



“I Am Not the Khmer Rouge”: Khieu Samphan Responds to Civil Parties
By Mary Kozlovski¹

In a departure from the usual procedure, a victim impact hearing was held in Case 002 at the Extraordinary Chambers in the Courts of Cambodia (ECCC) on May 27, 2013. Four civil parties made statements about the harm they suffered under the Democratic Kampuchea (DK) regime, either before or after being questioned by their lawyers. Prosecutors and defense attorneys were able briefly to question civil parties about facts in the case.

The civil parties who testified were Sou Sotheavy, Aun Phally, Sang Rath, and Yos Phal. They were permitted to put questions to co-accused Khieu Samphan and Nuon Chea, if they so chose. Civil party testimony will also proceed in this manner during hearings on May 29, May 30, and June 4, 2013.

In the morning, 300 people from Siem Reap province attended the hearing, while 330 people from Takeo province were present in the afternoon. Khieu Samphan was present in the courtroom and responded to questions posed by two civil parties, while Nuon Chea observed proceedings remotely from a holding cell because of his health issues. He did not reply to the civil parties’ questions.

Co-Accused Comment on Responding to Questions

Prior to calling the first civil party to the stand, Trial Chamber President Nil Nonn sought clarification from defendants Nuon Chea and Khieu Samphan on whether they would submit to questioning during Case 002/01 or invoke their right to remain silent. Khieu Samphan rose and stated that as he was old and the relevant events occurred almost 40 years ago, he might become

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

confused when answering questions and therefore wished to know the subject matter of the queries in advance. President Nonn replied that the chamber was unsure which of the civil parties might wish to put questions to the accused while giving their statements in court. He added that the chamber would consider Khieu Samphan's submission, but it was unlikely they could proceed in such a manner because of the nature of adversarial proceedings.

Further to Khieu Samphan's comments, International Co-Lawyer for Khieu Samphan Arthur Vercken told the court he could only speak with his client last Thursday but he was requesting simply to know the general topics to be raised and documents to be presented during questioning. Physically and mentally, Khieu Samphan will only be able to respond for half a day at a time, Mr. Vercken continued. At this point, International Senior Assistant Co-Prosecutor Vincent de Wilde remarked that he was pleased to hear the Khieu Samphan intended to keep his promise to answer questions at the end of the trial, once all evidence has been tendered. Mr. de Wilde contended that the relevant topics were those defined in the scope of Case 002/01 and the prosecution would consider the possibility of providing a limited number of documents. International Civil Party Lead Co-Lawyer Elisabeth Simmoneau Fort said the civil parties were grateful for Khieu Samphan's decision to speak and lawyers would send an email to the chamber outlining their position.

After some consultation on the bench, Trial Chamber Judge Silvia Cartwright told the parties that the matter at hand would be dealt with in more detail via email and requested a summary of Nuon Chea's decision on this issue. International Co-Lawyer for Nuon Chea Victor Koppe replied that Nuon Chea would not invoke his right to remain silent but his willingness to submit to questions was conditional on which questions he would like to answer and where he would be answering from – a holding cell or in court. Mr. Koppe emphasized that counsel was only able to consult with Nuon Chea on Thursday and planned to speak with him further on this issue during the day's proceedings.

Finally, Judge Cartwright noted that the chamber was not setting rules regarding civil parties putting questions to the accused, but civil party lawyers must understand that not all proposed questions – such as whether the accused took responsibility – would necessarily elicit a direct answer.

Prior to the first civil party being brought into the courtroom, Ms. Simmoneau Fort commented that the civil parties' testimony would be painful but they were speaking for the purpose of the trial, as well as for their own sakes. The testimonies might not be as "clear-cut and specific" as purely factual testimonies and there may be inaccuracies around dates, names, and places, Ms. Simmoneau Fort said. She added:

Sometimes there might be too much pain that will be expressed beyond what some of us might find "suitable." There might be sometimes too much wrath that will be voiced in relation to what some of us might find suitable as well, but we will have to accept part of this. ... We are expecting that the court will be very considerate and patient and respectful for these people who are going to come and do something that is extraordinarily difficult in these coming days.

First Civil Party Gives Statement on Harms Suffered

Civil party Sou Sotheavy, born on December 8, 1940, in Takeo province's Treang district, told the court that she is single and does not work. Both of her parents died during the Khmer Rouge regime.

Beginning her statement, Ms. Sotheavy testified that on April 17, 1975, she was living with other transgendered people in the area around Olympic Stadium in Phnom Penh, when Khmer Rouge soldiers came and ordered them to leave the city at gunpoint without enough time to pack luggage. Upon reaching her room the soldiers opened fire and four of her friends died, Ms. Sotheavy said, adding that she was "completely terrified." She described being marched along Monivong Boulevard toward National Road 4, joining others who were being evacuated. From then on, Ms. Sotheavy recalled that she reached Champa pagoda in Koki² on April 30, 1975, where she met other transgendered people, before reaching Niraud pagoda³, where she met a small group of Khmer Rouge soldiers.

