



*Civil party Thouch Phandara testifies at the ECCC on Wednesday.*

## **Civil Parties Speak of Loss under Khmer Rouge Regime**

By Mary Kozlovski<sup>1</sup>

Victim impact hearings continued on May 29, 2013, at the Extraordinary Chambers in the Courts of Cambodia (ECCC). 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 during the hearing, which veered off schedule at times. The civil parties who testified were Thouch Phandara, Chan Socheat, Huo Chantha, and Chheng Eng Ly, who spoke last via video-link from France after the court had connectivity issues. Two further victim impact hearings will be held on May 30 and June 4, 2013.

On May 29, 2013, 600 students and teachers from Kampong Cham province's Koh Sotin district and 50 NGO workers from Phnom Penh attended the hearing. Khieu Samphan was present in the courtroom, while Nuon Chea observed proceedings remotely from a holding cell because of his health issues. Both defendants replied to some questions from civil parties during the course of proceedings.

### ***First Civil Party Speaks of Experience under Khmer Rouge***

Civil party Thouch Phandara, a 67-year-old French citizen, was called to the stand. She told Trial Chamber President Nil Nonn that she was born August 22, 1946, in Phnom Penh and currently lives in Paris.

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

Beginning her testimony, Ms. Phandara said her family was happy when the Khmer Rouge entered Phnom Penh on April 17, 1975, because the war seemed to be over and her mother waved a white flag. However, in the afternoon, Khmer Rouge soldiers asked them to leave for three days to avoid bombing and because the government needed to “clean up” the city, she recalled. Ms. Phandara recollected that they were initially hesitant but after about an hour, more aggressive soldiers came and asked them to pack their bags and leave, so her father ordered the family to do so. She told the court she had two young children and two nephews with her at the time; she tried to gather some clothing, water, and medicine and then tied the four children together because there were so many people on the streets. The civil party described how the family had two cars that they eventually had to push and her younger sister had a bicycle. Upon arriving at the road to Sihanoukville, Ms. Phandara testified that an aggressive voice demanded her watch and she then heard a gunshot and saw a man who had been killed. “That is when I understood that things were very, very serious – we were all very, very afraid,” she said.

At that point, Ms. Phandara said, the Khmer Rouge took away their cars – with their clothes and their dog, a German shepherd, inside – and her sister’s bicycle. The civil party recalled that they had rice and water along the way to Kilometer 13<sup>2</sup>, where they stayed for one night. The following day, Ms. Phandara stated, soldiers forced them to move with the masses of people and she witnessed women giving birth in the street; sick people with intravenous drips in their beds on the road “under the burning sun”; people who could not walk; and children forced to abandon their parents, who are considered sacred in Cambodia.

The civil party recollected that then they spent two or three nights in a village called Kampong Meas.<sup>3</sup> Before they entered the village, her grandmother’s three nephews told them to destroy their administrative documents and identification cards and change their names. Ms. Phandara testified that they stayed in the village for a little while<sup>4</sup>, with the women working in the nearby fields and some of the men working quite far away and returning every ten days. The civil party stated that there were spies in the village and her grandmother’s nephews gave them rice and cassava but there was no fish. Thereafter, she recalled, they were asked to board trucks and were taken to Kampong Chhnang and then Pursat. From Pursat, Ms. Phandara stated, they took a cattle train to Phnom Choeuntinh<sup>5</sup>, where “the famine” began and they had to build an improvised shack. They started working early in the morning and returned late at night and received only a ladle of rice, Ms. Phandara said, adding that the children were hungry and soaked because it was rainy season.

Crying, Ms. Phandara continued, recalling that her father had to pull an oxcart by himself and she saw him age ten years in a few days. One day, she said, they were denounced and the Khmer Rouge came to collect them – six families altogether, though her ill husband remained in the shack – and brought them to unknown location. Ms. Phandara recalled that they were questioned

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<sup>2</sup> The location of “Kilometer 13” is unclear.

<sup>3</sup> It is unclear where Kampong Meas village is located.

<sup>4</sup> After Ms. Phandara initially stated that they stayed in Kampong Meas village for two to three days, she then said they stayed “for a little while,” and her testimony implied that it was for longer than two or three days. However, this was unclear in the English translation.

<sup>5</sup> Based on Ms. Phandara’s testimony, Phnom Choeungtingh was perhaps located in either Battambang or Banteay Meanchey province, but it was unclear in the English translation. Later in her testimony, she appeared to identify the area as “near Battambang.”

harshly and repetitively all morning and asked to provide their biographies, to which they responded that they were ordinary people, like traders and shopkeepers. She stated that the wife of a general almost broke down but managed to collect herself, and they were eventually released in the afternoon and given rice with dried fish to eat. Ms. Phandara said she had heard rumors that they would be given food and then killed, but they were allowed to leave. However, the civil party told the court, the family was separated and watched by spies. According to Ms. Phandara, her elderly parents were sent to work with teenagers and, because they could not secure food, they died in 1976, along with her entire family.

