



Former Khmer Rouge Cadre Testifies on Evacuation Plans
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On Wednesday June 19, 2013, the Extraordinary Chambers in the Courts of Cambodia heard the testimony of Nou Mao, a former Khmer Rouge cadre and member of a commune committee before 1975 and at the time of the Democratic Kampuchea period.

All the parties to the court were present, with Nuon Chea observing proceedings from his holding cell due to health reasons.

Mr. Mao, 78, was born in Udong District. He explained that he had the alias Mok, which he took on when working in a unit where someone else had the same name as him. He identified his occupation as being a peasant – in the past he collected sugar from sugar palms. The witness recounted that he had provided an interview in the past with an international newspaper; however, he could not recollect when.

The Prosecution Examines Mr. Mao

Senior Assistant Prosecutor Keith Raynor, began the examination of Mr. Mao for the prosecution by questioning the circumstances in which the witness had given a newspaper interview. Mr. Raynor explained to the witness that the court had on file the handwritten notes of journalist Ben Kiernan; the notes, dated August 26, 1981, include the witness's name. The witness explained that he had been interviewed on two occasions, once in Udong district office and once on a battlefield. In the latter case, he had been delivering food to the battlefield when he had met a number of reporters. He urged them to flee and move back into an area controlled by the Lon Nol forces. "Later on, surveillance was put on me, and I was accused of planning the escape of American reporters," he told the court. Mr. Mao then produced a photograph of the journalist who had interviewed him and whom he identified as Ben Kiernan.

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>.

Following the production of this photograph and having heard from the witness that he had a poor memory, the prosecutor attempted to have a Khmer translation of his interview shown to Mr. Mao.

Both Khieu Samphan's Co-Lawyer, Anta Guissé, and Victor Koppe, Co-Lawyer for Nuon Chea objected to the document being shown to the witness based on a lack of foundation for showing the document to the witness and an argument that the Khmer translation was irrelevant to the current proceedings. Mr. Raynor agreed to lay a foundation for the document; however, he rejected arguments as to its relevance, stating that the defense would have an opportunity to test its probative value later in the proceedings. He further contended that the witness should not be put at a "disadvantage" in that previous witnesses had been allowed to refresh their memories through documents written as recently as 2009 and that "justice and fairness require" that the witness be allowed to refresh his memory as well.

Trial Chamber President Nil Nonn disallowed any further comment from Ms. Guissé, who was on her feet, and gathered the judges for a short conference. Handed the floor by the president, Judge Sylvia Cartwright gave the response of the court:

First, a procedural matter: where an objection has been made and responded to, the chamber will not normally allow a further reply by the objectors. As for the objections themselves, the chamber accepts that sufficient groundwork has been laid for this document to be the subject of questioning of the witness; this of course includes questioning by the defense. And ultimately, the weight to be placed on the document is for the chamber to determine. The objections are not sustained.

Proceeding with his questioning, however, Mr. Raynor chose not to return to the disputed document immediately but rather asked the witness to state the year when he joined the revolution. Mr. Mao explained that he had forgotten the date but noted that he would be able to respond if given the opportunity to look at the aforementioned document.

Mr. Raynor once again sought permission to show the Khmer translation of the notes to the witness, and again Mr. Koppe stood to object to the use of the translated document when the original is in English. "If [the witness] has anything intelligent to say to this document, he should be confronted with the original English version, and not with the Khmer translation," he concluded.

"That's ridiculous, Mr. President," Mr. Raynor retorted, requesting and receiving again permission to proceed. The prosecutor handed the translated document to the court officer, who delivered it to the witness for his review. Having had his memory refreshed by the translated interview, Mr. Mao confirmed that he had joined the revolution in 1971 and the Khmer Rouge party in 1972.

Moving on, Mr. Raynor turned to a meeting discussed in the notes of Mr. Kiernan, in which the journalist recorded the witness's account of a 1972 meeting in which Khmer Rouge leader Ta Mok instructed a group of 3000 monks that the Vietnamese troops should not be allowed to station in the wats or villages and should only be allowed to buy food if they had written

permission. Asked if Ta Mok explained why these instructions were given regarding the Vietnamese, the witness stated that he could not remember.

Reading again from the notes, the prosecutor went on to note that Mr. Mao had stated the purpose of the meeting was to encourage the monks to defrock and join the Khmer Rouge army. Regarding whether any monks actually did so, Mr. Mao again stated he could not remember.