Crying, Ms. Sotheavy testified that a friend of hers was blood-soaked and told Ms. Sotheavy that she had been raped and assaulted, after having a plant inserted into her anus. The civil party said she had to leave the area and the next morning was evacuated to Livear Em district⁴, where they crossed the river and were placed in Arey Ksat⁵ and Svay Chrum⁶. Ms. Sotheavy told the court she stayed in Svay Chrum for three nights, hiding from the Khmer Rouge before swimming back across the river to Takhmao⁷, while another friend drowned. The civil party testified that upon reaching Prek Ho⁸ she saw many dead bodies, including those of monks, and spent the night among them. Ms. Sotheavy said many people were sick and wounded, and upon returning to her home village, she was forced to live in cooperatives with other "17 April people." "The pain I have suffered is too great that I cannot describe them in words," she concluded.



Civil Party Lawyers Question Client

Following the statement, National Civil Party Co-Lawyer Sin Soworn began by asking Ms. Sotheavy how she felt when compelled by the Khmer Rouge to leave Phnom Penh. Ms. Sotheavy replied that the Khmer Rouge were armed and threatened people at gunpoint and they were too terrified to pack their luggage. "Anyone who resisted such order, they would risk being shot at and we were very frightened," the civil party recalled. She said she was too scared to keep walking when she saw dead bodies but was pushed along by the crowd of evacuees. Ms. Sotheavy described seeing the corpses of Lon Nol soldiers, Buddhist monks, and civilians, and pregnant women pushing carts. She testified that she was

² Koki is a commune in Kandal province.

³ Niraud pagoda is located in Kandal province.

⁴ Livear Em district is located in Kandal province.

⁵ Arey Ksat is an area close to the river in Kandal province.

⁶ Svay Chrum is a district in Svay Rieng province.

⁷ Takhmao is a district in Kandal province.

⁸ Prek Ho is a commune in Kandal province.

evacuated during the first phase, then again from Champa pagoda, followed by a third movement from Russei Chrum⁹ and then another evacuation back to Takeo province from Prek Ho.

Regarding her health, Ms. Sotheavy stated that she went without food for several days and that evacuees did not have access to medicine or time to rest. “We had to walk days and nights,” she recollected, adding that she had to eat leaves from the road. The civil party testified that she had her jaw broken and was raped, tortured, shackled at the legs, and subjected to forced labor. Today, the civil party said she still feels pain, has poor eyesight, a deteriorating memory, and problems sitting and walking for long periods because her legs become numb. Ms. Sotheavy told the court she suffered most deeply from being raped and tortured. She told the court she is very poor, has no relatives, and relies on traditional medicines when sick, but she would seek treatment for her ailments if she had the financial means. Ms. Sotheavy described how she is unable to sleep well and suffers from fevers, dizziness and constant headaches, which resulted from her mistreatment under the Khmer Rouge regime. She replied to the lawyer that words could not describe her psychological suffering.

When asked whether she had to hide her identity, Ms. Sotheavy wept and responded that she was worried that she would be killed and had her hair cut so that she looked like a man and mingled with men. She testified that she was forced to marry and that during the DK regime she lost her parents, siblings, relatives, and partner. The civil party commented that she had been waiting for years to express her suffering and find justice because she did not want a younger generation to follow the Khmer Rouge regime, under which people were treated like animals, and she wanted to inform the outside world about the pain of victims. Under questioning about what kind of reparations she would like, Ms. Sotheavy affirmed that she wanted collective reparations, such as a library to store books and records of the Khmer Rouge regime and a stupa to commemorate the souls of people who died during the period.

Sou Sotheavy Puts Questions to the Accused

Prompted to put any questions she had to the accused, Ms. Sotheavy inquired if either accused knew of the events she had described and if they acknowledged the deaths of people at prisons like Tuol Sleng.

Khieu Samphan stood and addressed Ms. Sotheavy, stating that he understood her suffering but he is Khieu Samphan, not Pol Pot, Nuon Chea, Ieng Sary, Vorn Vet, or Son Sen and could therefore not attach himself to the entire DK regime. Khieu Samphan asserted that everything he had done was not for the killing of his own people. After the coup d'état, Khieu Samphan continued, he participated in the struggle to defend the country when Vietnamese forces entered Cambodian territory. “We are just a small ant; we were stampeded by those elephants,” he declared. Khieu Samphan said he therefore represented then Prince Norodom Sihanouk and the Communist Party of Kampuchea (CPK), who could reconcile forces internally to form a resistance to defend an independent Cambodia so it would not be “erased from the world map.” The defendant said that was his hope but he was not a DK leader. After Khieu Samphan sat down, Mr. Koppe informed the chamber that Nuon Chea did not wish to answer the questions.

