



**“Physically We Survived, but Mentally We Were Dead”:
Civil Party Tells of “Unimaginable Harm” during Democratic Kampuchea**
By Edward Gough, Associate Consultant, Destination Justice¹

Civil party Pin Yathay testified before the Trial Chamber of the Extraordinary Chambers in the Courts of Cambodia (ECCC) Thursday, February 7, 2013, giving his account of the forced relocations, starvation, punishing work schedules, and denial of medical care he and his family endured at the hands of the Khmer Rouge.

The civil party described his journey south from Phnom Penh in the initial evacuation stages and the comparatively comfortable position his family enjoyed, having vehicles and belongings they could barter for food. He spoke of the rapid descent of his family’s quality of life from that point on, however, and

Pin Yathay did not hold back when describing the horrific living conditions in which he and his family found themselves and the high rate of deaths due to starvation and overwork.

Opening of Morning Session

The morning session opened before an audience of approximately 250 schoolchildren from Kampong Trabek High School in Pray Veng Province. Trial Chamber President Nil Nonn stated the Court’s intention to hear from civil party TCCP 116, as scheduled. Greffier Duch Phary reported on the attendance of the parties, noting that accused Ieng Sary was present but in the holding cell due to health reasons and that Nuon Chea was still in the Khmer Soviet Friendship. Mr. Phary informed the Court that Nuon Chea has submitted a waiver for the proceedings to continue in his absence today,² which the President later confirmed was pursuant to Internal Rule 81/5 of the ECCC. Mr. Phary confirmed the presence of the testifying civil party, before adding that the National Lead Co-Lawyer for the Civil Parties would be late to today’s proceedings.

¹ Cambodia Tribunal Monitor’s daily blog posts on the ECCC are written according to the personal observations of

² Document number E257/2.

Change to Scheduled Order of Questioning

The President notified the chamber that there would be an amendment to the order of questioning that had previously been announced on February 5, in that counsel for the civil parties would open the questioning, as opposed to the prosecution. The President invited the court officer to bring the civil party into the courtroom.

Launching into a series of routine questions with the purpose of identifying the civil party, the President confirmed the civil party's name as Pin Yathay; date of birth as March 9, 1944; hometown as Oudong district Kampong Speu Province; current residence as Tuol Kouk district, Phnom Penh; and permanent address as Paris, France. Mr Pin Yathay confirmed his profession as a retired engineer, his late father's name as Chhao, his late mother's name as Lorn, and his late wife's name as Marrka, with whom he had three sons who have all passed.

Before allowing the parties to begin their questioning, the President informed the civil party that at the end of the questioning, he may make a statement of suffering on the harms inflicted upon him that are the direct cause of the crimes allegedly linked to the three accused. The President informed the civil party that if he wished to fulfill this right, he may do so at the end of his testimony.

General Account of Mr. Yathay's Experience in the Democratic Kampuchea

The President, exercising his right to ask questions from the bench, asked Mr. Yathay in a general and open-ended way to describe the period of April 1975 to January 1979. By way of background, the civil party began with his education and career before 1975, stating:

Before the arrival of the Khmer Rouge I was an engineer and civil servant of the Ministry of Public Works. I was employed after leaving school in 1961 and worked until 1975. I graduated from university in 1965, but went to Canada to study abroad as a student in a polytechnic. In 1975 I worked as an engineer.

Mr. Yathay continued his monologue by describing his whereabouts and experiences on April 17, 1975, during the evacuation of Phnom Penh, and in the subsequent years. He explained:

On April 17, [1975], I was in Phnom Penh. We put all our belongings in a car and drove to the center of the city; I stayed with my cousin at his house. But later we were told to leave the city, so we went to Ounalom Pagoda, stayed overnight, and the next day we were asked to move on. We stopped for a few days near the faculty of law and then moved on and stayed in Chheu Khmao in Kandal Province for 3 months. When asked if we wanted to return to our native village, we raised our hands and volunteered. Sometimes we traveled on foot, and sometimes we traveled in my vehicle. We reached a river over which the vehicle could not cross, and then we were taken on an ox cart to Takeo Province and stayed there for three months, until September 1975.

We were asked if we wanted to go to Battambang Province. We thought it was

full of food and hoped that we would have the opportunity for better living conditions, so we volunteered and were transported by ox cart. We stayed in a pagoda on National Road 3 and stayed there for two weeks. There were thousands of travellers there. We were then asked to board trucks to Battambang. We departed but lost our hope from that day because we were packed into the truck. There were 80 to 100 people to one truck. It was the rainy season, so sometimes we were soaked by the rain and dried by the heat of the sun. We went through Phnom Penh and noticed the city was empty apart from soldiers patrolling the streets. After traveling down National Road no. 5 we were not given the opportunity to stop. We had to relieve ourselves whilst the truck was still traveling. When we reached the bridge on Pursat Province, the truck stopped then took a left turn off the road, and we were lead down a barely distinguishable track. There were thousands of people there. We were divided into two groups. Some had to cross Pursat River.

The civil party's chronological testimony at this point began to revolve around Veal Vong and the living conditions he and his family experienced there; he returned to this period numerous times during his testimony. He described:

My group was asked to travel on foot until we reached a forest. We were told that we all had to stay there [in] Veal Vong, a village near the forest [and] Kravanh Mountain. We were distributed rice on a daily basis – one can of rice for every two people. This happened for two days. On the third day we were allocated a 25-meter plot of land in the forest. My parents were also allocated a plot. We stayed in the Veal Vong forest from September to December 1975.

It was the most miserable place that I experienced. I knew the geography of the country very well. I wondered why the Khmer Rouge put us in that place. There was nothing except the rice rations there. We had to clear the forest ourselves. We were from the city; we were not good at building shelters. In that camp one-third [of the people] died. My mother-in-law and younger brother died due to starvation and disease. They died because they were made to work too hard. Rations became one can for six people and then eight people. The poor people supposed to be protected by the Khmer Rouge died quicker than the rich people. We brought a lot of clothes with us, which we could exchange for food or rice. So we could live longer than those with less.

My other relatives were made to work in the youth group. They came secretly at night to share my food, but they were noted and arrested. My brother-in-law, who was a teacher in the previous regime, was in an accident [and] as a result was mentally challenged, and when he talked improperly the Khmer Rouge were not happy about this. Because of his wordings he was taken away by the Khmer Rouge and disappeared forever.