Asked about the roles of leaders Chuo Chet and Ta Mok at the time, Mr. Mao said that Chuo Chet was in charge of political affairs and Ta Mok in charge of the military. He also stated that, as the more senior leader, Chuo Chet tasked Ta Mok to “lure” the monks to the army. Although he could not remember the year of the meeting convened by Ta Mok, Mr. Mao testified that it was at this time that “all monks were defrocked and were supposed to join the army.”

The prosecutor next commented to the witness, “You say in these notes that Chuo Chet’s alias was Sy, and you also say he was in the central committee.” Mr. Koppe quickly stood to object to the way of questioning, noting for the court that the document from which the prosecutor was reading is not “an official statement taken by official investigators or judge.” He asserted, “It’s just a handwritten verbatim report of what might have been said by this witness” and urged the court not to “pretend” that the document was an official witness statement. Although first characterizing Mr. Koppe’s arguments as pertaining to weight rather than admissibility, Mr. Raynor agreed to use different wording in his examination.

“This document records you telling Mr. Kiernan that Mr. Sy was in the Central Committee,” Mr. Raynor continued, asking the witness if Mr. Sy was indeed in the Central Committee and how Mr. Mao knew this information. Not satisfied with the change in wording, Mr. Koppe again objected with the method of examination, which he now found “ridiculous,” and stated that the prosecutor should “just ask open questions as you would do it in normal court.”

With apparent frustration, Mr. Raynor stated that he believed that this was now the fourth time Mr. Koppe had made the same objection and been overruled. Calling this practice of questioning the witness using a document as “well established” in the court and asserted that he was “proceeding in accordance with *your* direction, Mr. President, on at least four occasions,” the prosecutor once again sought permission to proceed.

In response, President Nonn stated to Mr. Raynor:

I believe there are two issues here. First, you already promised to Counsel that you would like to reframe your line of questioning. Nonetheless, the line of questioning appears to be the same as the previous questions before the objection was made. We believe that if you honored the promise, then the problems would not arise. We did not take action on the objection recently by Counsel Koppe because we were expecting your reframing your way of questioning the witness. With that, the Chamber would like you to take into account this and if your resort to going back to the same line of questioning, then you would risk such objection.

Sustaining the objection and instructing the prosecutor to reframe his examination of the witness, President Nonn concluded by reminding the prosecutor that this disputed document should not be treated the same as a document originating from the Office of the Co-Investigating Judges.

Thanking the president, Mr. Raynor returned to the examination, inquiring whether Mr. Mao knew if Chuo Chet held any positions beyond those he held in the Southwest Zone. The witness answered that Mr. Chet was in charge of political affairs and was “very good at that.” He also noted that Mr. Chet was more popular among civilians, while Ta Mok was popular among the material.

Asked whether he ever received lessons from Mr. Chet as an instructor, the witness stated that Mr. Chet had taught a series of lessons at Wat Keo Pauk pagoda, which Mr. Mao attended over a month-long period with approximately 300 people who were considered potential cadres. In a confusing answer, the witness told the court that Vietnam and the Vietnamese were not mentioned at the meeting, but also, that Mr. Chet told them the Vietnamese were to be considered friends as they helped Cambodia.

Again, Mr. Raynor refreshed the witness’s memory in order to confirm that there had been between 150 to 200 people present at the courses, which had taken place in 1973 and been taught by Ta Mok, Mr. Chet, and an additional teacher named Phal. At these sessions, the witness said, they had been taught how to recruit people to the cause of the Khmer Rouge and to “help liberate the country”; in addition, detailed biographies were taken from the students in order to ascertain their class status.

Mr. Mao could not recall whether documents were referred to by the teachers of the lessons, apologizing and explaining that he had suffered a lot and so had a bad memory. Refreshing the witness’s memory, Mr. Raynor quoted the interview notes again: “We studied documents on the situation in Kampu, fighting against the imperialists and on the plan to evacuate the people from the enemy when Ta Mok taught us.”

