



Nuon Chea Addresses the Evacuation of Phnom Penh

By Simon Crowther, LL.M. (International Human Rights) 2013,
Northwestern University School of Law¹

On Thursday, June 6, 2013, the Extraordinary Chambers in the Courts of Cambodia (ECCC) continued to hear evidence from Pulitzer Prize winning journalist Sydney Schanberg and trauma expert Dr. Chhim Sotheara. Nuon Chea also addressed the court, providing a statement on the reasons for the evacuation of Phnom Penh in 1975.

Prosecution Continues Examination of Mr. Schanberg

After Son Arun, National Co-Lawyer for Nuon Chea, made a request, which was granted, that his client be allowed to address the court about the evacuation of Phnom Penh, International Senior Assistant Prosecutor Tarik Abdulhak continued his questioning of Mr. Schanberg, which began Wednesday. He started by confirming Mr. Schanberg's credentials, as an award-winning journalist who had received a Pulitzer Prize for foreign reporting under great personal risk - the risk being that he had continued to report from Phnom Penh after the Khmer Rouge seized the city on April 17, 1975. The topic of questioning then turned to the evacuation of Phnom Penh and the search by the Khmer Rouge for public officials hiding in the city.

Mr. Schanberg recounted how he witnessed the outcome of Khmer Rouge looting, following the capture of Phnom Penh. At the time he was restricted to the French Embassy in Phnom Penh, which is where the Khmer Rouge permitted foreigners to remain. However, embassy officials were allowed out of the compound into the city, he said, and they reported back that they saw looting and fires being started by the Khmer Rouge insurgents in what Mr. Schanberg described as the "ghostly shell" of the empty city. He witnessed firsthand soldiers carrying soft drinks, which they had stolen, and taking the watches and radios of those fleeing the city.

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

Mr. Schanberg explained that he had been released from Khmer Rouge custody and was allowed to travel to the embassy only after the intervention of his colleague and “brother” Dith Pran. Having challenged the officers who were holding Mr. Schanberg in custody, the witness recounted, Mr. Pran took one officer on his motorbike to the temporary headquarters of the Khmer Rouge, which was at the Information Ministry. There he challenged a general, stating that he had heard on the radio that day Khmer Rouge reports that reporters could continue to do their work. Upon Mr. Pran’s return with the officer, the prisoners were released.

Discussing the treatment of the people of Phnom Penh, the prosecutor read a number of Mr. Schanberg’s diary entries to the court. The diary entries included a conversation with a Red Cross official who exclaimed that the Khmer Rouge “haven’t got a humanitarian thought in their head.” Similarly, the diary stated that a UN Chief recounted to Mr. Schanberg that the Khmer Rouge were “like people from another planet. Their thinking is completely different to ours. I told them I had experts ready to help; they laughed.” In one Khmer Rouge radio broadcast, described in the diary, the Khmer Rouge declared their intention to “struggle without international help.”

Mr. Schanberg’s diary also recounted how the staff of the Preah Ket Mealea Hospital started to arrive at the embassy on April 19, 1975. Arriving in a large convoy, they described to Mr. Schanberg how they had had to work under gunpoint, and that some of their patients, too ill to leave the hospital, had been left behind in the hope that Khmer Rouge medics might continue their treatment. Similarly the foreign director of a childcare center told Mr. Schanberg that he had managed to hide from the Khmer Rouge until one of the babies in his care had started crying. He had been forced to leave the children and staff and was concerned about the fate of the children, whom he feared would be taken into one of the Khmer Rouge’s children units. He was also concerned that his staff would suffer for having worked with a foreign organization.

Over the course of April 17, the mood in Phnom Penh changed, the diary said. It recounted that government soldiers who had previously been embracing their conquerors and celebrating the end of the war could now be seen shedding their uniforms in fear.