Political Movements before April 1975

As the civil party had come to a natural break in his account, the President thanked him for his extensive response and handed the floor to the Co-Lawyers for the Civil Parties to commence the questioning, with Pich Ang, National Civil Party Lead Co-Lawyer, informing the Court that his colleagues Kim Mengkhy³ and Christine Martineau would provide the substantive questioning of the civil party on behalf of the Civil Parties. Mr. Mengkhy rose to his feet, greeted Mr. Yathay, and stated his intention to go into greater detail about various points in the party's narrative.



Mr. Mengkhy first inquired as to the civil party's role and occupation during the Khmer Rouge period. Mr. Yathay, apparently not grasping the nature of the question, talked about his engineering career before the Khmer Rouge came into power. Seemingly unperturbed, Mr Mengkhy pressed on and asked about the civil party's knowledge of the Khmer Rouge resistance movement prior to 1975, its conflicts with the Lon Nol regime, and its eventual arrival in Phnom Penh. Mr. Yathay responded:

Ordinary citizens were also aware of this movement because of the fighting that was happening. We were not on the front line, but we learnt about this information through radio broadcasts. We did not see this personally because we were at the back. We learnt of the approach of the Khmer Rouge through radio broadcasts and newspapers. We heard about the intensification of the fighting. There were rumours that Lon Nol was not in good health and that he left the country on April 1. We learnt about the trip of Long Boreth to Thailand and the ongoing negotiations with the Khmer Rouge. Our feelings were so mixed. We hoped that peace would be brought to us under the new regime and we would live happily.

Account of the Evacuation of Phnom Penh

Turning his line of questioning to April 17, 1975, and the evacuation of Phnom Penh, Mr. Mengkhy asked the civil party what he learned about the new Khmer Rouge regime. Mr. Yathay replied:

On April 17, we took the truck to the middle of the town and saw a lot of soldiers that were armed. We were not intimidated though. We saw white pieces of cloth hanging from different places in town. From this we knew the fighting was over. As the Khmer Rouge soldiers entered the city, we lined the roads, clapping our hands, congratulating them. They did not crack a smile; nevertheless we clapped [for] them joyfully. Things were calm. I noticed that people were trying to behave themselves, perhaps to show the Khmer Rouge that we were a civilized people. At the time we went to Ounalom Pagoda and met with my uncle Huot Tat and asked questions to him and the other monks like: why did we have to leave the city? The

³ Civil party Pin Yathay is represented as a client by Mr. Mengkhy.

head monk did not have any answers to this but just advised us to call the Red Cross of Cambodia and go to a hotel and seek refuge. Two generals of the former regime were also there. We heard that military personnel and the Prime Minister had to meet at the propaganda department at 4 p.m. The two generals went to attend the meeting.

At this point Mr. Mengkhy interrupted, urging the civil party to be brief and directing a pointed question about the fate of the two generals. Taking up his story where he left off, the civil party explained that the generals returned from the meeting with news that failed to shed further light on the possible fate that awaited him. Mr. Yathay recounted that one general told them that the evacuation was not discussed at this meeting. He continued, “The general sat next to a senior person of the Khmer Rouge that did not wear an insignia. Prime Minister Long Boreth was present at this meeting. The topic was on the rebuilding of the country. Any rumors of an evacuation were denounced as a tactic of American Imperialists to divide us,” and concluded, “After this I do not know [about the fate of the generals].”

The Journey to Chheu Khmao

Turning to the period Mr. Yathay spent at Chheu Khmao and in particular the journey following the evacuation, Mr. Mengkhy asked how long it took to travel from Phnom Penh to Chheu Khmao and what the condition of the people were en route. The civil party replied:

On April 18, at Ounalom Pagoda, we awoke at dawn. The Khmer Rouge told us we had to leave as soon as possible because Angkar needed to clean up the city, and it was important for our safety; the U.S. may drop bombs. We were asked to leave the city for three days only. Questions arose in my mind. I was not convinced that there would be bombs dropped by Americans. Also why would bombs only be dropped for three days? But the answers did not matter. We had to leave the city. We traveled on Monivong Boulevard heading south. We could only move slowly because the street was so crowded. We were surrounded by all kinds of people, including patients on hospital beds. We arrived at the law faculty and rested there and had a meal.

Regarding the announcement by the Khmer Rouge for everyone to leave the city, Mr. Yathay elaborated on his understanding of the events, stating, “We did not have the idea of asking them about this because our focus was on the fate of our family.” When asked about the fate of the monks when he left the pagoda, the civil party responded, “They were asked to leave the pagoda. As far as I knew everyone was asked to leave, even the monks. There were some monks that decided not to go, but I did not know what happened to them after I left.”

In an attempt to bring the answers back to the journey to Chheu Khmao, Mr. Mengkhy pushed the party to clarify the length of the journey. Mr. Yathay replied:

We were at the law faculty for three days and on the fourth day we continued our journey southwards on Monivong. Monivong Bridge Road was closed so we took the road along the Bassac River leading to Chheu Khmao. We continued our journey, and at Ka Thom we were asked for documentation. I showed them my ID

card and other documents including my car papers. They placed the documents on the side of the road and asked us to continue our journey. We were asked about our family and occupation. We were not afraid and told them our names, ages, and occupations. I said I was an engineer, and my younger brother said he was a teacher. We were told to hand over foreign currency, “surrendering it to Angkar.” After the arrival in Ka Thom, Angkar requested the motorbike belonging to my younger sister. We were left with one bicycle. In Ka Thom we took a motorboat to Chheu Khmao.

Seemingly frustrated at the irrelevant details that were being elicited by the questioning, President Nonn interjected to instruct the counsel to direct concise question in order to extract brief responses rather than detailed ones.

Mr. Mengkhy obliging asked the civil party to describe the “miserable situations” of other people during the evacuation. Mr. Yathay replied:

At the time everyone was miserable. We were in the same boat. We [Mr. Yathay and his family] were fortunate as we had a car. For other people they had sick family members. Angkar did not care about the wellbeing of us, to assist us with any medicine. The situation was rather difficult, and of course everyone minded their own business. At that time currency was still used, but away from Phnom Penh, Riel was not accepted. I saw two women hang themselves in separate locations. Life at the time was miserable, particularly those separated from family members. Some children separated from parents. So we were fortunate because we stayed together.

Journey to Battambang Province

Mr. Mengkhy turned to Mr. Yathay’s decision to leave the provinces for Battambang, probing the party on his reasons for the decision. Mr. Yathay explained, “We volunteered to go. Not everyone wanted to go. We thought Battambang was abundant with food, and it was close to the Thai border, and we knew that Vietnam was under the control of Communists, so we could not flee to Vietnam. So if the situation got worse and we needed to flee, the Thai border was a better option.”

