, would do so by pleading, a stage which they had not reached yet.

Thanking the parties for their information, the president then adjourned the hearing for the day. There appeared to have been some internal confusion at the ECCC concerning the day's schedule, as a new audience of approximately 60 villagers from Kampong Chhnang province, many of whom appeared to have been born before the Democratic Kampuchea period, had already arrived at the tribunal to attend the afternoon hearings.

Hearings in Case 002/1 will resume on Wednesday, January 29, 2013, with another hearing on key documents relevant to Case 002/1. This time, the documents hearing will relate to documents that shed light on the role of the accused persons, beginning with Mr. Sary.