When asked who had been executed in the early days of the regime, Mr. Schanberg replied that he was sure that Long Boret had been killed, who was then Prime Minister of Cambodia, as well as Prince Sirik Metak. He could only assume that the other five of the “seven traitors”² would also have been killed.

Prior to arriving at the French Embassy, Mr. Schanberg had returned to his hotel. There he was told that at around 3 p.m. Khmer Rouge troops, brandishing weapons, had arrived at the hotel in search of senior military leaders. Foreigners were given half an hour to leave the hotel and seek refuge in the French Embassy. Having quickly collected his belongings, Mr. Schanberg traveled to the French embassy itself. In the subsequent days he remained at

² The so-called “seven traitors” were Lon Nol, Sirik Matak, Son Ngoc Thanh, Cheng Heng, In Tam, Long Boret, and Sosthene Fernandez.

the embassy before eventually leaving in a convoy with all of the other foreigners who had been detained there.

Mr. Schanberg provided the court with striking testimony of life in the embassy and the situation surrounding it. Most notably, he recounted, at one stage, it became clear that the few Cambodians who had sought refuge there would have to be expelled. Cambodian family were handing their children over to foreigners in an attempt to save their lives. One family attempted to give their baby to Mr. Schanberg, who refused as he said he was not sure he could protect the child; in the end the baby was taken by French woman who overheard the conversation. After the Cambodian nationals were expelled from the embassy, Khmer Rouge soldiers inspected the embassy to make sure there were no more in hiding.

However, Mr. Schanberg noted, a number of Cambodians did manage to escape with the convoy of foreigners. The lead embassy official convened marriages between Cambodians and foreigners so that they could be legitimately evacuated from the Embassy. The Khmer



Rouge forced this to stop when they found out about it, threatening harm to embassy worker if it continued, the witness recalled.

When it came to loading the trucks, which would take the foreigners out of Cambodia and into Thailand, a number of people were successfully smuggled on board. Mr. Schanberg testified that this was done by filing the people who were not on the manifest into the trucks in the dark. When the soldiers noticed that there were too many people in a truck they would unload it; however the process would be repeated. He said that three to four people were hidden in his truck – an American and his

Cambodian wife and one or two Eastern Europeans.

Asked to describe the scenes as they traveled south for three days, Mr. Schanberg described the major Phnom Penh roads as being “an eerie sight,” completely abandoned.

Several people in the convoy could speak Khmer and described to Mr. Schanberg what they were told by local people. One Khmer Rouge soldier approached them to say that “the Vietnamese took 20 years to liberate their people; we took five.” One refugee, a doctor, explained how he had been evacuated only with the clothes on his back.

In Pursat province, the witness recalled, the convoy saw half-finished meals on the tables in some houses, as people had to leave in a hurry. There was no indication of where the people had been taken.

Civil Parties Examine Mr. Schanberg

Following the questioning by the prosecution, Mr. Schanberg was examined by Pich Ang, National Civil Party Lead Co-Lawyer. He began by asking about U.S. support of the Lon Nol

regime in the fight against the Khmer Rouge. Mr. Schanberg testified that as far as he could tell, the Americans would give advice to the leaders of Cambodian units – suggestions as to how to proceed – but they did not take any physical part in the conflict. When asked if there were concerns that U.S. bombing might resume, he replied, “No, not that I know of, because the Congress in Washington was opposed to giving more aid to the Cambodian side, believing that it was clear that they were being slowly defeated by the Khmer Rouge.”

At this stage, Civil Party Co-Lawyer Christine Martineau took over questioning and enquired as to how much time Mr. Schanberg had been in Cambodia between 1970 and 1975. Mr. Schanberg stated that he had spent a significant period of time in Cambodia during that period. Asked about his sources in the country and how he knew what was happening outside of Phnom Penh, he explained that the U.S. embassy would sometimes answer questions about the advance of the Khmer Rouge. In addition, Cambodian generals would sometimes give interviews, and he could also travel. “It became clear that the area controlled by the government was shrinking to the cities,” he told the court. The Khmer Rouge had taken Siem Reap and had damaged a number of buildings constructed in the 12th century, he said, also recalling that villagers would tell him how the Khmer Rouge had taken neighboring villages and how this had led to people fleeing to their villages or as refugees to Phnom Penh. Among these people, he said, there was no optimism that the Cambodian government might be able to turn the conflict around and defeat the Khmer Rouge.