Asked about the transportation provided to Battambang Province, Mr. Yathay described, “There were many people, 20-30 trucks. Each truck packed with 80 to 100 people, so as a rough estimation 2000 to 3000 people, from various villages. We were all from the Southwest zone. Everyone was a ‘new person’; they did not evacuate the base people. It was easy to identify by the clothing they wore. City people dressed in colorful clothing.”

Noting that the civil party had noted that Phnom Penh was deserted when he travelled through it on the way to Battambang, Mr. Mengkhy urged his client to go into more detail about his path through Phnom Penh on that occasion and what he observed. Mr. Yathay, obliging, said:

We travelled across National Road 3, then up National Road No. 4 across Pochentong Airport. We saw a red flag at Pochentong Airport, and Pochentong

Market was quiet; the surrounding houses were empty. We did not see any dogs or cats and we saw some Khmer Rouge people dressed in black. When we reached the Tuol Kouk traffic junction, there was no traffic at all on the road. It was empty. Turning left and heading to Tuol Kouk, we could not see anyone. We came out near the French Embassy travelling down by the river. Some factories were operational with base people dressed in black working there.

Daily Living Conditions and Experience at Kravanh Mountain

Mr Mengkhy prompted the civil party to elaborate on his experience at Kravanh Mountain, at which point Mr. Yathay, finally given the opportunity, launched into the specific details of his time there, stating:

There was a big jungle at the base of Kravanh Mountain. I built a shelter of tree leaves and tree trunks. I stayed with my children, wife, and younger cousin who assisted me in building the shelter. We got wet when it rained. We cleared the land for farming everyday, cutting trees and digging up tree trunks. We were allowed to stop one day in every 10 to find food. The Khmer Rouge families had rice with them, so we swapped our belongings for rice with them. Thousands of new people passed by my camp.

The life there was the most miserable life I've experienced. I could never imagine we would survive in the forest. There were a lot of sick people, and some people became poisoned by the forest food. There was no medicine. There was one can of rice for two people, but later only one can to six. I was fortunate that we had some belongings to trade for food, that is why many people died during that period. The more people that died the Khmer Rouge seemed to be satisfied with that because the food rations would work out better. If 4,000 people died, it would leave 500 people to have the same ration of rice. The Khmer Rouge were corrupt; they tried to get the rations for themselves. People without belongings or without the wherewithal to fish and scrounge for food died.



Cottages built during the Democratic Kampuchea period. (Source: Documentation Center of Cambodia)

As Counsel Mengkhy had finished his questions and as the scheduled time for the morning break was near, Civil Party Co-Lawyer Christine Martineau tentatively rose to her feet and asked the President whether it would be appropriate to start questioning at this juncture. Noting that there was insufficient time, President Nonn adjourned proceedings for a short break.

Work and Structure at Chheu Khmao

Upon resumption of the morning session, Ms. Martineau took up where her colleague had left off, questioning the civil party on his experience at Chheu Khmao. After giving a brief summary description of Mr. Yathay's activities up until he reached the village that would become his home for the next three months, Ms. Martineau asked the civil party who the leaders of the village were, to which Mr. Yathay responded simply, "The Khmer Rouge cadre."

Ms. Martineau then asked the civil party about the journey after the deportation and in particular the nature of the people who had left Phnom Penh. The civil party replied, "After we left Phnom Penh, the first village in the liberated zone was Prey Toat. The base people were living there dressed all in black. All other villages that we came across on our 10-day journey were empty.

The counsel queried, "What was the objective of your deportation to that village? Did they explain to you? How was the integration of the new people organized by the Khmer Rouge?" After a number of failures of the French translation into English, Mr. Yathay responded:

Those [base] people who lived in Chheu Khmao had their own houses. The new people were greeted and given a decent meal and asked to stay overnight at the pagoda. The next day we were called for a meeting. They told us that we did not receive the education yet, saying, "You used to work in the old regime. Angkar does not mind about that, but please focus on your education and work, and Angkar will take care of you." In the first political meeting they explained to us that we were not educated. We had to refashion ourselves in conformity with the revolution.

Ms. Martineau probed further into the work needed to refashion themselves and how the work was organized. The civil party stated:

On the second day we were asked to live with the base people in their houses. We were asked to live in a monk's residence. We were restricted in freedom and did not want to do anything wrong. We did not mix with the base people. The cadre monitored the progress of our work.

Turning to the offer of the Khmer Rouge to return Mr. Yathay and his family to their native village, Ms. Martineau reminded the civil party of the unfulfilled promise of returning to Phnom Penh three days after the evacuation and asked the civil party, "Why weren't you suspicious?" Mr. Yathay explained, "The expectation to return to Phnom Penh was over. We were in Chheu Khmao for 10 days. We took a risk for better living conditions. We had 80 percent expectation that we would be returned from our native village."

The Move to Takeo Province

Describing Mr. Yathay's time in Chheu Khmao as a "fairly easy phase," Ms. Martineau surmised that the civil party ended up in a "difficult predicament" in Takeo Province and asked, "Did anyone explain to you why you went there, and was there any difference in the organization? Did you understand the deception in the minds of those who were looking after you?" Mr. Yathay described how "old people" did not allow the "new people" to live with them and that people were grouped according to their professions in the old regime, such as civil servants living with civil servants. He told the counsel that the work was similar in nature, but the type of work assigned was different.



Asked about the children and the sick that were resident in the village, and particularly whether there was any form of education or healthcare, the civil party responded, "There was no education. My eldest son was assigned to work in the children's group. There was no medical assistance or hospital. The only thing they did was rice rations, work, and political education." He explained that this education would involve "a livelihood meeting with senior people every three to four days – a self-criticism meeting, in which the new society was mapped out and the tasks we had to engage ourselves in in pursuit of this."

Building upon this mention of senior people, Ms. Martineau probed whether the civil party had contact with any of these senior people at that point. After clarifying that the counsel was referring to Khmer Rouge senior people, the civil party said that he saw them from afar.

From Takeo to Pursat

Moving on, Ms. Martineau turned to how the civil party was offered the opportunity to go to Battambang, which, given the living conditions in Takeo province must have appeared, she suggested, like "El dorado ... Paradise." When asked to describe the journey from Takeo to the Pursat region, Mr. Yathay explained, "We were packed into trucks. Two people fainted and subsequently died. It was difficult. At that time our expectation decreased. September 1975 was a critical period. By then we realized that Angkar had a pre-conceived plan for the new people."