### ***Civil Party Lawyer Questions Though Phandara***

After clarifying to the civil party lawyer that Viet Cong rockets fell on her house in 1972, Ms. Phandara described how she became a compulsive eater after leaving Cambodia in 1979 and always longed for food. “I can do without a great deal of things – comfort, money, whatever, even a roof over my head – but I need to have food,” she told the court. When asked about her parents, Ms. Phandara replied that in Cambodia children venerate their parents and seeing her parents die before they were old, without being able to give back to them, would never be erased from her memory:

The conditions in which they died were not worthy of animals. It’s better for animals they get buried, but my parents died in a way that there are no words to describe. Thrown into the ditch, naked. I don’t even know the place where he was discarded, and I retain a terrible feeling of guilt about this – not having been able to save my parents. If I was perhaps a little braver I might have been able to feed them, bring them some rice, something. You never erase memories like that.

Continuing, Ms. Phandara told the court she was present to ask for justice, to give the deceased back their souls because they were “lost between the living and the dead.”

International Civil Party Co-Lawyer Marie Guiraud had projected four photographs that Ms. Phandara had managed to keep throughout the Khmer Rouge period. The first was a photograph of Ms. Phandara’s son, a little boy in a striped shirt, whom she testified had died after contracting meningitis – identified by his father who was a doctor – after he took a biscuit from a dog’s mouth. Ms. Phandara stated that they tried to exchange some of their jewelry for penicillin but no one had any medicine. She recollected that her son wore a yellow T-shirt with writing on the front that said, “If I smile to you, do you smile to me?” when he died.

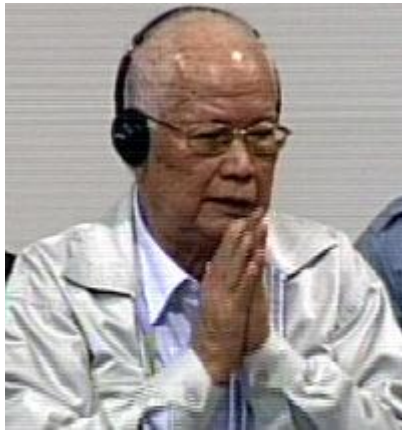
Noting that there were photographs of Ms. Phandara’s mother and husband – both of whom died in 1976 – Ms. Guiraud inquired how Ms. Phandara was able to keep the photographs. The civil party responded that she wrapped them in plastic and sometimes hid them underground but always took them with her when she went to work. Under questioning about the experience of arriving in France as a refugee in 1979 with her sister and surviving son after the Khmer Rouge period ended, Ms. Phandara stated that she had lived three lives: a fine life with her parents before the Khmer Rouge period, “sheer hell” during that period, and a struggle in France thereafter. Ms. Phandara described how she endured periods of “terrible solitude” in France because she had to fight for everything: retaking her driver’s test, taking evening classes to obtain the same degrees and diplomas as she had in Cambodia, and undertaking menial jobs. The civil party reflected that though she knew something of French culture, France was an enormous place and she found herself in a world of different transport and seasons; winter, in particular,

was difficult – with strikes and a child and sister to feed. She confessed that she broke down at one point and had to attend a psychiatric facility for three months.

When asked if she spoke of the Khmer Rouge period to her family from France who did not speak Khmer, Ms. Phandara replied that she sometimes spoke of it to her younger son and spoke of it often to her husband and friends. Ms. Phandara stated that her thoughts in court were with her mother, whom she did not see die. She told the court she had an image of her mother – so hungry that she had almost “withered away” – going to the canteen with her rice bowl, staggering and falling because she was so emaciated, and crawling and picking up grains of rice. “Mother, I am telling you that I am bringing this case to the court for you, to bring justice for you,” Ms. Phandara added.

### ***Accused Respond to Thouch Phandara***

At this point, Ms. Phandara inquired of the two accused why the Khmer Rouge had focused on “17 April people”<sup>6</sup> when they had the same status as them, and about the purpose of criticism and self-criticism sessions.



First, Khieu Samphan rose and responded at length, beginning by expressing his sorrow at her statement. He stated that he was an intellectual, not a Communist Party of Kampuchea (CPK) ideologue, and some DK leaders and members of the government considered him a highly educated intellectual who was useless and whose feet were not “attached to the ground.” Khieu Samphan contended that he had to flee Phnom Penh, seek refuge with the CPK, and join the party, and subsequently learned about their ideology.

According to Khieu Samphan, CPK ideology held that revolution had to go through two stages, the first of which was national democratic revolution where they had to struggle against French colonialism and American imperialism. During this stage national forces had to be united in resistance against capitalism, which oppressed the peasant class, Khieu Samphan said. He asserted that many Phnom Penh residents joined the resistance movement and participated in different ways, such as through demonstrations, activities opposing the Lon Nol regime, or collecting money to purchase malaria medicine for those in the jungle.

Continuing, Khieu Samphan related that the second stage was the socialist revolution and construction of communism. Pol Pot announced at the first Central Committee meeting<sup>7</sup> that the victory of April 17, 1975, was the end of the “popular democratic revolutionary movement,” which indicated the united front and the GRUNK (Royal Government of National Union of Kampuchea), Khieu Samphan stated. After Vietnam reconciled the situation in their country they turned to attack Cambodia, which had to rebuild the country urgently and not allow Vietnam to “catch up and swallow us,” he asserted. Khieu Samphan described “socialist revolution and the construction” as, generally, the concept that all land belonged to the cooperatives and became the

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<sup>6</sup> “New people” and “17 April people” are terms used to refer to people who were evacuated from cities.