⁹ Russei Chrum is located in Kampong Thom province. It is possible this was intended as a reference to Svay Chrum, but it is unclear from the English translation.

Prosecution Examines Sou Sotheavy

In response to questioning about the evacuation of Phnom Penh, Ms. Sotheavy testified that she was forced to travel along National Road 1, despite wanting to go down National Road 2 to her native Takeo province, and she saw people shot on the other side of Monivong Bridge. She recollected that during the few weeks she stayed at Champa Pagoda, nothing was given to them and they had to return to Chbar Ampoeu market¹⁰, where rice was stockpiled.

Mr. de Wilde inquired if, once Ms. Sotheavy began working, “new people”¹¹ were treated any differently. Ms. Sotheavy replied that 17 April people were like prisoners of war and had to force themselves to live in the cooperatives. She told the prosecutor the five people she lived with around Olympic Stadium did not survive, though some of her other friends did. When asked how local chiefs in villages and cooperatives perceived Ms. Sotheavy as a transgender person, she responded that transgender people have always been discriminated against, regardless of the time and even among their own families, so one could imagine how it was under the Khmer Rouge. “We had to hide our identity, we had to cut our hair so we looked like men, but in fact it is still difficult for us ... to imitate everything as a male person,” she said.

Khieu Samphan Defense Cross-Examines Civil Party

Mr. Koppe informed the chamber that the Nuon Chea defense had no questions. Taking over for the Khieu Samphan defense, Mr. Vercken quoted from Ms. Sotheavy’s 2009 statements on the case file in which she said that when Khmer Rouge soldiers came to order her and her friends out of the city, she heard gunshots but did not know whether her friends were killed. When Mr. Vercken sought clarification on this point, given Ms. Sotheavy’s earlier testimony, the civil party answered that she said they died because if they had lived she would have seen them. Ms. Sotheavy told the court she was cooking in the kitchen when the shooting occurred and she could not say for sure at the time if those people died, but she was now certain that they had because it had been over 30 years. Ending her testimony, the civil party stated, “We were of the transgendered group and we loved each other very much, and for that reason, I concluded that they had died in that room during the shooting.”

Second Civil Party Called to the Stand

Brought to the stand next, 48-year-old civil party Aun Phally replied to President Nonn that he was born in Phnom Penh and lived there with his siblings in 1975. He is married, currently lives in Kandal province’s Ponhea Leu district, and is a retired soldier.

Beginning his statement of harms suffered, Mr. Phally said that on April 17, 1975, Khmer Rouge soldiers came and forced them to leave the city and he saw many people raise flags to welcome the Khmer Rouge. He told the court he lived on the third floor of a building near Central Market and Monivong Boulevard, when the Khmer Rouge shot into the air and forced them at gunpoint to go down to the street and travel across Kbal Thnal bridge¹² to National Road 1. Mr. Phally testified that the journey was arduous and he was young at the time; they walked and stopped continuously, with his mother carrying his younger sibling and his father and some relatives carrying some belongings. “We were so exhausted traveling on the road, we were so hungry –

¹⁰ Chbar Ampoeu market is located in Phnom Penh.

¹¹ ‘New people’ and ‘17 April people’ are used to refer to people who were evacuated from cities.

¹² Kbal Thnal Bridge is also known as Monivong Bridge.

the situation was miserable,” he said. Mr. Phally recalled that it took the family about 15 days to reach Prek Pneu commune in Prey Veng province’s Peam Ro district, at which point a Khmer Rouge cadre called his father to go and he disappeared. They heard four or five days later that he had been sent to a study session, Mr. Phally recounted.



The civil party testified that his mother likely knew his father’s fate and sent him to live with his grandmother in an adjacent village; he later heard that his mother and siblings were taken away and killed. Mr. Phally recalled that he was about to go to the area to see what happened but his grandmother stopped him. “I could only look in that direction with my tears rolling down from my eyes,” he said. “Every night I wept.” Mr. Phally told the court that in late 1976 or 1977, he, his grandmother, and another grandchild, were evacuated on a boat to Phnom Penh, through Neak Loeung¹³. When they arrived, they were transported from the

Central Market area to the railway station, where they boarded a train heading to Mong Russei district in Battambang province, he recollected. They were placed in various cooperatives, Mr. Phally stated:

It was the hardest place and the hardest time for us, as they tempered us, and as a result the grandchild of my grandmother died of hunger and my grandmother also died upon the death of her grandchild. They died in front of my eyes. From the day of the death of my grandmother, I became the lonely person. I did not have any relatives anymore.