Referring to a book written by the civil party, Ms. Martineau mentioned Mr. Yathay's description of Veal Vong as "the jungle of death," highlighting the harsh working conditions implemented there. When asked to elaborate on the organization of labor in the forest, Mr. Yathay explained:

[It was] similar to the previous location. However work was hard, as we had to clear building the dam at Smor Lieu. We did not have the tools or the expertise. We had to try at our best to make a temporary shelter. The work was harder and we [were] monitored by soldiers with guns. The soldiers did not do the work with us but stood guard, watching us work. The rice rations were the same.

Asked about discipline and possible disappearances at Veal Vong, the civil party highlighted two events in particular. The first event related to a strike that occurred in Veal Vong when the rice ration was not handed out. "One day Angkar did not distribute the rice ration," he explained. "There was a strike; 150 to 200 people joined the strike. In that camp there was 5000 people; 200 was a small amount. They asked about the rice ration, the first time that they dare ask the Khmer Rouge about this. The village chief came out and said, 'Comrades you have been educated for months and still you question Angkar.'" He stated, "The rice arrived a few days later, but four to five people who led the protest, who were teachers, disappeared one or two weeks later. We asked the village chief who said he knew nothing about them."

The second event related to a rouse by the Khmer Rouge to identify members of the former regime within the camp. Mr. Yathay recounted:

During the meeting, the village chief said that Prince Sihanouk would return soon and form a new government for the rebuilding of the country and would require medics, engineers, postgraduate studies, and former senior government officers. He asked those who wanted to return to Phnom Penh and be part of this to raise their hands. Forty people raised their hand and volunteered. They were [purportedly] taken to Phnom Penh, but families still awaited their news. There was a rumor that they were smashed by Angkar.

The Move from Veal Vong and the Deception of the Khmer Rouge

Asked about the other locations within Pursat Province in which he was sent, Mr. Yathay described, "At the end of December the Khmer Rouge came from another location in the Northwest zone and asked if anyone wanted to move. One thousand people raised their hands. Me and my family members raised our hand. The new village was called Poum Prampi."

Turning to the fate of his son who was injured and unable to work in the forest, Ms. Martineau asked the civil party whether his son was obliged to work in the third evacuation stage, at which point Mr. Yathay movingly described the death of his son due to exhaustion:

He was 10 years old. Every child that was above nine years had to work. At the time he was so hungry. He had to hunt for food, but because he had a leg injury I asked to keep him at home. The Khmer Rouge learned that we were keeping at home and we were reprimanded. They said my son belonged to Angkar, not us. If he could not walk to work, how could he walk to hiding? They forced him to go to work the next day, and the following days we were told he collapsed and died at work.

Ms. Martineau asked the civil party, after the Khmer Rouge had deceived him throughout his journey, what did he understand the objectives regarding the deportation of the new people to be. Mr. Yathay eloquently replied:

I have analyzed the objective of the Khmer Rouge. I did this because I needed to live with some hope. As an engineer I was taught critical thinking. No country in

the world would reject every educated person in the country to help rebuild it. But my hope passed. I had some ample time to rethink. During the first phase my whole family survived. However during the first phase we could ask what Angkar did to us: deprived of services, no judicial systems, no school. This was part of the objective to rid [the country] of the former regime, the feudalist and imperialist regime. ...

Physically we survived; mentally we were dead. No oppressors and no oppressed people. They promoted the weak, but in reality the weak died because they were sent to the place where living conditions were difficult.

As the questioning for the Civil Parties had concluded, the President handed the floor promptly to the Co-Prosecutors to start and finish their questioning in the 20 minutes remaining before lunch.



Extracts from Mr. Yathay's Book Stay Alive, My Son

Senior Co-Prosecutor Keith Raynor took to the floor and in a somewhat stern manner pointed out the limited amount of time for his questions, the superfluously detailed elaboration of the civil party's previous answers, and the need for brevity in the current line of questioning, asking, "Can we proceed in that fashion, yes or no?" The civil party responded in the affirmative, and the Prosecutor set off on a detailed look at the second book authored by Mr. Yathay, entitled *Stay Alive, My Son*.⁴

Proceeding with a yes or no questioning format, Mr. Raynor read out a number of extracts from the book, asking at the end of each whether the civil party agreed with what was written. The civil party indeed agreed with every extract that was read out, listed in the correct order as follows:

1. Regarding the evacuation of Phnom Penh⁵ - "No one had escaped the round up. One young man was carrying his sick father on his back. The lame limped on crutches. Twice I saw patients in wheeled hospital beds being pushed by relatives."
2. Regarding the evacuation of Phnom Penh⁶ - "We had covered no more than half a mile when I heard a gun shot. Up the street I saw a body of a man of 18; a soldier stood 15 yards from him, smoke still wafting from his AK-47. We had heard that the boy had forgotten something in his house and had turned back in defiance of the soldier's order, with the soldier saying 'This is what happens to recalcitrant.'"

⁴ Document number D22/3649B.

⁵ The relevant ERN's are 00587559 (in Khmer), 00588135 (in English), and 00587830 (in French).

⁶ The relevant ERN's are 00587560 (in Khmer), 00588136-7 (in English), and 005878301-2 (in French).

3. Regarding the evacuation of Phnom Penh⁷ - “The further we travelled from the capital, the more exhaustion claimed the sick, the lame, and the old. We were no longer shocked by the sight of bodies on the highway.”
4. Regarding Chheu Khmao⁸ - “The few Khmer Rouge officers watched over all our activities. A chairman and a vice-chairman overlooked education, discipline, and health. The Khmer Rouge were informed of all our doings by an official informer.”
5. Regarding deaths at Chheu Khmao⁹ - “There were of course numerous deaths. The dead were buried with the briefest of ceremonies. They no longer had the help of monks to bury the dead.”
6. Regarding Chheu Khmao to Takeo Province in July 1975¹⁰ - “I was introduced to the Khmer Rouge officer Mit Pich, a highly placed man who told me about the Khmer Rouge policy of evacuation, ‘Undoubtedly Vietnam is not totally revolutionary as they have not evacuated their cities, unlike us. We know that it is dangerous to leave the cities intact. They are the center of the opposition and contain little groups. In cities it is difficult to track down the seeds of counter-revolution. It is truly impossible to control a city. We evacuate the city to destroy any resistance. To expel the city people meant to eliminate the germs of opposition.’”