<sup>7</sup> The date and location of this meeting are unclear.

property of the people, thereby avoiding land conflicts and allowing dams and canals to be built faster.

Khieu Samphan recalled seeing canals and dams in 1976, including Trapaing Thmor<sup>8</sup> – “like a sea in the middle of the field” – and one to the west of Battambang, which was huge. He said dry land was transformed into rice fields, which excited him because it meant that people would be fed sufficiently and the surplus could be exported overseas, particularly to friendly countries such as China, Korea, and Yugoslavia. He added that they could then buy hoes, knives, and axes and build factories with imported iron to construct gates to irrigate rice fields. Machines were indeed bought but not distributed because Vietnamese forces invaded Cambodia, he said. However, he told the court that during the proceedings he had been shocked to hear witnesses and civil parties testify because he was unaware that dams and canals had been built in exchange for such great loss.

On the question of criticism and self-criticism, Khieu Samphan stated that the CPK fell within the framework of the ideological principles of class and class struggle, for party members in particular, because they had to sacrifice the most to be an example. The accused said he had to participate in such meetings to become part of the proletariat during the stage of socialist construction. However, he asserted, he retained the mentality of a capitalist because he still had funds for his relatives and family members. Khieu Samphan related that some intellectual leaders who went through class struggle, criticism, and self-criticism successfully built themselves by throwing off their capitalist class and focusing everything on the resistance movement. He apologized for being unable to answer Ms. Phandara’s questions, as he was not a DK ideologue.

Next, Nuon Chea<sup>9</sup> stated that he expressed his respect for the souls of Cambodian people and survivors who lost their relatives under DK. He contended that during the regime things were complicated but he was a DK leader and acknowledged that the leadership was not perfect. Nuon Chea said he understood the CPK held that there should be no distinction between base people and 17 April people because the party had to reunite the country for solidarity and defense from invasions by aggressive and expansionist neighboring countries. Additionally, the accused asserted that the purpose of criticism and self-criticism was to eradicate the bad, non-compatriot elements within people, not to get rid of individuals.

After President Nonn began to instruct the civil party to make her statement of harm, Nuon Chea interjected and told the court that his family had also suffered, as his nephew died, along with his teacher and relatives: “Why should I kill my own people or my relatives or my nation?” He said he could not defend or protect his own family because after liberation he met his mother and she wept, telling him that she was pushed to the ground during the evacuation. “She said that ‘I was in my native village: why should I be forced to evacuate from my native village?’ Allow me to say that under DK regime, there were those bad people as well,” Nuon Chea concluded.

Then, when asked to make her statement of suffering, Ms. Phandara turned toward Khieu Samphan and said only that she would like to ask him – a Buddhist and intellectual like herself – to pray for the souls of the people who died and survived, if he so wished. Again, Khieu

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<sup>8</sup> Trapaing Thmor was located in Banteay Meanchey province.

<sup>9</sup> Nuon Chea appeared to have been speaking from his holding cell.

Samphan stood and responded that he had been unaware that her relatives and family members experienced such misery and suffering, along with other Cambodian people including some base people. He asserted that he could also not forget the souls of people and combatants who crawled under the B-52 bombing to liberate Phnom Penh and lost their lives in the process. He said he wished to pray and express his respect for her family and the souls of Cambodian people who died after the “American war.”

### ***Prosecution Briefly Questions Thouch Phandara***

After the accused’s responses, International Senior Assistant Co-Prosecutor Keith Raynor inquired about the identity of General Thach Sary as mentioned in Ms. Phandara’s testimony. Ms. Phandara testified that General Thach Sary was her cousin by marriage, and her other cousin said she saw him executed after being called on the radio to present himself at the Ministry of Information on the day Khmer Rouge forces entered Phnom Penh. The civil party recalled that he was part of General Lon Nol’s security detail.

Turning to another point in Ms. Phandara’s testimony, Mr. Raynor asked what time of year it was that she traveled on the cattle train through Pursat province. She replied that she could not say but soldiers pushed them on board the vehicle, which was “jam-packed” with people. When pressed for detail about her time at Phnom Choeuntinh, Ms. Phandara said there were many health problems; people had nothing to eat and tried to gather wild vegetables. She described her thumb swelling after she got a thorn stuck in it and her husband operating on it. “I saw people who had eaten too many wild plants, who got diarrhea and began to die, but it was in 1976 that people started to expire in large numbers,” she testified.

### ***Defense Teams Cross-Examine Civil Party***

National Co-Lawyer for Nuon Chea Son Arun began the defense’s questioning by inquiring as to how Ms. Chandara knew that a Viet Cong rocket hit her house in 1972. She replied that a document typewritten in French that belonged to her father – who worked under General Thach Sary after being financial director of the water administration – mentioned on May 6 that the Viet Cong shelled his house. Her lawyers had a copy of the document, Ms. Phandara added. In response to further questions, she testified that she recognized Khmer Rouge soldiers on April 17, 1975, because they were wearing black uniforms and carrying guns.

International Co-Lawyer for Nuon Chea Victor Koppe requested the name of Ms. Phandara’s cousin who told her that General Thach Sary was executed. The civil party replied that her cousin Youn, who was in the military and later moved to France but died two years ago, told her in August<sup>10</sup> in the jungle in Phnom Choeuntinh. The Khieu Samphan defense had no questions.