With regard to life in the liberated areas controlled by the Khmer Rouge, Mr. Schanberg stated that rumors were heard of people being taken prisoner and being forced to work in fields. There were also reports of malnutrition, although, he noted, there was also malnutrition in the areas controlled by the Cambodian Government.

Ms. Martineau returned to the subject of the Le Phnom Hotel, which had been raised on Wednesday, enquiring as to the status of its hospital or infirmary. Mr. Schanberg stated that as far as he was aware it did not have one.

Moving on, the questioning turned to the information Mr. Schanberg learned from his assistant, Dith Pran, who was captured by the Khmer Rouge and lived under the regime. The witness said that it was from Mr. Pran that he first heard the terms “new people” and “17 April people.” Mr. Pran also told him he had been punished for stealing a tomato and had been beaten up. He had survived under the regime by pretending to be a man who pushed carriages in Phnom Penh, rather than a journalist. “He succeeded, God bless. This is not a man who tells lies,” Mr. Schanberg emotionally told the court. Mr. Pran had also told him stories of people whom he had worked with who had been discovered by the regime to have worked for a U.S. paper; according to Mr. Pran, they had been executed.

Mr. Schanberg acknowledged that he had seen reports from people who had liked their Khmer Rouge life; however these were Khmer Rouge themselves, he said. From those who had escaped, he had heard about nothing but killing; he said it was a “slaughterhouse, I think clearly a genocide.”

At this stage President Nonn interjected to remind the witness he was not allowed to provide analysis or conclusions.

Nuon Chea Speaks on the Evacuation of Phnom Penh

Following the conclusion of the civil parties' questioning of Mr. Schanberg, Nuon Chea was allowed to make a statement on the evacuation of Phnom Penh. He appeared by video link, in which he could be seen lying down in his holding cell and wearing sunglasses. He stated to the court:

Thank you, Mr. President. Good morning, your honors, and good morning, my Cambodian compatriots. I am delighted that I am given the opportunity to enlighten the court [and] my Cambodian people inside the country and overseas regarding the evacuation of people from Phnom Penh city after the liberation day of 17 April 1975.

To my recollection the opinion of the Standing Committee of the Democratic Kampuchea at the time or, we could say bluntly, the Communist Party of Kampuchea made the following decisions:

Upon the liberation of Phnom Penh we have to evacuate the people from Phnom Penh or not. It's because:

1. If our soldiers come to control the city, will the Americans bomb the city? And we cannot actually predict the behavior of the Americans as they used to bomb the countryside for 330 days in order to smash the resistance movement and to destroy our economy.
2. If the Americans bomb the city, will the Vietnamese just stand idle? No, in fact the Vietnamese would pretend to lend their support to the Democratic Kampuchea, and by that means, they would mobilize their soldiers under the pretext of assisting Cambodia but instead to control us – to invade us.

And for these two main reasons, that would lead to the evacuation. And for that reason the Standing Committee invited chairmen of all zones to inform them of the imminent evacuation of Phnom Penh residents upon the liberation and enquired as to which zones actually could accommodate a number of certain people from Phnom Penh. To my recollection those zones which could produce a lot of agricultural products could accommodate more, that would be the North Zone. So we consulted with the chairman of the North Zone, and the chairman of the North Zone decided to accommodate 1.5 million people, and the rest of the remaining residents of Phnom Penh, that is another 0.5 million, would be distributed to various other zones, for example to the East or to the other zones. And they also confirmed that the people at the base shall behave properly towards the evacuees, that is the new people, and in particular to lend their spiritual support as brothers and sisters as one nation of Kampuchea. And that they should not discriminate against newcomers. And the zone chairmen participate in the meeting and they also relayed the instructions to all the co-operatives.