After the reading of this extract, International Counsel for Nuon Chea Victor Koppe interjected to clarify for the Court’s benefit that due to the nature of the questions it was presumed that the yes or no answers the civil party was giving were to clarify that he indeed wrote this in the book and not whether these events actually happened. Mr. Raynor nodded and continued reading the extracts in the same manner.

7. Regarding the third deportation¹¹ - “In saying we wanted to go Chheu Khmao we had been tricked into identifying ourselves of having individualist leanings. This third deportation was another step in our destruction as new people.”
8. Regarding Veal Vong¹² - “The pattern was much the same as before, but for the first time we were supervised by armed guards during work. Nor was the great exodus over yet, for several weeks after our arrival thousands more city people, all as distressed as we had been, filed past our hut plunging deeper into the forest.”
9. Regarding disposing of the dead at Veal Vong¹³ - “It was not long before the dying started. Even in the first week I saw several people carrying corpses down the trail. It was hardly surprising given the state of health. The dead were buried in the forest at the edge of our fields.”

⁷ The relevant ERN’s are 00587568 (in Khmer), 00588146 (in English), and 005878341 (in French).

⁸ The relevant ERN’s are 00587584 (in Khmer), 00588167 (in English), and 00587859-60 (in French).

⁹ The relevant ERN’s are 00588167-8 (in Khmer), 00587585 (in English), and 00587860 (in French).

¹⁰ The relevant ERN’s are 00588188 (in Khmer), 00587601 (in English), and 00587879 (in French).

¹¹ The relevant ERN’s are 00588199 (in Khmer), 00587610 (in English), and 00587891 (in French).

¹² The relevant ERN’s are 00588188 (in Khmer), 00587601 (in English), and 00587889-90 (in French).

¹³ The relevant ERN’s are 00588188 (in Khmer), 00587601 (in English), and 00587879 (in French).

10. Regarding disposing of the dead at Veal Vong¹⁴ - “Death came with increasing frequency, the bodies were buried around the edge of the clearings, by gravediggers appointed by the village chief. Gravediggers were necessary because the families were too weak to bury the bodies. Grave digging wasn’t a bad job because you would get a break from the labor. Time was measured by number of deaths per day, sometimes as many as 10 deaths per day.”
11. Regarding the disappearances at Veal Vong¹⁵ - “Then I began to notice the disappearances. Ming, a Vietnamese neighbor, asked me where her husband was. Then I noticed a number of former republican officers who had tried to conceal their identity. A few times a worried wife had asked me where her husband was.”
12. Regarding the deaths at Veal Vong¹⁶ - “I arrived in September 1975 and left at the end of December 1975. By the end of November, one-third of the population of Veal Vong had died.”
13. Regarding conditions at the Pursat River in January 1976¹⁷ - “Diarrhea, dysentery, fever, malaria, and edema were all common. Day by day conditions worsened. The rice soup became watery. We ate communally, no longer allowed to have rice at home.”

Mr. Raynor then spent a few minutes locating a document with a list of the civil party’s relatives, with a view to confirming whether they had died or disappeared during the period of the Khmer Rouge regime. Eventually retrieving the document¹⁸ from his bundle, he began to read a list of names, as set out below, and asked for confirmation of their death or disappearance:

1. The uncle of the civil party, Huot Tat;
2. The son of the civil party, Pin Sodard;
3. The son of the civil party, Pin Narak;
4. The son of the civil party, Pin Porin;
5. The wife of Pin Porin, Pin Kimmony;
6. The father of the civil party, Lean Chhao;
7. The mother of the civil party, Lean Lorn;
8. The younger brother of the civil party, Lean Theng;
9. The wife of Lean Theng, Larb;
10. The children of Lean Theng, Visoth and Mub;
11. The younger sister of the civil party, Lean Kheng;
12. The husband of Lean Kheng, Sarun;
13. The daughter of Lean Kheng, Srey Peahouk;
14. The younger sister of the civil party, Lean Vuk;
15. The cousin of the civil party, Sin.

¹⁴ The relevant ERN’s are 00588226-27 (in Khmer), (in English), and 00587904 (in French).

¹⁵ The relevant ERN’s are 00588188 (in Khmer), 00587601 (in English), and 00587879 (in French).

¹⁶ The relevant ERN’s are 00588246 (in Khmer), 00587638 (in English), and 00587922 (in French).

¹⁷ The relevant ERN’s are 00588188 (in Khmer), 00587601 (in English), and 00587879 (in French).

¹⁸ No document number given.

The civil party confirmed this list of names, adding, “All of them either died or disappeared.”

This list of deceased relatives brought an end to the prosecutor’s questions. Apologizing for straying slightly over the time allocated, Mr. Raynor ceded the floor and handed back to the president, who adjourned the hearing for the lunch break.

Questions from the Bench

The President reconvened the third session of the day by asking the bench if they had any questions to put to the civil party. Judge Jean-Marc Lavergne took the opportunity to put a short number of follow-up questions, clarifying several points raised in Mr. Yathay’s earlier testimony.

Starting with events relating to the Law Faculty in which the civil party spent three days, the Judge asked about the general nature of circumstances there and whether the civil party observed any arrests during that time. Mr. Yathay described, “I arrived at 1 p.m. in the afternoon of 18 April 18. I stayed in the first floor of that building for three days. During that period, I met several people that I knew. I did not witness any arrests there.” He continued, “However I did meet my former boss, Mr. Sathapana Ngin, the former Minister of Defense and Public Works, and a general of the former Lon Nol regime; I talked with these people. They were both arrested by the Khmer Rouge, but I was only told this; I did not observe the arrests myself.”



Picking up on the mention of the general, Judge Lavergne asked, “Did you talk to this general? Was he at the meeting on April 17 at the gathering of senior Lon Nol ministers?” Mr. Yathay replied that he did not talk to the general about the meeting on April 17, but he went to a meeting the day earlier, and senior people that went to the meeting on April 17 were arrested. Judge Lavergne asked whether the law faculty mentioned is still the same law faculty that stands in Phnom Penh today, to which the civil party replied that it was, located in Chamkarmon district in Phnom Penh.

Turning to his encounters with the senior leaders of the Khmer Rouge, Judge Lavergne enquired as to whether the civil party had any contact or saw any of the top cadre of the Khmer Rouge at the time of the evacuation, prompting Mr. Yathay to recall the time he spotted a high-ranking Khmer Rouge official through a car window. He recounted:

Before entering the law faculty there was a large convoy of cars coming from the opposite direction of the road. There were three cars in the convoy and a black Mercedes Benz. Inside the car there was a man with glasses, who looked at us with a smile on his face. It was not clear from afar as I looked at him through the

car window. It was my conclusion that it was Son Sen sitting in the car as there were not many people wearing glasses at the time.