### ***Second Civil Party Called to the Stand***

Next, 56-year-old civil party Chan Socheat approached the stand. She told the court that she was born in Phnom Penh and currently lives in Pursat province’s Pursat district, working as a rice farmer and in the commune office. She told President Nonn that she has a husband and five children.

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<sup>10</sup> The year was not stated.

Speaking at length about the Khmer Rouge period, Ms. Socheat began by saying that on April 17, 1975, she and other Phnom Penh residents were evacuated from the city. Ms. Socheat testified that she had a 15-member family, including her two parents and siblings, and the evacuation was difficult. Khmer Rouge soldiers entered their house with weapons at around 9 a.m. and told them to leave for three days so that they could get rid of the enemy, while another group of soldiers warned them that American bombing was imminent, she recalled. Ms. Socheat told the court they were scared and only managed to bring a bicycle and motorbike to carry some belongings and containers of water for her younger siblings. En route, the situation was even more difficult, Ms. Socheat said, recollecting that she saw masses of people on Monivong Boulevard, including people on their hands and knees, some dead along the road, and some crying for their children and family members.



The civil party recalled that her family kept walking, crossed the bridge, and stayed three nights at a pagoda, waiting to return to the city. However, the Khmer Rouge soldiers had lied to them and they were forced to move further eventually stopping at Kien Svay district<sup>11</sup>, where they stayed for six months, Ms. Socheat testified. During that period, they suffered from lack of food and were given only rice and corn grains and it was hard for her younger siblings in particular, she said. She described how her younger sister could not get breast milk, only liquid gruel, and later died. They had only a small amount of money, which eventually could not be used.

After the six months passed, Ms. Socheat said, the Angkar leader in the area announced that people who left Phnom Penh would be allowed to return and her father – an engineer – was very happy, though people whispered to them that it was a lie; her father, however, was determined to return because the living conditions in the area were bad for his children. They boarded a motorboat with hundreds of families that arrived at the riverfront outside the Royal Palace, she recalled, at which point everyone cheered. Ms. Socheat testified that one man about 30 years of age – who shouted, “Bravo – now we arrived in Phnom Penh” – was called by the Khmer Rouge; passengers heard two shots and he fell into the water. Everyone became silent, she recollected, even the children. From Phnom Penh, Ms. Socheat said the boat traveled to Kampong Chhnang province where they were given cans of rice to share between three people and boarded trucks to Pursat province, eventually stopping at O’Leach in Mong Russei district.<sup>12</sup> They had to walk to a village, which was plain jungle with an old rice barn to the south of the road and three houses for district soldiers, she added.

Ms. Socheat described how, upon arrival, they were instructed to clear the forest and build their own houses, after which they were told that they would eat and work communally. The civil party told the court she worked in the female unit and her younger siblings either worked in the children’s unit or were permitted to remain with her parents. Her father cleared the land and planted vegetables, including pumpkins, while she was told to build dams and given only a ladle of watery gruel per day, Ms. Socheat said, adding that she became sick and her younger siblings

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<sup>11</sup> Kien Svay district is located in Kandal province.

<sup>12</sup> Mong Russei district is located in Battambang province.

were emaciated or swollen. “The situation was miserable, the food was insufficient, and the work was too heavy,” she detailed. After falling sick, Ms. Socheat recalled, she came back to the house and had only ruined rice and a bit of morning glory to eat, but they were not allowed to find other food.

Weeping, Ms. Socheat testified that two of her younger siblings died of hunger, followed by her father who died in his sleep. “We were starved and we were given food like animals,” she said. Thereafter, the civil party stated, her mother became seriously ill and was hospitalized, where she received rice and injections. After her mother improved, Ms. Socheat related, she and her sister were forced into hard labor, receiving one or two ladles of watery rice if they met their quotas and being beaten if they did not. One day, Ms. Socheat told the court, she managed get three cans of rice and tried to leave with her sister but eventually returned to the village.<sup>13</sup> The civil party said her mother was gone and after cooking the cans of rice, Ms. Socheat fell sick and went to hospital, where she found her mother critically ill. The civil party described cooking whatever she could find to survive, including stolen pumpkins.

At this point, Ms. Socheat testified that she saw Nuon Chea on a bicycle; he asked her where she was going, told the unit chief that the unit was under Angkar’s umbrella, and asked him to give her some food.<sup>14</sup> She described how she one day returned from her worksite to be told that her sister had died and was buried. She also recalled that villagers in her area whom she harvested crops with then told her that her mother was critically ill, but she was not permitted by the unit chief to visit her and did not see her mother from that point on. At the time, Ms. Socheat said, she was in a mobile unit and was sent from one place to the next to cultivate crops. In 1977, the food was insufficient, with ten people given three cans of rice to eat communally and only able to drink water from a contaminated stream, the civil party added. She stated that they could only visit family members one or two days a month. Ms. Socheat testified that she was lonely because she had lost her whole family.

We had to meet the quotas otherwise we would be accused of being the Vietnamese enemy. We were considered feudalists. ... They threatened to hit us with a hoe, so we had to work extremely hard at that time – beyond any human capacity – to handle the hard labor.