Elaborating on his experience in the cooperatives, Mr. Phally told the court that he was forced to work in the children’s unit without sufficient food; he was beaten up as they forced the children to beat each other. Crying, the civil party described the pain he suffered at the time as “unbearable” because the Khmer Rouge forced him to separate from his parents forever and after the regime fell, he had no family. Mr. Phally testified that from that day onward he considered himself “strange” for living by himself with no relatives and joined the army at a young age, where he was later wounded and disabled¹⁴. He went on to say that he contracted malaria and became emaciated, was hospitalized, and witnessed other patients being visited and comforted by their siblings and relatives. “I myself was on my own, with no one coming to comfort me,” Mr. Phally recalled.¹⁵

Lawyers Press Civil Party for Detail on Suffering

Once Mr. Phally finished his statement, National Civil Party Co-Lawyer Ven Pov inquired about his family and the evacuation from Phnom Penh to Prey Veng. Mr. Phally replied that there were seven members of his family, who had to travel on foot while being evacuated and received no food or water. He described the initial situation in Prey Veng as not too difficult as they could eat

¹³ Neak Loeung is a commune in Prey Veng province.

¹⁴ Mr. Phally appeared to be referring to the period after Khmer Rouge rule.

¹⁵ At this point, Mr. Phally described having a disease, but its identity was unclear in the English translation.

normally and though they were asked to collect leaves and herd cattle, he could live with his mother. When Mr. Pov asked how he felt knowing that his family members had been killed, Mr. Phally replied that he sometimes thought of killing himself and the pain was “unbearable.”

Pressed for more detail about being moved to Battambang, Mr. Phally testified that some people who took the journey died and were left along the road, and he lived on his own in a children’s unit at the Trocheak Chet Mountain. The civil party said that some children attempted to run back to the cooperatives but were chased by militia and he heard the screaming as he lay in bed. After being denied permission to return by the unit chief, Mr. Phally fled a first time and was forced to return at gunpoint, but he managed to run away again. On his second attempt, he was again spotted by guards but kept running and occasionally crawling, before starting to walk when he realized that no one was coming after him, Mr. Phally recalled. He told the court he kept wandering through the forest and eventually came upon the road that took him to the mountain; he returned to the village with another child he met along the way.

Aun Phally Speaks of Harms Suffered under DK

Proceeding with his statement of harm suffered, Mr. Phally stated his suffering under the Khmer Rouge prompted him to join the army, where he was later disabled and contracted malaria. He described how the barracks were his home and sometimes the soldiers made fun of him because he did not have any children or home to go to, while they visited their home villages four or five times a year. Mr. Phally continued:

I don’t blame them because I don’t have anything to tell them, and I don’t want to tell them my suffering. And I don’t know why my past still keeps haunting me. Today is the first day, which is a new chapter in my personal history, that I revealed to the world of my suffering.

Mr. Phally requested that the chamber find justice for those who died under the Khmer Rouge regime, in particular for his family and survivors like himself. He appealed to leaders of the Khmer Rouge regime and leaders of current and future regimes around the world to end suffering, hardship, and misery. Mr. Phally stated that he lost everything and at the time he wanted the world to end. While one may have sufficient food and living conditions, pain can remain hidden inside, he observed. Mr. Phally concluded:

While I was injured, I was sent to various hospitals and, of course, I observed the comfort given to other patients by their wives, their children, and their family members, and I myself was struggling on my own. And nobody knew of my pain, and of course I have not revealed the suffering that has been inside me for over 30 years.

Prosecution Questions Civil Party Aun Phally

After this statement, National Senior Assistant Co-Prosecutor Dararasmey Chan posed a number of questions about the evacuation of Phnom Penh, including what the Khmer Rouge told people before moving them. Mr. Phally testified that Khmer Rouge soldiers said the city would be emptied for three days so that it could be arranged and people who did not obey would be shot. People had many difficulties during the evacuation, Mr. Phally recalled, as young and old people had to walk on, and it was hard because of fatigue and lack of food.

Describing the removal of his father in Prey Veng province, Mr. Phally recollected that the Khmer Rouge cadres asked him to leave home there for a while and he never saw his father

again. He said his grandmother told him that his mother and siblings were taken away and executed. Mr. Phally told the court he was too young to understand the reasons behind the evacuations and just followed orders from the Khmer Rouge. “We were under constant watch by the Khmer Rouge cadres when we were working in the worksites in the mobile units,” Mr. Phally recalled. “We lived in fear. Everyday we feared that we would be taken away for execution, so we had to obey the instructions and orders.”

Defense Cross-Examines Aun Phally

Firstly, National Co-Lawyer for Nuon Chea Son Arun inquired about when the family was told to leave Phnom Penh. Mr. Phally testified that the family left immediately after they were asked and his family members, along with others, were forced downstairs from the third floor of their building at gunpoint. “I could hear gunshots or weapons, the sound of the bullets being fired into the air,” he commented. Mr. Phally recalled that he was about 10 years old at the time and saw along the road dead bodies of people who might have resisted Khmer Rouge orders. He said he saw people pointing and firing guns at each other, as did his and other people’s family, he believed. “Phnom Penh was in a chaotic situation,” Mr. Phally told the court. “Everyone had to follow the orders by the Khmer Rouge; where they wanted us to go, we had to go.”