The judge asked the civil party if he remembered someone by the name of Youk Levine, to which Mr. Yathay replied that he recalled the name and described meeting her at Touk Khmao village, remembering that she had two children.

Judge Lavergne switched his line of questioning to the civil party's efforts in publicizing his account of the Khmer Rouge period after he had fled. "You managed to leave Cambodia in 1977," the judge noted. "You took part in a range of activities to bring attention to the situation in Cambodia. Did those activities outside the country have any effect on the leaders of DK inside?" Mr. Yathay replied:

Immediately after my departure, the Thai authorities questioned me. Private investigators from Thailand and Western journalists questioned me. They detained me for a week because I had no passport. The imprisonment there is much better than the living conditions in Khmer Rouge. I was interviewed by many journalists. I would not sit on my hands and be quiet. So I told my story to many journalists, including those from *Le Monde* newspaper. On October 13, 1977, France accepted my asylum request, and since then I have traveled the world, and at each place I would hold a press conference describing the suffering inflicted. I wrote a book in French, 420 pages, and then six to seven years later I wrote another one. The second was called *Stay Alive, My Son*.

Having finished his questions, Judge Lavergne thanked the civil party for his cooperation. President Nonn then handed the floor to the Nuon Chea Defense Team to put questions to the civil party.

National Co-Lawyer for Nuon Chea Son Arun got to his feet and stated that he has no questions for the civil party, so the president handed over to the Ieng Sary Defense Team and the international counsel, Michael Karnavas, who stated that he had several questions.

Questions on the Civil Party's Views of the Sihanouk Regime

Mr. Karnavas began by asking about the research that went into the civil party's two books published in 1987. Mr. Yathay responded that for the second book he did not do any further research but rather based its contents on the first book, explaining that the book was designed to be a simplification of the first book and was meant for a wider, general audience. Picking up on this, Mr. Karnavas asked, "So for the second book you did not read any material? You did not rely on anything other than your memory?" The civil party conceded that was indeed the case. Noting that the second book was updated in 2000, Mr. Karnavas elicited from the civil party that the only changes made were to the introduction to the 1987 version of the book.

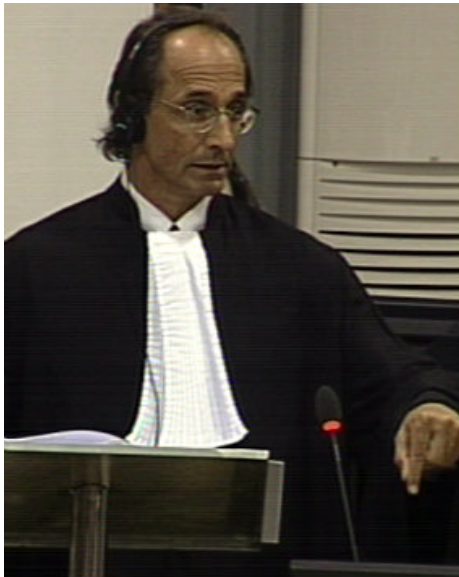
Turning to the civil party's work before the Khmer Rouge regime, Mr. Karnavas inquired as to the year Mr. Yathay became Director of the Department of New Works in the Ministry of Public Works. Seemingly unsure, Mr. Yathay responded that it was most likely in 1972 or 1973 during the Lon Nol administration.

Referring to the civil party's earlier comment that General Sathapana Ngin was his boss and both Minister for Public Works and National Defense, Mr. Karnavas was curious whether the general had held those positions at the same time. The civil party replied that he was only Defense Minister in 1975 and further clarified that he himself did not work for the Ministry of National Defense at any point.

Dipping into the civil party's book *Stay Alive, My Son*,¹⁹ Mr. Karnavas noted that the civil party had written, "Sihanouk was the self-proclaimed father of the nation." The counsel asked, "Why [did you write] self-proclaimed?"

Before the civil party was given a chance to explain his comments, Mr. Ang objected to the question's relevance. Shaking his head and smiling toward Mr. Ang, Mr. Karnavas backed his line of questioning, calling anything in the book "fair game" and also stating that he was probing the nature of the recruitment by the Khmer Rouge and whether Prince Sihanouk had urged people to join them.

After a short deliberation among the bench, the president allowed Mr. Karnavas to put the question again, which he duly did before Counsel Pich Ang got to his feet once more to explain further that his objection was about the prompting of the civil party to state his own personal opinions. With a frustrated but respectful tone, Mr. Karnavas asserted, "The gentleman has been



giving opinions all day long: to the prosecution, civil parties and the bench. Why can't the Defense ask for his opinion?" After another brief deliberation, the President, seemingly flipping his earlier position, stated that Mr. Karnavas' question was not relevant and that he should proceed to his next.

Mr. Karnavas duly obliged, turning to tales of nepotism during the Sihanouk regime as recounted in the civil party's book. The counsel read, "Power came with corruption. The more power people had the more corrupt they were. Before the Khmer Rouge took control, the state departments did not have the institutional power; they were ran by people, not institutions." Mr. Yathay confirmed that this was his general observation while working within that regime.

Agreement between Prince Sihanouk and the North Vietnamese

Mr. Karnavas dove into more detail about the civil party's knowledge of the corruption occurring during the Prince Sihanouk regime, particularly touching upon a secret agreement between Prince Sihanouk and North Vietnam. Reading from Mr. Yathay's book, Mr. Karnavas repeated the assertion of the civil party that "the Khmer Rouge received a steady stream of support from disaffected Cambodians." The counsel elicited from the civil party that he knew of the agreement

¹⁹ The relevant ERN's are 00588112 (in Khmer), 00587540 (in English), and 00587808 (in French).

between Sihanouk and the Vietnamese and the armed shipments going to the North Vietnamese but only after Sihanouk had been deposed in March 1970.

Delving deeper on this point, Mr. Karnavas asked, “When the Lon Nol Government told everyone what was happening to the shipments, did they provide specifics?” Mr. Vathay replied in the affirmative and elaborated:

I do not have a full recollection of this, but I remember there was a demonstration outside the embassy of North Vietnam, involving students. We learned at that time that North Vietnam took part of the Cambodian territory and used it as a place to transport ammunition and weapons, and Cambodians had to move from their locations because of this. There was also ill will with South Vietnam.