### ***Lawyer Seeks More Detail from Civil Party and Accused Respond to Queries***

Under questioning from International Civil Party Co-Lawyer Christine Martineau, Ms. Socheat replied that she wished to ask the co-accused why the Khmer Rouge were so cruel and committed such atrocities. She said she had endured tremendous suffering and wished the court to find justice for all Cambodian families, including her family, which was why she filed her civil party application. She added that she hoped her testimony would help the court find justice and requested that the accused admit their guilt and apologize to those who died during the Khmer Rouge period “so that their souls will rest in peace.”

Noting that Ms. Socheat had children born after 1980, Ms. Martineau asked how she replied to questions from them about how she survived when the rest of her family had died. The civil party recalled her experience under the regime, including how she saw people killed and

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<sup>13</sup> This section of Ms. Socheat’s testimony was unclear in the English translation.

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observed the dead bodies, and stated that she could not do anything at the time but try to work as hard as she could so that she could not be accused of being an enemy or being feudalist.

In response to Ms. Socheat's questions to the accused, Khieu Samphan said that her statement shocked him and those who inflicted torturous acts against her family and did not spare people's lives were cruel and merciless. He continued:

I found it terrifying when you said that people were accused of being enemy, or people would feign to be sick or something. These people were really cruel and they were senseless. Even though I am not a leader of DK, I was not the person who made the decision on the political direction of DK; I shared the suffering with you and your family. And I would like to express my sincere sympathy, and I would also like to express my apology to you, your family, and the national compatriots. I made it clear this morning that Cambodian family members endured these atrocities. I only want to once again state that those who committed these atrocities were not ordinary people – they were the merciless leaders.

After Khieu Samphan finished speaking, Nuon Chea asserted that he had repeatedly clarified that DK did not have a policy to kill their own people or deprive them of food. He stated that DK wished to gather their national forces to prevent Cambodia from being invaded and swallowed by neighboring countries and to liberate Cambodia from imperialist powers. The accused said he wished to express sympathy to those who lost their lives and share his condolences with their families, and reiterate that DK had a "good purpose" for the nation and its people. "Each and every one of us sacrificed our personal happiness; we sacrificed ourselves for our nation," Nuon Chea concluded. "I respect the souls of the national compatriots who sacrificed their lives, who lost their lives, during that period."

#### ***Short Examination of Civil Party by Prosecution***

After the two accused finished responding to Ms. Socheat's questions, Mr. Raynor sought clarification on how many of the civil party's siblings had died while the family was in Kien Svay. The civil party replied that her sister Sophea died because she did not have any milk to drink; she could not take the watery rice with a little bit of sugar that she was given.

About the boat trip she took from Phnom Penh to Kampong Chhnang, Ms. Socheat testified that new people boarded the boat at Champa pagoda to go to Kampong Chhnang, at which point they disembarked and boarded trucks to Leach, from where they traveled by train to Oukreath village in Mong Russei. The trains also carried animals, and passengers were not given food or drink, Ms. Socheat said, adding that they collected water at one point and were given rice at another stop.<sup>15</sup> She testified that she had no choice but to get on the train in the presence of military personnel. "If we resist, we would be killed because they were armed with rifles," Ms. Socheat informed the prosecutor.

After arriving at the village in Battambang, the civil party stated, one of her younger brothers died of starvation. "It was hell on earth," Ms. Socheat testified. She told the court that evacuees were targeted as feudalists and within a week, six or seven of her family members died of starvation. There were only wild plants to eat, which caused some people to suffer from serious diarrhea and die, she added.

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<sup>15</sup> This section of Ms. Socheat's testimony was unclear in the English translation.

### ***Khieu Samphan Defense Revisits Incident on Boat***

After the Nuon Chea defense announced that they had no questions for the civil party, National Co-Lawyer for Khieu Samphan Kong Sam Onn pressed Ms. Socheat for further details about the incident she described of a man being shot on the boat as it arrived in Phnom Penh. Ms. Socheat replied that she could not say how much time there was between the man's exclamation and the shooting.

### ***Third Civil Party's Testimony Delayed due to Technical Problems***

Briefly, Chheng Eng Ly told President Nonn via video from France that she was 60 years old, born in Phnom Penh, and currently lived in Paris. She is married with five children. However, as Ms. Eng Ly began to speak further there was a lengthy delay caused by internet connectivity problems, and the next civil party was called to the stand while the technical issues were resolved.

### ***Another Civil Party Begins Her Testimony***

Civil party Huo Chantha entered the courtroom and took the stand. She told President Nonn that she was 60 years old and born in Prey Veng province's Ba Phnom district, but currently lived in Pouk Russey village, in Kandal province. Ms. Chantha said she was a merchant, her husband is a teacher, and they have five children.

After Ms. Chantha received permission to read from a prepared written statement describing her experiences and suffering during the DK period, she began by saying that under the Lon Nol regime, her family was quite wealthy because they had a grocery shop. She told the court she was the fourth child of nine, three of whom were married and public servants in the Lon Nol regime in Phnom Penh, with plots of land, houses, motorbikes, and valuable jewelry. In 1972, Ms. Chantha said, she married a teacher and lived rather wealthily as they had a motorbike, jewelry, and their own house. They did not know what hardship meant, she added. On April 16, 1975, Ms. Chantha recalled that the sound of gunshots came from the area around Pochentong<sup>16</sup> and in the city generally, but at 8 a.m. on April 17, 1975, her neighbors stood raising white flags, as did they, shouting that the war had ended and peace prevailed. Young, black-clad Khmer Rouge soldiers walked in line on the street but did not welcome the applause, Ms. Chantha recollected. She elaborated:



They were silent, and they had this firm facial expression. The happiness did not last long because these black-clad soldiers who were carrying weapons shouted to us, "You must leave the city now as they need to sweep clean the city for three days." We left along Pochentong Road. The situation was rather confusing for my family, as we did not know what to take and what not. The Khmer Rouge kept threatening us – "you must leave immediately" – and they also fired some shots into the air to threaten us. This unanticipated situation caused us confusion, and we were scared.