The soldiers who ordered his family to evacuate Phnom Penh wore red “ribbons” on their shoulders and necks, and some wore black pajamas, Mr. Phally recollected, describing the ribbons as small pieces of cloth perhaps identifying soldiers who belonged to particular groups. He said he also saw blue ribbons tied to some vehicles the Khmer Rouge were driving into Phnom Penh.

When asked about his military service, Mr. Phally confirmed that he joined the army in 1984, when he was 18 or 19, volunteering for government forces in Pursat province’s Bakan district. He told the defense lawyer that he could not say how many people were regarded as “17 April people” but several thousand were evacuated.

After Mr. Arun concluded his questioning, National Co-Lawyer for Khieu Samphan Kong Sam Onn briefly sought to confirm the civil party’s birth date, noting that his civil party application form said it was January 3, 1962. Mr. Phally replied that he was 48 years old and his ID card did not record his birth date correctly, though he could not remember the exact date.

Third Civil Party Questioned by Lawyers

Sang Rath, the third civil party called to the stand during the hearing, told President Nonn that she was 72 years old, born in Samroang district¹⁶, and currently lives in Kampong Speu province with her child and second husband, as her children from a previous marriage had passed away.

¹⁶ Samroang district is located in Takeo province.

Beginning his examination, Mr. Pov inquired where Ms. Rath and her family were on April 17, 1975. Ms. Rath testified that her family – her husband and four sons aged 16, 14, 12, and 10 – was assigned to work in the rice fields in Samroang district and evacuated to Battambang province’s Mong Russei district about seven months later in late 1975. Ms. Rath recalled that a Khmer Rouge cadre told them to go to National Road 3, where they boarded large trucks, along with four or five families from the same village, without food, water, cooking implements, or anything else. Ms. Rath confirmed that the family was evacuated from Kbal village in Kampong



Speu, adjacent to Takeo province. The civil party described travelling along National Road 3 and arriving in the early morning in Pursat province, where they stayed for two nights and received some rice from the Khmer Rouge. On a cargo train full of goods, they then went to Mong Russei district where Khmer Rouge chiefs were waiting to distribute them to various villages, Ms. Rath recalled, at which point she was sent to Wat Chas to stay in a house full of base people.

The civil party said her children were sent to the children’s unit and her husband to work in the rice fields in a separate group, while she transplanted rice and worked on a dam. Ms. Rath testified that the food was insufficient, with only one watery bowl of porridge per day. In late 1976, Ms. Rath recounted, her children died over two nights because of the lack of food and her husband one day passed away from hunger and exhaustion. “They died before my eyes,” she testified. “Actually, I cried but then I was told that I should not cry otherwise I would be killed, as I would be accused of being a traitor ... I was by myself then. I lost all my hope, and it was miserable. I was on my own.”

Ms. Rath stated that the food supply became a bit more sufficient after the deaths of her family, but she became seriously sick and was sent for a fortnight to a hospital in Wat Chas, where all previous patients had died. She described how a patient administered some kind of medicine had died; when she was given a tablet, she spat it out when nobody was looking but lied and said she had taken it. Thereafter, Ms. Rath said, she was forced to work hard digging canals. The pain of losing her husband and children was “unbearable,” she testified.

In a very short statement of the harms she suffered, Ms. Rath said she would like the court to find justice for her family because she suffered a great deal from losing them.

Prosecution Asks Sang Rath about Evacuation and Cooperatives

Initially, Mr. Chan inquired about the person behind the decision to evacuate her from Kampong Speu to Battambang. Ms. Rath answered that the village chief evacuated them – “it was an absolute order” – and if they had stayed in their native village they would have been accused of being enemies. The civil party described many people being evacuated in about 10 trucks, but only about five families from her village, and Khmer Rouge cadres monitoring the evacuees during the whole journey. Ms. Rath recalled that the soldiers told them there was plenty of food

and rice in Battambang, when in reality there was nothing to eat when they were there. She elaborated on the conditions for new and base people in Battambang:

People were classified into different groups because the evacuees were placed at one place, when the base people were put at a different location. ...I don't know why new people were placed to live at a different location than the base people. And we were treated like the new people and were tasked with work accordingly.

Elaborating on this point, Ms. Rath stated that the two groups were not treated the same way and food rations were not distributed equally. Mr. Chan inquired whether more new or base people disappeared or were executed in the village, to which Ms. Rath replied that the majority of those who died and disappeared were 17 April people. The Khmer Rouge village leaders told people to work constantly and not look for food because they were already being provided with it, she said. "In my area, the 17 April people died in great number – they died of starvation or lack of food," Ms. Rath added.

Neither Nuon Chea nor Khieu Samphan defense lawyers had questions for Ms. Rath. Her testimony therefore ended.