The witness was then able to recount that he had been told at these sessions about the evacuation of “the enemy” from Phnom Penh, as well as a disagreement between Ta Mok and Mr. Chet on whether people should be evacuated from the city. Mr. Chet was of the opinion that they should not be evacuated, a view that was challenged by Ta Mok, Mr. Mao stated. The witness also said he heard firsthand from Ta Mok about plans to attack the city and evacuate all of its inhabitants, regardless of their status as civilians or officials; those who objected to the evacuation plans, on the grounds that city dwellers would not be able to farm and sustain themselves, were reprimanded by Ta Mok and lectured on how the leader envisioned the people would be evacuated. Mr. Mao recounted that Ta Mok informed those present that evacuated people would be moved to different zones and that the evacuation would not be limited to Phnom Penh but would involve the whole country.

Continuing, the witness testified that those he knew from his own province who had been evacuated *en masse* were placed in cooperatives, where they had to dig up roots in order to supplement their rations and during which time many died. When asked what he had meant when he said Ta Mok said his plan concerned people from “all walks of life,” Mr. Mao defensively claimed that he did not know as he was wounded at that time and was too injured to see what Ta Mok had been referring to. He gave a similar answer when asked if Ta Mok had elaborated on why these people needed to be evacuated and could not remember whether Mr. Chet was present when the plan was explained.

Mr. Raynor proceeded to ask a series of questions regarding plans on the evacuation, including any additional meetings on the subject; however he did not receive straight answers from the witness. This led him to assure Mr. Mao that there was no suggestion that the witness had done anything wrong.

The witness was asked to testify further about Mr. Chet's opinion on the evacuation. Accordingly he told the court that Mr. Chet had made it plain at one of the political training sessions that he did not approve of the evacuation and reiterated this point during an informal training session that had taken place in the jungle. The witness was asked what he thought about the disagreement; however, he gave a confusing answer, which did not address the question.

Changing topic, Mr. Raynor moved on to the treatment of a group of resistance fighters who returned from Vietnam to Cambodia, known as the Khmer Hanoi, by the Khmer Rouge. Mr. Mao's testimony was difficult to follow on this topic. On the one hand, he stated that approximately 2000 to 3000 Khmer Hanoi, or Khmer Viet-Minh as he called them, had been arrested by the Khmer Rouge and "mysteriously disappeared." Yet on the other hand, he also testified that they had been divided into communes where they had acted as experts, with those who had trained in Vietnam while assigned to the army.

Clarifying slightly under further questioning, the witness explained that the Khmer Viet-Minh had been asked to help Cambodia, though he was not sure by whom. As a result, "National Rescue Committees" had been established, comprised of Vietnamese experts. In addition, Vietnamese troops had been allowed into Cambodia in order to take up senior military roles. During study session these experts would contribute, he stated; however, they would never return from these sessions. "I presume they were disappeared or died after the sessions," Mr. Mao told the court. "I am convinced they died; I just don't know where."

Questioning turned back at this stage to the attitude of Khmer Rouge leaders to the planned evacuation. The witness testified that as a person at the commune level he was not able to tell the opinions of senior leaders to the evacuation. He was then read part of the notes of his interview to refresh his memory. Within this passage, it was claimed:

In 1974, when they were planning to take Phnom Penh and evacuate the people, some were in favor of the evacuation and others were not. Sy did not want to evacuate them. Neither did Hu Nim *alias* Hu Yuon. Ta Mok and Khieu Samphan were in favor of the evacuation in 1974.

Having been read this passage the witness was still unable to recall the opinion of senior leaders, and could not confirm the quote as being accurate.

Mr. Mao was also unable to recall a company commander named Met. He was read a quote from the notes taken by Mr. Kiernan in which it was stated, "Hu Yuon did not want Phnom Penh evacuated. Heard this from soldiers, commanders. Later this commander arrested, name Met, company commander, died." After the witness's duty counsel had shown him the quote, he was able to confirm that this was the commander he knew as Met, whom he knew had disappeared but did not know how.

According to Mr. Mao, Hu Yuon was disappeared after he convened an assembly at Tang Po, Udong Province, where he criticized the evacuation policy. "He was very determined that people

should not be evacuated,” Mr. Mao told the court. The witness testified that he did not know Khieu Samphan; however he was aware that Mr. Samphan was in favor of the evacuation. This he had heard at an assembly, which was held at Wat Taing Po.

Mr. Mao believed that Hu Yuon died in the S21 prison. “I noticed he wrote in his own blood,” the witness recounted and went on to describe the practices at the prison as including the pulling out of nails and exposure to poisonous insects.