Describing the circumstances of the evacuation further, Ms. Chantha told the court she was dizzy and trembling and afraid that she would not return and would be separated from her parents. She described people along the road driving vehicles slowly, driving motorbikes, walking bikes, and

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<sup>16</sup> Pochentong is the name of Phnom Penh's main airport.

carrying things on their heads and shoulders, as well as people tripping and women who had just given birth walking “under the open sky and the rain.” Ms. Chantha spoke of disabled and young people being exhausted, young children crying because their feet hurt, and the corpses of Lon Nol soldiers. After arriving at another location, she and her family looked for a place to prepare food and collect water, and she slept on the road, asking herself when she would be able to return to her normal life. Ms. Chantha recalled hearing rumors that evening that the regime abolished currency and she wondered how they could buy food and what would happen to her life savings.

The next morning, the civil party told the court, she hired a boat, crossed the river, and kept walking, eventually reaching a pond from which she and others drank contaminated water. In total, it took 15 days for the family to reach Pouk Russey village, where they all slept under one roof without any walls as it rained heavily, Ms. Chantha recalled. Her family attempted to find materials to build a small hut, but less than two days later they were called to a meeting and told about the unit chief they were supposed to report to, she said. Ms. Chantha testified that in June 1975, her brother-in-law was called away to a meeting by two youths and she never saw him again. After the 17 April people in Pouk Russey village ran out of food, the unit chief once gave them about five kilograms of almost spoiled husk rice that smelled terrible, Ms. Chantha said, adding that some of her family exchanged belongings for food but the situation continued to worsen.

Testifying that the family stayed in the area for the whole regime, Ms. Chantha described how she was assigned to harvest rice crops even though she did not have slippers to wear and was scolded and blamed for being one of the 17 April people who did not have a sense of struggle. When she was assigned to work in the river, she encountered leeches and was frightened; she later had to mind cattle even though she was afraid of bulls – one day a bull attacked her – and also had to pick morning glory and feed pigs.

Ms. Chantha testified that she gave birth but had to continue working, transplanting rice for many hours before she could return home to breastfeed her child. The civil party described being pushed into a pigpen one day and covered with excrement after the person in charge blamed her for not carrying enough feed. She stated that she was discriminated against because she was accused of being a “new person” and her physical strength diminished daily because she lacked food. Ms. Chantha recalled that her husband – descended from a city family – came home exhausted from looking after a pair of ox and then in 1978 was assigned to carry earth far from home. She said he developed a heart problem. Everyday they thought of their families and wondered why the regime inflicted torture and did not allow them sufficient food, Ms. Chantha recollected. She testified that some of her family members told them they were to go for training and re-education, but never returned. She stated, “They killed the officials, the civil servants of the Lon Nol administration, and we were questioning to ourselves why this regime killed the former officials. We wanted to know who the leaders of this regime were ... and what nationality they were.”

After the regime, Ms. Chantha stated, she was happy because her second child was born and she believed she could look for her parents. Upon meeting her former neighbors, Ms. Chantha recalled, she was told that her mother and five siblings were executed during the regime and that her mother was killed after being accused of possessing gold. “The next morning when I woke

up I wanted to die, I really want to follow them, but I heard the crying of my small baby, so I had to live,” she said. “I am the only survivor ... of the nine siblings. My grandparents, my parents, and other relatives – 22 of them altogether – died due to diseases and starvation and other causes.”

Ms. Chantha described how the Khmer Rouge killed three of her brothers. She testified that her mother escaped from a detention center after being accused of not contributing gold to her cooperative. Ms. Chantha said her mother met with her five siblings, who were all arrested and killed along with her mother when Khmer Rouge soldiers located them. “Who were the leaders of this regime? Why did they allow Khmer to kill Khmer?” she asked.

The civil party repeated that she had no family members but had her husband and two children to support her. She told the court her husband suffered from heart problem and she had to sew clothes and raise pigs to raise money for him to get treatment. He then died in 1995.<sup>17</sup> Ms. Chantha testified that she was angry at the regime because her whole family was destroyed and she suffered from psychiatric problems and hypertension resulting from the shock of her experience during DK. She told the court that she tried her best to be on her feet in court to find justice for her family and was excited to have the opportunity to testify:

This is the day that I have been waiting for [for] more than 30 years with anxiety. Today, I would like to summon the spirits of my parents, uncles, grand uncles, aunts, and all the relatives – totaling 22 who died under the regime – to be here with me, in order to hear the prosecution by this court of the murderers and to find justice for you all and in order to be sure that they will be judged when they die.