Fourth Civil Party Called to the Stand

With the conclusion of Ms. Rath's testimony, civil party Yos Phal, 58, approached the stand. He told President Nonn that he was born in Takeo province's Treang district and still lived in that district today. He has a wife and eight children.

Again, Ms. Soworn led the civil party lawyers' questioning, asking Mr. Phal to describe the forced evacuation of April 17, 1975. Mr. Phal testified that he was a police officer under the Lon Nol regime and at about 8 a.m. on that morning, he was at Chaktomuk Theater in Phnom Penh, from where his commander was escaping on a motorbike. As he left his barracks, Mr. Phal recalled, a Khmer Rouge soldier confronted him and told him to remove his military boots and beret, so he walked barefoot to Pet Chen¹⁷ where he was searched by a group of Khmer Rouge soldiers wearing civilian garb and armed with shotguns.

From that location, Mr. Phal stated, he moved to Chhroy Changvar Bridge, then ran off to Chen Damdek pagoda where he was staying to grab some belongings. The civil party recollected that the Khmer Rouge requested that he leave Phnom Penh for three days because they needed to reorganize the city, not to bring many possessions, and to head to Prek Kdam¹⁸ ferry crossing. He recalled taking the ferry to Pa'av district office¹⁹ near Pa'av market and suffering from a fever during his trip. Mr. Phal told the court he had to pick some bitter leaves along the road and ground, cook, and drink them for medicine. The civil party described seeing the bodies of police, soldiers, and civilians; he also witnessed Khmer Rouge soldiers at the wheel of three Chinese trucks driving villagers from Prek Kdam to Pa'av district, one of which overturned, killing several passengers. At Pa'av market, Mr. Phal testified that the Khmer Rouge selected some Lon Nol soldiers for education sessions and at Pa'av people had to report their biographies and

¹⁷ In Khmer, this refers to the "Chinese hospital" in Phnom Penh.

¹⁸ Prek Kdam is located along National Road 5 in Kandal province

¹⁹ Pa'av is a district in Kampong Cham province.

occupations to Khmer Rouge soldiers. “I was also asked what I did and I told him that I was an agent, a civil servant,” he added.

At this point, Mr. Koppe observed that the civil party was reading from a document while answering the question, prompting International Civil Party Co-Lawyer Beini Ye to reply that they knew of no restrictions on the use of statements prepared before the hearing or on civil parties reading statements. “In Case 001, during the impact hearings, civil parties were actually reading statements,” she noted. Mr. Koppe said the defense did not have a problem with statements being read but that people should be aware that statements were being read, rather than questions being answered. After Ms. Ye informed the chamber that the document was a statement that Mr. Phal wrote in preparation with his lawyers so that he would not forget important information, the chamber allowed the civil party to resume speaking.

Continuing, Mr. Phal stated that at Pa’av pagoda he lied about his identity, telling the Khmer Rouge that he was a “reserve agent candidate in the government” and a private, after which he was sent to Pdao village in Kampong Cham. “At that place, I saw the Lon Nol soldiers who did not hide their identity, those from the rank of major lieutenant, lieutenant, and captain were taken away one after another,” he recounted. “These people, after providing all the truthful information, were taken away by motorbikes.” Though the Khmer Rouge requested his



biography, he concealed his identity after noticing that many former police and soldiers had disappeared and been executed. Mr. Phal said he did not know what happened to those taken away by motorbike.

Ms. Soworn asked about the identity of people whose bodies Mr. Phal saw along the roadside during the evacuation. The civil party replied that he witnessed a truck driver who had been shot dead by Khmer Rouge soldiers while still in the driver’s seat at Chen Damdek pagoda, dead soldiers in black uniforms scattered along the road after he passed Chhroy Changvar bridge, and a pile of dead soldiers in a classroom east of Prek Pneu market. After later leaving Prek Pneu, Mr. Phal recollected seeing dead bodies of soldiers and civilians – some of whom were

young, old, or sick – near barbed wire along the road before he reached Prek Kdam. The civil party described feeling terrified when he was asked for his biography, thinking of the dead bodies along the road. “My hands were trembling, and I thought that I would die soon,” Mr. Phal answered.

Physical and Psychological Health during and after DK

Ms. Soworn inquired about Mr. Phal’s health during the evacuation, to which the civil party replied that he was pale, emaciated, and hungry, with a fever and high temperature. Mr. Phal recalled that he picked leaves from along the road, ground them, and swallow them. He testified that his health deteriorated throughout the regime and he grew thin because he did not have enough food to eat. “The situation was miserable – I was by myself without any support,” he

added. “Those acts do have an impact on my current health status. Every time I recall the event, I become trembling and I cannot think of anything else.”

Asked about his psychological status under the Khmer Rouge, Mr. Phal responded that he was concerned even today and his body trembled and chest felt heavy whenever he recalled the events. He testified that he lost his beloved father during the Khmer Rouge period²⁰; his aunts, uncles and relatives also died, and his fiancée was no longer with him. Mr. Phal stated that the acts of the Khmer Rouge made him suffer greatly and he missed his family. The regime destroyed everyone, Mr. Phal added, and the country would have prospered without it.