Attempting to gain some clarity on the matter, Mr. Karnavas asked the civil party whether, through Sihanouk, part of Cambodia was lost to the Vietnamese. The civil party stated he was not sure whether this was the case or whether the occupation was temporary.

Turning to the civil party’s statement that a “steady stream of support of disaffected Cambodians” was bolstering the ranks of the Khmer Rouge, Mr. Karnavas asked when Mr. Yathay learned of this. Mr. Yathay seemed to have trouble with the question, which prompted the counsel to repeat it in several different forms. Finally, the civil party stated that he had gained a general idea at the time of the Lon Nol regime.

Questioning about the Career of Mr. Yathay

Turning to another page in the book,²⁰ Mr. Karnavas read a passage in which Mr. Yathay had claimed he received a certain amount of protection from his job as the Director of New Works at the Ministry of Public Works. When asked to clarify this statement, the civil party replied that the protection was from the decent income he received. When asked what this was, Mr. Yathay stated that he could not remember how much he was paid, but he got paid in riel.

Unprompted, the civil party then told the Court how he supplemented his salary from the government with private work. “We created an engineering enterprise,” he explained. “I gathered other engineers to come and earn extra money. At 3 or 4 p.m. we would finish state work and do work for the government privately.”

Continuing on Civil Party’s Views of Prince Sihanouk

Returning to the issue of the civil party’s views on Cambodia before March 1970, Mr. Karnavas again read from Mr. Yathay’s book: “In 1970, to great acclaim, Sihanouk was overthrown, and Lon Nol came in and promised to end corruption.” The counsel asked what Mr. Yathay meant by “great acclaim.”

The civil party launched into a historical narrative of Sihanouk’s movements, and after a few moments, Mr. Karnavas interrupted him curtly and restated the thrust of his question. Mr. Yathay replied simply, “People were happy about the event, in Phnom Penh in particular, that the former

²⁰ The relevant ERN’s are (in Khmer), 00587541 (in English), and 00587808-09 (in French).

Prince was toppled.” Mr. Karnavas asked why people were happy, to which the civil party responded, “As I could see Cambodian people were not happy with the North Vietnamese invasion. Bombs were dropped on villages. People were scared and unhappy about this. Due to the rampant corruption and the invasion, people were happy that the Prince was toppled.” Mr. Karnavas asked how the corruption affected people outside of Phnom Penh, but the civil party could not summon a satisfactory answer.

Turning to Mr. Yathay’s opinion of the Lon Nol government, Mr. Karnavas read verbatim from the book, “At first we had high hopes of Lon Nol, but as time went past, he was not up to the task he had set himself. The army sunk into corruption and complacency, failing to deal with the North Vietnamese and the Khmer Rouge, even with the help of the U.S. army.” Mr. Karnavas asked, “Were they more corrupt than the Prince Sihanouk regime?” The civil party replied that it was hard to say.

Asked about the general quality of life during the Lon Nol regime the civil party explained, “There was no peace, war intensified, so it is my belief that people who lived outside of the city did not have a normal lifestyle.” He continued, “A lot of people took refuge in the city. At that time rice was brought in by sea or air. However when war came close to Phnom Penh, food became scarce.”

Mr. Karnavas refocused on to the specific movements of the civil party on April 17, 1975, asking, “On the entire day of 17th you were in Phnom Penh. Were you able to move around the city?” The civil party reiterated his earlier testimony that he went to the Ounalon Pagoda and added curtly, “If you listened to my statement this morning, you don’t have to ask me these questions.” Merely explaining that the point he was trying to establish was whether the civil party went to the pagoda by car, the counsel elicited that Mr. Yathay did indeed travel by car and that it was his own vehicle.

Mr. Karnavas then asked questions relating to how forced and monitored the civil party’s movements were while he was in Phnom Penh, inquiring, “Before going into the faculty of law, you went to your mother-in-law’s house to get some belongings and head to the faculty of law. You drove up to the house and stopped the car and then went into the house. How long did you spend in the house?” Initially avoiding the question by quipping, “I cannot recall the time exactly; it has been 38 years,” the civil party eventually conceded that it was “maybe half an hour.” Mr. Karnavas asked if anyone rushed the civil party or his family out of the house, to which Mr. Yathay said, “No, we rushed ourselves because the neighbors had already left.”

Mr. Karnavas next established that the civil party went into the law faculty of his own volition after he noticed it was open on the way south, with no one forcing the civil party or his family to stop there. Turning to another page in the book²¹ describing events on April 19-20, the counsel quoted, “I had nothing to do but to wander around and exchange gossip.” The civil party confirmed that this was correct.

At what seemed like an inopportune time for Mr. Karnavas, President Nonn interrupted the flow of questions to allow the Chamber to have the afternoon break.

²¹ The relevant ERN’s are (in Khmer), 0058139-140 (in English), and 00587834-35 (in French).

The U.S. support of the Khmer Rouge

After the president pronounced the court back in session, he enquired as to the time remaining in Mr. Karnavas' questioning and the time allocated to other Defense teams. Stating he was not sure about the Khieu Samphan Team, Mr. Karnavas notified the President that he had 15 minutes remaining but could be briefer, if necessary, to allow the time for the Civil Party to put forward his statement of suffering.

Turning back to Mr. Yathay's book, Mr. Karnavas referred to a section in which the civil party recounted his former boss, General Sathapana Ngin, telling him that Phnom Penh had fallen because the U.S. government had been providing secret information to the Khmer Rouge, in particular, the codes for communications between Lon Nol's officials. The counsel read:

[The general told me that] each time we tried to contact our troops we heard a Khmer Rouge officer. The U.S. troops had handed over our codes to the other side. It all began to make a weird sort of sense. The Americans were faced with disaster anyway, but they knew of the two factions of Khmer Rouge: the Chinese Radicalists and the moderate Sihanouk sympathizers, wooed by the Russians. From the American point of view, it would surely be better for the new government to be pro-Chinese rather than pro-Russian.

Mr. Yathay recalled writing the passage and reconfirmed his view on this. Asked whether he believed the general on this point, the civil party stated, "Yes, I don't know whether he lied to me, but I believed him."

Mr. Karnavas asked the civil party from what information did this belief stem, prompting a defensive response in which the civil party asserted:

I am telling the truth to the Chamber. When it comes to the Khmer Rouge tendency, there are two folds: pro-Sihanouk and pro-Khmer Rouge. When I first met the Khmer Rouge, those people were wearing the khaki uniform. The power was balanced between the two forces. They envisaged there would be a coalition government in which the policy of FUNK could be used as the basis for these efforts. I was convinced that this policy was not in favor of communism. Long Boreth stayed in the country because he was convinced that peace was coming.