So it is not that the Democratic Kampuchea decided to evacuate Phnom Penh without taking any responsibility. In fact, they took responsibility, and they decided that matter in a formal meeting. Unfortunately, as we saw it upon the liberation, it is apparent that we had to evacuate the people, as we were afraid the Americans would bomb the city as they used to do it. They used to bomb for more than 200-300 tons, and you can see the remnants of the bombs as big as a large pond. And we did have conflicts with the neighboring countries; I could of course point out that would be Vietnam. Pol Pot actually spoke in the meeting that Vietnam was our friend, but they were of the adversary nature. They could pretend to lend their support to Kampuchea, but in fact they would strengthen their authority while their soldiers [entered] into Kampuchea. That is a very complicated issue.

This is for all the national compatriots to understand. It is not just we do everything, and we took it for granted. If [there were] people in Phnom Penh, based on the means of food support, it would be a difficult choice to consider. Based on the information that we could get, there would be issues with fuel provision and with the food supply to Phnom Penh residents, and if we let them remain in Phnom Penh, then they would face the challenge of the lack of food. And if the food could be provided in limited amounts it would mean the food would not go to the poorest group, it would go to the ones who could afford it, who could purchase the food. And that's another main reason on the lack of food supply and transportation.

I would also like to reiterate that each zone was instructed to give instructions to the co-operative to have good positive attitudes towards the evacuees because they could not engage in hard labor as the base people did. And they had to be friendly to one another. But in practice, certain areas could do it, but other areas lacked in substance despite the repeated instructions given to them. And of course we had this group which created havoc within the group.

I at the time was a member of the Standing Committee of the Communist Party of Kampuchea, and I actually called these very two main points. And there was the first one, as I said, that the Americans would bomb the city, and the second one is the food supply and transportation to the people in the city. And upon seeing such difficulties and challenges, we had to resolve the situation based on what we had, and for that reason, we decided to evacuate the people to resettle the co-operatives in order to minimize the difficulties faced in the city. And we did that out of the kindness and the generosity and not for the fact that we would land then in difficult situations. And this is my frank statement from the bottom of my heart as someone who was responsible for what happened at the time.

Nuon Chea Defense Begins Cross-Examination of Mr. Schanberg

At the conclusion of Nuon Chea's statement, his International Co-Lawyer Victor Koppe returned to the examination of the witness and proceeded to ask Mr. Schanberg questions about various topics covered in his client's statement. He started by establishing that Mr. Schanberg had been *The New York Times* bureau chief in New Delhi between 1970 and 1975, covering sections of Southeast Asia, India, Pakistan, and Burma, that he visited Cambodia in 1970 when Prince Sihanouk was deposed, that he returned to Cambodia after a prolonged period covering the "Easter Offensive" in Vietnam, and that he continued to visit Cambodia during that period as he felt the war there was not being well covered.

Mr. Koppe quoted a passage from Mr. Schanberg's diary, stating that "at times along the roads today we saw homes and pagodas flattened." He went on to enquire as to the impact of U.S. bombings. Mr. Schanberg testified that he had seen places where nobody lived anymore, when reporters were captured and killed. He claimed to be doing a lot of covering of what the Americans were doing, something the U.S. government was not happy about.

As he asked the witness again about the impact of U.S. bombing, Mr. Koppe faced an objection from Mr. Abdulhak who objected to the eliciting of conclusions from a witness. After the question was rephrased, the witness recalled seeing villages destroyed by the bombing; however, he stated, he had not been able to visit the areas controlled by Khmer Rouge. Mr. Koppe read a further extract from the diary of Mr. Schanberg in which he mentioned the dropping of cluster bomb units "designed to kill and maim as many people as possible." He questioned the source of this information and was told that there were both Cambodian and U.S. sources, military sources that were confidential.