After the regime fell, the civil party said, he became a teacher and is now very poor because of his bad health and physical ailments. When asked why it was important for him to testify, Mr. Phal replied that he carried the burden of pain with him for more than 30 years and the court was the only chance for him to reveal the truth. He pressed the court to find justice for him. Regarding reparations, Mr. Phal requested the construction of a stupa to store the remains of his relatives, parents, and other Cambodians who died, a library with documents for the younger generation to study and understand the Khmer Rouge regime, and a free medical treatment card.

Khieu Samphan Responds at Length to Yos Phal

Prompted by his lawyer, Mr. Phal posed six questions to the two accused:

- why did the Khmer Rouge kill so many people in Cambodia;
- why were people forced to work “like animals” without rest regardless of age and with insufficient food;
- why were people forbidden to eat what they planted, then educated and killed if they did;
- where were Cambodia’s abundant resources sent to;
- why were personal belongings abolished, confiscated and used communally; and
- why did the highly educated Khmer Rouge leaders not build schools instead of killing educated people.

In response, Khieu Samphan stated that he was “not the Khmer Rouge” and could not bear responsibility for such accusations. Khieu Samphan remarked, “In the case of Hun Sen, will he be responsible for the actions committed by the Khmer Rouge? And in my case, it’s even further removed from Hun Sen’s instance. I did not know anything at all of what happened between 1975 to 1979.”

Nonetheless, Khieu Samphan said, he felt sympathy for Mr. Phal and his suffering, but he could not answer the question of why there were killings because he had no knowledge about it. He reiterated that he was involved with the Khmer Rouge movement in order to reconcile resistance forces after the coup d’état, which resulted in the spread of the Vietnam War into Cambodian territory. Khieu Samphan declared that he also did not understand the killings and did not want them to happen but he did not have the power to prevent it. “I did not have any power at all,” he added.

²⁰ The English translation was unclear, but it appeared as though Mr. Phal’s father died of a seizure.

Addressing the second question, Khieu Samphan asserted that DK leaders did not have abundant food but ate simple Cambodian dishes and did not enjoy whisky or other alcoholic drinks. From these observations, he concluded that people in the countryside ate the same thing, noting that he was in charge of distributing resources. Referring to the third question, Khieu Samphan said he did not know about people being prohibited from eating fruit they planted and he would not agree with such a policy. He added that he knew nothing about forced marriage because no such events occurred at the offices around Phnom Penh.

“Why there were no schools? I knew about that political line of the CPK,” Khieu Samphan confirmed. He told the court that during Sihanouk’s regime there were only a handful of educated people, whose education was much further above the general population, and comprehensive education could not be applied in Cambodia at the time. Therefore, the Khmer Rouge decided not to open schools, but rather have children study and work at the same time to collect fertilizer, for example, or in factories if they were in Phnom Penh²¹, he affirmed. “Then their education and knowledge gradually went up, and that would assist in the development of the country before we could go to higher education,” Khieu Samphan added. “In summary, I am not a leader of the DK regime and ... several important events that happened were beyond my knowledge, that is, from the 1975 to 1979 period.”

After this response, Mr. Koppe told the chamber that Nuon Chea did not want to respond to the civil party’s questions.

Prosecution Questions Yos Phal

Citing the civil party’s written record of interview Mr. de Wilde asked about the identity of Chhim Chhoeun, whom he saw on April 17, 1975. In a somewhat unclear response, Mr. Phal stated that Chhim Chhoeun was a brigadier general²². When asked how the Khmer Rouge ordered people from the city on April 17, 1975, Mr. Phal responded that soldiers surrounded them at around 2:30 p.m., fired into the air, and told them to leave for three days, after which they would be permitted to return. Mr. Phal testified that from Pa’av, he traveled to the border of Takeo and Kampot provinces, meeting his parents in Ta Moan village²³. The civil party said he could recognize new people from their clothing – some with white shirts and blue pants and others in a mixture of colored clothes – and the fact that some of them had big bellies, like wealthy people, while the base people wore black clothing.

Mr. de Wilde queried whether Mr. Phal had ever been suspected of having belonged to Lon Nol’s army or police force after lying about his biography in Pa’av. The civil party replied that he survived because he concealed his identity in Kampong Cham and later on an elderly woman took pity on him²⁴. Under questioning about what happened to former policeman and soldiers whose identities were known, Mr. Phal stated that in 1977 he was in a mobile unit where members had to write monthly biographies and anyone who wrote that they were in the military three times was implicated. The civil party told the court he maintained that he was a student and

²¹ Khieu Samphan’s response about schools and study was unclear in the English translation.

²² Though it was mentioned, the specific nature of Chhim Chhoeun’s connection to the Ministry of Information was unclear.