Slightly frustrated at the civil party's seemingly evasive answer, Mr. Karnavas reiterated his question. The civil party eventually answered, "I met with him [the general], and when he contacted people at the battlefield, the response he got was from the Khmer Rouge, so he believed the Americans were behind this." He continued, "I also received some information from the Russian Embassy who had taken refuge at the French Embassy, so I did not base my arguments solely on the information from this general alone, but various sources."

After a number of somewhat repetitive questions and responses on the same substance, the president interrupted Mr. Karnavas, stated that he had taken up ample time with his questioning,

and reminded the counsel that he should allow time for the Khieu Samphan team to offer its questions as well as for the civil party to give his statement of suffering.

Mr. Karnavas expressed his disappointment that the time he had been allocated was being cut short, noting that the civil party had ample time to give his statement. He implored the Chamber to allow him to enter into the record a passage from the civil party's book about the lack of uniformity of life in different parts of the country during the Khmer Rouge. The president allowed him to do so, and Mr. Karnavas began to read:²²

We stayed at Prek Tatong, resting. The children were carefree, playing in and around the pagoda. Life here was easier than Chheu Khmao. The locals were engaged in building a dam. The timetable was more flexible with work starting at 9 and ending at 3, nowhere near the same dedication of work. All the Khmer Rouge leaders here are from the area, knowing the locals personally. This confirmed my general impression that there was no established rule for the whole country. Discipline varied according to the village chief. Life must still be acceptable in many areas despite the evacuations and deaths.

Stating that he only had one more question, Mr. Karnavas was tacitly allowed to ask the civil party whether, based on this passage, he in agreement that "life was not uniform but varied from place to place." The civil party responded, "I stand by what I wrote," but then clarified, "That was what happened during the initial three months. That was when we under the organization of Angkar. If you read the entire book, for the first evacuation, there was no capitalist regime. Life became less difficult; however, by then, the Khmer Rouge aim had already been achieved."

Khieu Samphan's Team Revisits Policy and Veal Vong



Finally taking the floor for the Khieu Samphan Defense Team, National Counsel Kong Sam Onn stated his intention to add a few brief questions. His first question related to a document²³ in which Mr. Vathay's father was stated to be Pin Thuy and his mother Hay Thang. The counsel asked for an explanation as to why the names given were different from the names in the testimony this morning, to which the civil party responded that these were the names of his distant cousins and godparents who adopted him while he was studying in Phnom Penh.

Mr. Sam Onn asked what the civil party knew about the policy changes and the political situation after April 17, 1975, to which Mr. Yathay replied, "Many events occurred rapidly and it is difficult to describe in chronology." Clarifying the thrust of his question, the counsel asked, "Did you know what the regime would become?" The civil party explained, "Based on my

²² The relevant ERN's are 00588188 (in Khmer), 00587601 (in English), and 00587879 (in French).

²³ This has the document number D22/3649, and the relevant ERNs are 00568935 (in Khmer), 00793877 (in English), and 00568928 (in French).

understanding I did not realize how bad it would become. I never thought that the Khmer Rouge would tamper us until we lost our lives. Surely they needed educated people. I still held to that expectation.” He continued, “Market closure was a pre-conceived plan by Angkar. One plan was to completely clear the remnants of the old regime, the markets and transactions that signified this.”

Mr. Sam Onn asked when the civil party bartered his belongings for food and whether he did so with a particular group of people. Mr. Vathay described how before Veal Vong, he would barter with base people, and during Veal Vong he would also barter with Khmer Rouge families, but after communal eating was instituted, no one was allowed to keep private stocks of food, so there was no need for bartering any more. He explained, “We could not say that the Khmer Rouge retained the rice ration. They said that only 500 people died. I saw the Khmer Rouge families who bartered for things like jewelry with the rice; they kept the rice for those people that die. The more people that die the more rice they would have.”

“Angkar Destroyed a Beautiful Country”

With the questioning concluded, President Nonn informed the civil party that he may make a statement describing the physical, emotional, and material suffering he incurred as a direct result of the crimes allegedly committed by the accused in Case 002.

In response, Mr. Yathay, without need for notes, gave the following statement:

We all know that many people died. Is there any new family that did not lose a family member? My younger brother and sister’s family died. My wife and three children and extended family members, 18 of us, all died, except myself. And that I have the opportunity to testify before this Chamber today, I am happy.

To start with, I would like to express my satisfaction at the establishment of this court and the opportunity I have been given to testify about the harms, the loss of my career, profession, wife, children, and relatives. Although the Court was established rather late and has been smeared with issues, I believe the Chamber is of a historical nature in order to find the truth and has the means to fulfill its mandate.

I have only one suggestion to make to the Chamber. I want the prosecution to complete as soon as possible, so justice can be done for me and all the victims. I would like to make an appeal to all the accused, that you should adhere to your own rules and should volunteer yourself to your own self-criticism procedures. If you are willing to conduct self-criticism, you will see the countless evidence, mass graves, pits throughout the country. Angkar destroyed hundreds of thousands of Cambodians for no reason, to implement the Communist ideology; that would not be acceptable by the lawful person. Angkar destroyed a beautiful country and brought unimaginable harm to its citizens. You did not know what happened. Angkar made as many eyes as the pineapple’s eyes throughout the territory.

After you conduct self-criticism, confess your crimes, and after you do this, express your apology to the lost victims and the surviving victims today. If you can do this, the Trial Chamber can achieve its mandate very soon. It's been 38 years that have passed since the great tragedy; we are all advancing in our age and should do something. I sternly believe that if my appeal is heard, we the victims would be greatly rid of the bad memories and sorrow, which would slowly dissipate, achieving national reconciliation.

At the end of this emotional plea, the president informed the civil party that his testimony had come to an end and that he may leave the courtroom.

After inviting the parties to submit remarks on the scope of the testimony of Mr. Yathay, with no one taking the opportunity, the President turned to future hearings scheduled. He informed the Chamber that there would be no hearings tomorrow and next week due to the health concerns of Nuon Chea and the fact that he does not waive his right for hearings to proceed in his absence.

The president stated that the court expects to reconvene on Monday, February 18, 2013, to hear the testimony of Elizabeth Becker. Regarding Nuon Chea, he reiterated the Chamber's intent to keep all parties informed of developments in relation to the accused's health concerns.