Continuing, Ms. Chantha requested that the court judge fairly and justly and in proportion to the gravity of the crimes committed against the nation and the people through torture and other cruel acts. She said the perpetrators who killed her family should be punished severely for the thousand years of their lives and should not be reincarnated as human beings. The civil party added:

I’d like to appeal to the true leaders of DK: you are now very old and this is the final stage of your life. For that reason, you should be courageous, to collect all your strength in order to shed light and tell the truth to all the victims and all the civil parties who are anxious to hear, to find justice and the truth, [about] why your regime exterminated the people.

Ms. Chantha appealed to organizations, institutions, and donors to continue providing support to the civil parties in proportion to their loss. She asked that the tribunal investigate the properties inside and outside Cambodia that might belong to the accused, so that if they are found guilty, the property can be used to compensate victims who suffered for more than 30 years. “This court cannot end its mandate in failure, you must endeavor hard to find justice for the victims,” she concluded.

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<sup>17</sup> Ms. Chantha told President Nonn at the beginning of her testimony that she had a husband and five children. In this section of her testimony, after stating that her husband died in 1995, she said she later had three children and referred to herself as a widow. It was unclear in the English translation if she remarried and had more children, or if the three children mentioned are from her previous marriage.

### *Civil party Puts Questions to the Accused*

Finally, Ms. Chantha asked the accused to questions. Firstly, she inquired if it was the regime's policy that her mother and elder brother – who had gold – should be prosecuted and executed for not putting it into the cooperative. Secondly, she asked whether during the Khmer Rouge period, when they were embracing their wives in an “air-con or fanned” room, they imagined the situation of the people, who were wondering what mistakes they made and why they were being killed.<sup>18</sup>

Khieu Samphan repeated that her statement shocked him but he was not a DK leader and did not comprehend why such things occurred. He emphasized that he was promoted to the position of head of state to replace then Prince Norodom Sihanouk, who did not have any executive authority. “I was in a similar situation,” he affirmed. In response to the first question, Khieu Samphan said to him it was incorrect that it was regime policy to execute her mother and brother for not putting gold into the cooperative. He stated that the regime only needed agricultural land and products to expedite the building of the country, as he heard them saying in a Central Committee meeting. Khieu Samphan then affirmed that he did not know anything about the confiscation of personal belongings, like gold and diamonds.

Continuing with his responses, Khieu Samphan said he did not have a big villa and though he was the head of state, it was a nominal role in which he had no executive authority. “I only represented an independent and sovereign Kampuchea,” the defendant asserted. He stated that he was a member of the Central Committee: a candidate member until late 1975 before becoming a fully-fledged member in early 1976. “Although in the party statute it states that the Central Committee was the supreme organization of the entire party, in the actual practice ... this existed only on paper,” Khieu Samphan contended. Additionally, the defendant said he was not responsible for any zone, sector, or military unit but maintained good relations with Norodom Sihanouk and distributed goods to zones and sectors upon their request, based on Standing Committee approval. He added:

Therefore it is clear that I could not know the suffering and the misery as described by you. And you can put the question that I participated in the Standing Committee's meeting. I did participate in the meeting in my capacity as head of state, as I needed to liaise with friendly countries or heads of state, and for that reason I needed to know some matters concerning the development of the country. And for that reason, I was asked to participate in that kind of meeting, and that kind of meeting was a broad meeting for members like myself because for certain meetings I was not allowed to know. And there were a lot of meetings that were held and I was not allowed to know, in particular regarding the meetings concerning the arrest.

Finally, Khieu Samphan said he was also criticized during the Central Committee meetings and asked to criticize and self-criticize and to talk about his class stance. He told the court:

As Nuon Chea stated this morning, the education or the refashioning was for the elements, not for the individual. I was not killed but they could not refashion me when it comes to my elements, because that was part of me. ... I hope you understand that I did not have the authority to make any decisions; whatever they wanted me to know they would only allow me to know and nothing else.

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<sup>18</sup> Ms. Chantha's third question was slightly unclear in the English translation, but it related to the leaders' knowledge of what was occurring under the regime.

After Khieu Samphan finished speaking, Mr. Arun said Nuon Chea was tired and dizzy and could not think straight or consider questions clearly, and therefore invoked his right to remain silent. Neither the prosecution nor either defense team had questions for Ms. Chantha.

#### ***Fourth Civil Party Testifies via Video***

After the connection was re-established, Ms. Eng Ly spoke of her experiences under the Khmer Rouge, beginning by stating that she could not forget the events that occurred under the Khmer Rouge over 30 years ago. On April 17, 1975, Ms. Eng Ly told the court, she saw Khmer Rouge soldiers hack a baby to death and witnessed many people dying along the road during the evacuation. The civil party testified that she left Phnom Penh via National Road 1 and witnessed corpses floating along the river. She recalled crossing the river at Kien Svay in an attempt to go to her parents' native province of Battambang, but could not make it. Ms. Eng Ly said her parents were sick and her siblings' bodies were swollen from malnutrition and they had only the clothes on their backs. Two or three weeks after April 17, 1975, she said, money was still being used and they bought food; money could not be used later, though, and the family was placed in a cooperative and given only rations. "We were given three ladles of watery gruel only with a few grains of husk rice and a little bit of salt," Ms. Eng Ly added.