²³ Mr. Phal called this as a “prison.” In the English translation, it was unclear if he was being literal.

²⁴ Mr. Phal’s response regarding the elderly woman was unclear in the English translation.

of 100 people in his unit, the Khmer Rouge killed 99 at a crime site in Treang district leaving him as the only survivor. “I did have great pity for my friends who had to tell them the truth, but I did not dare to tell them to lie,” Mr. Phal recalled.

During the period of that regime nobody – not even a single person – ever smiled at me, not at all, because they knew that I came from Phnom Penh and they did not know whether I engaged in any work in the past. And because of my rather big build, they suspected that I held some kind of rank in the military role, but I tried to be very humble and to please them and for that reason I survived.

Referring back to Mr. Phal’s earlier testimony, Mr. de Wilde queried why he was unable to marry his fiancée during the Khmer Rouge period. The civil party replied that after he told his unit chief that Angkar “smashed” his fiancée’s elder brother, the unit chief said Angkar would prohibit the nuptials because he was the “son of Angkar,” which organized marriages. The common practice in Sector 33 was for pretty women to marry ugly men and uneducated people to wed educated ones, Mr. Phal said, adding that the unit chief told him he would be killed if he did not follow the instructions. Answering a final question from the prosecutor, Mr. Phal testified:

During the Khmer Rouge regime, if one was ordered to dig a canal, for example, that the person has to dig six cubic meters per day, that work had to be done. If not, then no rice would be given to that person. And if that person were to protest that person would be refashioned and the next process would be that person be killed, so we had to follow it through.

Defense for Nuon Chea Probes Testimony about Lon Nol Officials

In a string of questions, Mr. Koppe sought clarification on how Mr. Phal knew that former Lon Nol soldiers were writing biographies and giving them to Khmer Rouge cadres at Pa’av district. Mr. Phal stated that when he reached Pa’av district, a Khmer Rouge propagandist announced that Angkar would call upon soldiers ranked from major lieutenant and lieutenant upward to create a biography at Cheung Prey pagoda²⁵. Those who described themselves as a soldier or policeman would be put to one side and sent to Pa’av pagoda, Mr. Phal recalled, adding that he was among that group. Under questioning from Mr. Koppe about how he witnessed former Lon Nol soldiers writing biographies and giving them to Khmer Rouge cadres, Mr. Phal testified that he and others were sent to a pagoda near Pa’av market and given a piece of paper to write their biographies on, with those ranked major lieutenant upwards gathered up and sent further.

After Mr. Koppe repeated his question, Mr. Phal repeated his answer that he was present and saw what they wrote on the papers. Finally Ms. Ye interjected, arguing that the question was repetitive and the civil party had clarified that he saw what was written on the paper. Mr. Koppe replied that the civil party had not clarified how he was privy to what was written on a piece of paper by a different soldier. President Nonn instructed the civil party to respond but urged Mr. Koppe to specify his questions. Mr. Phal testified that after people sent to the pagoda near Pa’av – who had already said they were major lieutenants – wrote their biographies, they were called one after the other and lined up and those from major lieutenant rank up were taken away on motorbikes. Meanwhile, lower ranking officials, such as privates like him, were allowed to stay²⁶. The civil party said he did not know where people were driven, and when questioned by

²⁵ Cheung Prey pagoda is located in Kampong Cham province.

²⁶ Mr. Phal’s answer was unclear in the English translation.

Mr. Koppe if it was possible he had heard of such a story but not seen it, he confirmed that he had witnessed the event himself.

After Nuon Chea defense's cross-examination ended, Mr. Vercken queried why the Khmer Rouge soldier had told Mr. Phal to remove his boots and beret on April 17, 1975, as mentioned in his earlier testimony. Mr. Phal replied that he was still wearing his police uniform and he was asked to remove them to prove that the Khmer Rouge had defeated them. However, the civil party confirmed, he could still be identified as a Lon Nol official because he was wearing a police uniform.

Mr. Vercken cited Mr. Phal's statement to the court²⁷ that after he removed his boots and helmet, a young Khmer Rouge soldier asked him at Chhroy Changvar bridge if he had a gun before allowing him to pass. Mr. Phal confirmed this account: "When I was still wearing this police uniform, the first question they would ask me when they were searching me was whether I was carrying a gun. ... By saying no, I would be allowed to move on." The defense lawyer then sought clarification on how the Khmer Rouge explained the evacuation to Mr. Phal, who had earlier testified that they told him they needed to reorganize the city. The civil party responded that he recalled that the Khmer Rouge also told people that Americans would drop bombs on the city.

After the conclusion of Mr. Phal's testimony, President Nonn adjourned the hearing. Proceedings are set to resume in Case 002 on Wednesday, May 29, 2013, at 9 a.m., with the continuation of victim impact hearings.

²⁷ This is believed to be a reference to Mr. Phal's interview with the court, which is on the case file.