Returning to the subject of evacuation, the next series of questions concerned what the witness had seen in Udong Province. Having quoted a segment of Mr. Mao’s earlier testimony, Mr. Raynor asked him how he knew who had been evacuated from Udong Province. In response, Mr. Mao recounted that he had been living in Udong at the time, in a commune, and the senior leaders had told them that they had to be ready to receive people. People were evacuated to a barren area where there was nothing to eat other than potatoes and wild plants, the witness stated, and there were lots of casualties as people died from starvation and disease. Mr. Mao said he was informed about the status of these evacuees at a meeting where the Khmer Rouge boasted about their military victories. He did not see the evacuees himself, whom he believed to have included prisoners of war. A number of his own relatives were evacuated, he said.

The Khmer Rouge had not been prepared for the effects of the evacuation, according to Mr. Mao; as a result, there was insufficient food for the evacuees and people died as a result. Some people disappeared “mysteriously,” Mr. Mao told the court, while others barely survived.

After the evacuation had occurred, the witness continued, segregation ensued between the “new people,” who had been evacuated from the cities, and the “old people” who had already been living in rural areas, often in communes. All new people were considered to be supporters of the Lon Nol regimes and were therefore ostracized.

Even after the war had been won in 1975 and Phnom Penh evacuated, forced movement still occurred between different rural areas, Mr. Mao recounted. People were evacuated between zones; for example, the witness explained, some people were transferred from the southwest provinces to places as far away as Battambang Province. The witness testified that the reason for these evacuations was that the Khmer Rouge did not want people to communicate or “dig into their history.” This was a point the witness said he did not understand himself.

The witness was then asked how he knew that people were evacuated to Battambang, a question to which he did not provide a straight answer. Instead the witness claimed he did not know how many people were transported and emphasized that at that point he had ceased to work at the commune office, having been “more or less kicked out of the commune committee.” He was able to confirm that he had heard of a train, which took evacuees to Battambang,

From speaking to villagers in his own town, he said, he learned that some of his own relatives had been evacuated to Battambang, “There were many casualties,” Mr. Mao testified, “The hope of survival was minimal.” Both new and old people were aware that those who had been evacuated were living in “miserable” conditions. In addition, the witness testified that on some occasions village populations were literally swapped so as to discourage communication between new and old people, with both groups suffering as a result of this policy. It constituted “political suicide by the Khmer Rouge,” according to Mr. Mao. “It was meant for death.”

Asked about a place called Paung,² the witness explained that although he had never been there, he had heard of it. People had been evacuated there when fighting broke out. The “base” people in Paung had already been evacuated, and so the incoming groups of people were able to take their homes.

The Khmer Rouge evacuated people regardless of their status, Mr. Mao said; those who had been Lon Nol soldiers were evacuated and then told they were to be taken for education. Those taken never returned, he stated, and “we all thought those people must have been killed. . . . My personal judgment is that those told to go for education were assigned for death.” Overall, the Khmer Rouge, according to the witness, “cheated” people. “The Khmer Rouge was in general gentle; they appeared very gentle, but they were very cruel. They killed people indiscriminately,” he concluded.

At this point, the president interrupted and handed the floor to National Co-Counsel for Nuon Chea, Son Arun, who objected to the “long-winded” answer of the witness that was not on point to the question originally asked. Mr. Koppe likewise objected, requesting the president to instruct the witness “again” that he is not at the court “to speculate or make assumptions” but only to testify to what he saw or heard.

Without awaiting a response from the president, Mr. Raynor stood and stating that his next question “has absolutely nothing to do with assumptions.” Before he could proceed, however, Mr. Koppe interjected that his request that the president specifically address the witness on this matter remained outstanding. In response, President Nonn directed the requested instruction to Mr. Mao, as well as urging him to remain brief in his answers.

Resuming his examination, Mr. Raynor asked Mr. Mao where he was when he saw Lon Nol soldiers being taken away. After clearing his throat, the witness answered that he was in Chung Ra commune, at Prey Thrum pagoda, when he saw people, including soldiers, evacuated.

With this response, the prosecution concluded its questioning.

