

Witness and Civil Party Testify about Transportation and Phnom Penh Evacuation

By Mary Kozlovski¹

On Tuesday, October 23, 2012, hearings continued at the Extraordinary Chambers in the Courts of Cambodia (ECCC) in Case 002, involving defendants Nuon Chea, Ieng Sary, and Khieu Samphan. About 300 people from Kampot, Kampong Chhnang, and Takeo provinces attended the hearing and were seated in the public gallery.

The court heard testimony from new witness Sok Chhin, a former railway worker, who was questioned by the prosecution, civil party lawyers, and the Nuon Chea defense. Defense teams for Ieng Sary and Khieu Samphan did not put questions to the witness. Civil party Lay Buny began her testimony in the afternoon session.

Ieng Sary was absent from the court due to health issues. Trial Chamber President Nil Nonn noted that – according to an October 19 report from treating doctors – Ieng Sary was still receiving treatment at the Khmer-Soviet Friendship Hospital in Phnom Penh.

Nuon Chea appeared in court during the morning session but retired to a holding cell at midday. Unusually, Khieu Samphan also shifted to a holding cell due to fatigue resulting from poor sleep. President Nonn noted the treating doctor advised that Khieu Samphan be permitted to observe proceedings remotely, as he was weak and fatigued.

New Witness Takes the Stand

In response to President Nonn’s introductory questions, witness Sok Chhin said he was 67 years old, retired, and lived in Kampong Krabey village, Svay Pau commune, in Battambang province’s Battambang district. He has five children. Mr. Chhin

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>.

affirmed that he had no connection to any civil parties or accused, he took an oath before appearing in court, and was interviewed once by investigators from the Office of the Co-Investigating Judges (OCIJ) at his house on a date he could not recall. The witness said he had reviewed the written record of his interview and confirmed its accuracy and consistency.

Prosecution Leads Questioning of Witness Sok Chhin

National Senior Assistant Co-Prosecutor Veng Huot began by asking the witness what his duties were after April 1975, to which Mr. Chhin replied that he was a worker tasked with repairing railroads under the supervision of Khmer Rouge soldiers.² Mr. Chhin said he worked under “Ta Moum.”

Referring to a document that had been placed before the witness,³ Mr. Huot asked Mr. Chhin how he knew that Ta Moum controlled thousands of people, including children. The witness recalled that Ta Moum was in charge of all people – men, women and children – in a particular sector⁴ and forced people to work and study the party’s politics. While children under the age of six were permitted to stay in a children’s center, those aged six years and older were forced to work in various locations, Mr. Chhin testified. When Mr. Huot inquired about a comment in Mr. Chhin’s statement that they would be killed if a train derailed, the witness confirmed that they were warned to be vigilant and not allow a derailment, or they would be killed. Mr. Huot asked to which people the witness was referring when he said “they” would take him to be executed. Mr. Chhin said he meant Ta Moum and his subordinates.

Mr. Chhin testified that he learned at study sessions to be careful about what he said because if they did not speak the truth, they would be killed. When Mr. Huot asked if the people under Ta Moum’s command were base people or evacuees from Phnom Penh, Mr. Chhin confirmed they were new people evacuated from the city. Food was distributed unequally across different locations – some people received thick porridge and some thin – Mr. Chhin told the court. Sick people were sent to the hospital, but their parents could not accompany them, he recounted, adding that people wore torn clothes or any garments they could bring with them during the evacuation.

Under questioning from Mr. Huot, Mr. Chhin stated that Ta Moum reported to the upper echelons in Phnom Penh and he learned that Ta Moum attended study sessions in the city, because he saw him traveling by train when he worked at the railway. When Ta Moum returned from the aforementioned study sessions, he would convene a meeting attended by workers and his subordinates where he taught them how to strengthen their political stance, the witness recollected. Mr. Chhin testified that Ta Moum would instruct participants to focus on “core tasks” and social and production work. When Mr. Huot inquired what happened to the rice harvested and why they received only porridge, Mr. Chhin said he did not know the destination of the rice, but it may have been stored in warehouses.

² Mr. Chhin noted in his response that he had been a staff member at a railroad company called the Royal Railway of Cambodia. Based on Mr. Huot’s response this appeared to be Mr. Chhin’s job prior to April 1975, however the English translation was unclear.

³ This document was presented to the witness at the prosecution’s request. Though it was not directly identified, it appeared to be the written record of Mr. Chhin’s interview with OCIJ investigators.

⁴ The name of the sector was not mentioned in the English translation.

Witness Quizzed on Communication and Transportation

The co-prosecutor asked who ordered Mr. Chhin's transfer to Pursat province, to which the witness replied that Ta Moum took a train from Battambang to Pursat in order to take him there. Mr. Chhin confirmed that Ta Moum was in charge of a sector in Pursat and the military was under his command. Mr. Huot quoted Mr. Chhin as saying to court investigators that armed soldiers gathered people and explained when and where trains would be leaving, and questioned how he knew this information. Mr. Chhin said he witnessed it, as he worked on the rail tracks.