The civil party told the court that their freedom was deprived and they were forbidden to cry, love, or speak. They were asked to work from 5 a.m. until noon, she recounted, when they were given three ladles of gruel, and then worked again until late evening when they received another three ladles, before continuing to work until 10 or 11 p.m. when there was no light. The work was hard, and they sometimes stumbled in the dark and had only one set of black clothes to wear, Ms. Eng Ly said, adding that there was no medical treatment or medicine when people were sick and seriously ill people were given only a pellet. "Could you imagine living without freedom?" she asked, describing how she carried baskets of rice or corn on her head.

Ms. Eng Ly testified that after her friend Mui, who also left Phnom Penh, said she was thinking of her two younger siblings, two black-clad soldiers called on the two of them the next morning and ordered them to walk across a rice field. The soldiers asked Mui to dig a pit of about her size, before pushing her into it and burying her alive, Ms. Eng Ly told the court. "They said that 'Now we send you to meet with your relatives,'" Ms. Eng Ly recalled. "And the two soldiers said to me, 'Now you see what happened; now you return to work.'" The civil party recalled that she did not dare to cry or tell anyone and went back to carrying rice on her head. Ms. Eng Ly said she was so shocked at witnessing this that she fell unconscious and as she awakened, a medic was attempting to inject her with some fluid, which she declined. Ms. Eng Ly described how she fell down every few days because of exhaustion and thought about jumping into the river because living in such a situation was meaningless. However, Ms. Eng Ly told the court, she knew that if she died, her mother would have nobody to look after her, so she decided not to commit suicide.

Ms. Eng Ly repeated that she could not forget what occurred under the Khmer Rouge regime, stating that what they did – killing millions of people – was miserable. She testified that her experience remained with her; she could not watch anything bloody on the television or elsewhere – even in her capacity as a pharmacist – and she was sensitive to loud noises and large groups of people.

### ***Lawyer Presses Civil Party for Further Detail on Evacuation***

After Ms. Eng Ly finished her statement, International Civil Party Co-Lawyer Pascal Auboin sought more information about the baby she saw being killed as she left Phnom Penh. Ms. Eng Ly replied that as she crossed Monivong Bridge, she saw a crying baby crawling over the body of his dead mother because it did not have any milk. She testified that she wanted to carry the baby, but she could do nothing and was horrified as a soldier “tore the baby apart.” Ms. Eng Ly said she kept walking because she feared for her own safety.

Regarding her arrival at the cooperative, Ms. Eng Ly stated that they reached it in the evening of the second day and a group of about 20 or more people from Phnom Penh gathered and began planning a protest – a rebellion against the authorities. She described how they wished to return to Phnom Penh so they had enough food to eat and could use their bank notes. Ms. Eng Ly testified that she was horrified when Khmer Rouge soldiers later tied these people’s hands together with thread and frogmarched them away; she assumed that they were executed.<sup>19</sup> She described her unit as having around 20 members, including those who were senior, middle-aged, and young, along with the unit chief. Ms. Eng Ly said the unit chief was a cruel, aggressive woman who did not speak to the people politely and accused them of being 17 April people. The civil party said the unit chief used vulgar language, where Cambodian people – women especially – traditionally addressed each other politely.

When asked about the impact of seeing her friend buried alive, Ms. Eng Ly answered that she knew her friend had committed no wrongdoing and upon witnessing it, she became exhausted and could not do anything. She reiterated that she did not dare to tell anyone at the time because her life would have been in danger. Detailing her suffering as a result of the regime, Ms. Eng Ly testified that she had been affected physically and psychologically, with the hard labor impacting on her physical growth and her experiences causing severe psychological effects.

### ***Prosecution Questions Chheng Eng Ly***

As civil party lawyers ended their questioning, National Deputy Co-Prosecutor Seng Bunkheang inquired about the events that occurred before Ms. Eng Ly left for Rokar Kaong.<sup>20</sup> Ms. Eng Ly replied that black-clad soldiers forced them to leave their house in Phnom Penh on April 17, 1975, so she went along with others along National Road 1 until they ran out of food. “I thought to myself that if I continue to stay in Kien Svay, I would end up starving to death,” she said. The civil party added that soldiers in Phnom Penh told them the U.S. bombardment was imminent and she left with her brothers<sup>21</sup> and elderly mother who, like other elderly people, was shocked, but encouraged them to go as ordered. Ms. Eng Ly told the court that older people had been

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<sup>19</sup> This section of Ms. Socheat’s testimony was unclear in the English translation.

<sup>20</sup> Rokar Kaong is a village in Kandal province.

<sup>21</sup> It was unclear in the English translation if Ms. Eng Ly said she had two or three brothers.

through many regimes and administrations and were therefore strong in spirit. She described how black-clad soldiers ordered people to move when she took the boat from Kien Svay to Rokar Kaong, though she did not know where they were heading at the time.

When asked if the corpses she saw in the river were civilians or soldiers, Ms. Eng Ly responded that it was difficult to say because she was unsure and had no time to look. Finally, Mr. Bunkheang inquired who inducted Ms. Eng Ly into the cooperative in Rokar Kaong. The civil party replied that she could not remember but there was an announcement along the road that new people from Phnom Penh had to join cooperatives and those with belongings must surrender them for common use. She said the regime wished to create a situation where no one was richer than anyone else.

With this response, the prosecution finished examining Ms. Eng Ly, and both defense teams told the chamber they had no questions. President Nonn adjourned the hearing for the day. Proceedings in Case 002 are set to resume on Thursday, May 30, at 9 a.m. with another victim impact hearing.