Mr. Koppe further drew the court's attention to the diary extract in which Mr. Schanberg recounted an American commander giving an order to Cambodian soldiers despite the U.S. government's contention that there is no military presence in Cambodia. In addition, another diary entry mentions a U.S. military official boasting that they had "killed 22 on the ground" that day. In response to being read these extracts, Mr. Schanberg replied, "All I know is that the Americans used people and equipment to guide the bombing."

Mr. Schanberg further testified that he was aware the U.S. Congress felt strongly about shutting down the U.S. role in Cambodia. Congress refused to allow any more aid as the Khmer Rouge came closer to the capital, he said. He knew of no discussions about the "turning back on" of the U.S. bombing, although, following questions from Mr. Koppe, he did reveal that he heard a rumor among some Cambodian military units that the bombings would resume.

Interestingly, the witness testified that U.S. ambassador, John Gunther Dean, was trying to convince Washington to open negotiations with the Khmer Rouge. However, in his diary, he had stated that, when asked what the Americans know and who they might negotiate with, Dean replied, "We know little, very damn little." Mr. Koppe proceeded to suggest that the witness also knew little, very damn little, about the Khmer Rouge at the time, as he it was not in communication with them.

Again, Mr. Abdulhak raised an objection when Mr. Koppe attempted to draw a conclusion from the witness as to whether the Khmer Rouge were actually fearful of U.S. bombing. After the objection was sustained, the topic was changed to the supply of food.

Diary entries were read to the court about the scarcity of food and its price. In one diary entry, it was noted that food prices were moving further away from everyday Cambodians and stated, "Every child one sees is suffering from some kind of malnutrition." Another entry documented how it was once the case that street dogs roamed Phnom Penh; however now they had all been killed for food.

At one point, the diary stated that the reason for the food shortage was that the Khmer Rouge had cut off all supplies to the capital. Asked whether he was saying in this entry that before the supply chains were cut off, there was not starvation and malnutrition in Phnom Penh, Mr. Schanberg testified that there was not and any doctor would confirm this.

In what became a heated exchange, Mr. Koppe proceeded to ask the witness about the reason refugees were coming to the city. When Mr. Schanberg said that he did not hear that any refugees claimed to have come due to the bombing, Mr. Koppe suggested that this was an omission on his part and that he should have talked to more refugees. In response Mr. Schanberg exclaimed that this was "laughable." If there were refugees who fled to Phnom Penh because of the bombing, he said, he did not find them. Upon a claim by Mr. Koppe that he had been unobjective, Mr. Schanberg forcefully retorted, "Let me make a suggestion to you, counsel – you go back and do some more research," and asked if Mr. Koppe was suggesting he was biased. After Mr. Koppe responded positively, claiming that critiques of Mr. Schanberg's reporting did exist, the prosecution mounted an objection. Mr. Abdulhak argued that such broad assertions accusing the witness of bias were not appropriate. President Nonn upheld the objection, and Judge Cartwright stated, "As an addendum to the president's ruling, Nuon Chea's counsel is entitled to challenge this witness as to the balance and accuracy of his reporting, but he cannot put blanket challenges. They must be specific."

Finally, Mr. Koppe moved on to the treatment of different parts of Phnom Penh during the liberation in April 1975. He established that the witness had seen different age groups of soldiers; however, Mr. Schanberg could not provide evidence of differing treatment of civilians by different soldiers. Nor did Mr. Schanberg know the names of any of the commanders. He concluded that all that he saw after April 17 was on the road while he was being evacuated to Thailand, commenting that he witnessed new roads and new villages, which were not on anybody's map.

Mr. Schanberg's testimony was adjourned to be continued on Friday, June 7, at 8:30 a.m.