Examination of Mr. Mao by the Civil Party Lawyers

Lor Chunthy, Civil Party Co-Lawyer, began the examination of the witness on behalf of the civil parties by investigating how the witness came to join the Khmer Rouge. Mr. Mao informed the court that he had a cousin who was a member of the commune committee who had asked him to join the revolutionary committee. He had told them that he was uneducated and had a low level of literacy; however they had simply replied that he would be able to learn from his membership. “At that point I could not resist or I would risk my safety,” he explained to the court. If he had resisted joining, he said, he would have been cast as someone who supported the Lon Nol regime. He had at that time hoped to liberate the people and the country, Mr. Mao continued, so he was sympathetic to the Khmer Rouge ideals. In addition, he continued, at that time the Khmer Rouge were popular, and women and young people asked to join the revolution. This popularity stemmed in large part from the people’s anger with the Lon Nol regime for what they saw as its bombing of the country, he concluded.

² The spelling of this location was unclear in the English translation.

The subject turned to the Khmer Rouge leaders that the witness knew. He was unable to remember the first time that he met Ta Mok but was able to help the court on the matter of hierarchy, with an explanation that Ta Mok was politically inferior to Mr. Chet. Mr. Chunthy attempted to turn the subject to the disagreement between the two officials; however the prosecution made a successful objection on the grounds that this line of questioning was repetitive.

Moving on, Mr. Chunthy asked the witness a series of questions about arrests that had occurred under the Khmer Rouge regime. Mr. Mao was unaware of when Mr. Chet had been arrested. He was able to inform the court about his own arrest, though, which had led to his detention in Pursat. A man from Section 15 had arrested him, someone who was later to go missing in their own right, he stated.

Mr. Chunthy handed over to his colleague Beini Ye, who began by asking how many Lon Nol soldiers the witness had seen being taken away. The witness did not give a straight answer but instead explained that he had seen “a lot” of soldiers being sent away from Phnom Penh. Although they were not armed, they were carrying military backpacks and were wearing distinct military uniforms, he explained. Pressed again on the number he had seen, the witness estimated that he had seen approximately 100 soldiers being sent to be educated.

Returning to the subject of “base” people and “new” people, Ms. Ye asked the witness to describe the segregation he had witnessed. He described how two new people would be placed in a group with a base person to monitor them. He would not speculate, however, on whether or not the base people then reported to the leadership about the behavior of the new people.

On the matter of monks being forced to defrock, the witness was asked whether more monks were forced to do so after the Khmer Rouge had taken over. In response he stated that there were no more monks left at that time, as they had already been defrocked. He then concluded, “That is all from me; I think I already talked about this this morning,” with which Ms. Ye ended her examination.

Nuon Chea Defense Questions Mr. Mao

At this stage, Mr. Arun initiated cross-examination for the defense by asking the witness about his educational background. Mr. Mao testified that he had learned to read and write at a pagoda, using chalkboards.

After a testy exchange between Mr. Arun and the witness, in which Mr. Mao provided extremely short answers to multi-faceted questions, it was determined that at no point had the witness served as a soldier.

On the question of his leadership roles, the witness testified that he had originally been a member of a village committee, before then moving to a cooperative and becoming a member of the commune committee; it was as a member of this commune that he was assigned to attend courses.

Mr. Arun was keen to establish whether the witness had heard firsthand the discussion between Ta Mok and Mr. Chet, which the witness claimed he had. He explained that those who attended the month-long course where this was overheard were low-ranking Khmer Rouge from the commune, sector, and district levels. As the defense counsel attempted to challenge why a

village committee member such as Mr. Mao would be invited to such a meeting, the president interjected to inform counsel that the witness had already made it perfectly clear that he was later a member of a commune committee.

Mr. Arun's final area of questioning concerned the Khmer Hanoi. He enquired as to the difference between Khmer Hanoi and Khmer Viet-Minh. The witness provided an unclear answer, in which he told the court that Khmer Viet-Minh had been members of the former Khmer Rescue Committees and that there were 2000 to 3000 of them attached to communes. He also stated that they became recognized as Khmer Viet-minh once they had joined the army.

Taking over from his colleague, Mr. Koppe enquired as to the reasoning behind the revolution; however, the witness failed to answer and appeared to fall asleep. After the witness was prompted twice and asked if he felt fit to go on, it was eventually decided by all parties that the testimony of Mr. Mao would be adjourned early.

The court will reconvene at 9:00 AM on Thursday, June 20, 2013.