The witness said people were evacuated and transported by train to Leach⁵. He described different people of different ages – old, young and sick people – being transported and left at Leach, where they would remain for a few days or a week before being moved to other locations. Two soldiers guarded each train compartment, Mr. Chhin recalled. The witness said he believed civilians and military transported people from the train station to other locations, and military trucks sometimes picked them up. Mr. Chhin stated that people evacuated from Phnom Penh under Pol Pot's orders had their biographies taken and were transported to Leach, from where they were sent to other locations, even as far away as Battambang province⁶.



When asked if he knew what happened to former Lon Nol soldiers and officials after their biographies were recorded, Mr. Chhin testified that “Angkar” assigned him to work in Svay Sisophon⁷ and he witnessed soldiers transported in trucks and trains to an unknown location. The witness said he had never heard of Toul Po Chrey⁸.

Sok Chhin Details Transport of People during Regime

International Senior Assistant Co-Prosecutor Tarik Abdulhak noted that Mr. Chhin related in his statement that he was a train ticket seller based at Moug Russey station in Battambang province prior to 1975, and asked when he was transferred. The witness said he started work at Moug Russey⁹ in 1967 and was transferred to Svay Sisophon in 1970, where he continued to work until 1975. Mr. Abdulhak quoted Mr. Chhin's statement as saying that he was reassigned to repair railways after the Khmer Rouge took over, and noted his testimony that he had been transferred from Serey Sophorn to work in Pursat province. The witness confirmed that the transfer took

⁵ Leach is a commune in Pursat province's Phnom Kravanh district.

⁶ Mr. Chhin's responses about the taking of biographies were unclear in the English translation.

⁷ “Sisophon,” “Svay Sisophon,” and “Svay” can all be used to refer to a town in Serey Sophorn district, in Banteay Meanchey province.

⁸ The Trial Chamber recently included “Toul Po Chrey” in Case 002/01. The relevant memorandum can be found at: http://www.eccc.gov.kh/sites/default/files/documents/courtdoc/E163_5_EN.PDF

⁹ Moug Russey is a district in Battambang province.

place about four months after April 1975 and worked in Trapeang Chornng commune¹⁰ where he was in charge of repairing a 21-kilometer stretch of railway. He stated that Ta Moum was the chief of the sector, which had six communes.¹¹ Mr. Chhin said Ta Meak was commune chief, in charge of politics, study sessions, and peoples' living conditions. Next, Mr. Abdulhak read from Mr. Chhin's statement as follows:

I saw trains twice a week. The train had 20 to 25 wagons, normally for transporting goods, and each wagon transported from 40 to 50 people. There were two stages of transportation. The first one was after 1975 in October, November, and December. People were transported from Phnom Penh.

Mr. Chhin confirmed to Mr. Abdulhak that he saw the trains with wagons transporting men, women, children, and sick people during that time period, when he was working at Trapeang Chornng commune in Pursat province. The prosecutor inquired if Mr. Chhin knew where the "Pol Pot armed soldiers" – as described in his statement – originated. The witness said he was unsure, and only saw the soldiers escorting people on the train with weapons. Mr. Abdulhak cited Mr. Chhin's statement as saying that in Pursat trains sometimes stopped on the road to Leach, and inquired if the witness every saw such trains. Mr. Chhin testified that trains transporting people did not stop at the provincial station, though they did halt at various other stations. He added that he only saw trains stop at Leach and did not see those that stopped at stations near the forest, but he heard about them from the train driver.

Mr. Abdulhak cited Mr. Chhin's witness statement and testimony and asked if he saw military trucks coming to pick people up at Leach. Mr. Chhin confirmed this, explaining that he worked for a mobile unit and sometimes moved from place to place with other workers. He further confirmed that he saw trains pass through different locations in Pursat and stop at Leach.

The prosecutor quoted Mr. Chhin's statement as saying that none of the people disembarking from trains at Leach could leave "because they were guarded, and those [who] were sick would die there." Mr. Chhin told the court that he buried dead bodies, which had decomposed along the railway tracks. He further testified that it was difficult to estimate the number of people aboard each train, with sometimes 40 or 50 people put into each wagon. The witness noted that each wagon was full and held people of different ages. He stated that he believed people evacuated at that time were given only one can of rice per 10 people and had few belongings – some clothing and Khmer riel currency – and insufficient food. "Their facial expression showed that they were not happy," he recalled.

Mr. Chhin said he did not speak to any of the people on the trains because he minded his own business. When asked if people in his unit were allowed to speak to soldiers or civilians moving through Leach, Mr. Chhin replied that his job was to repair the railway track, and he did not dare pose questions, trying only to fulfill tasks assigned to him by his superior. "We needed only to mind our own business," the witness explained. "Whatever was assigned to us, we did that, whatever food was given to us, we ate that, and we were not allowed to protest or to demand for anything." If a person did protest, they would first be criticized, then there might be a second

¹⁰ Trapeang Chornng commune is located in Bakan district in Pursat province.

¹¹ Mr. Chhin's response was unclear in the English translation.

criticism and that person might be sent for re-education. “Some of my former colleagues went for re-education, and they never returned,” the witness said.

Under questioning from Mr. Abdulhak, Mr. Chhin said he only buried corpses that were along the railway track, as they could not work because of the stench, but they left other corpses that were further away from the track. The witness testified that he buried one body near the track. When asked how he knew they were the bodies of evacuees that had been transferred by train, Mr. Chhin explained that it was a quiet area where people did not live and only evacuees passed through. “I thought that the bodies could not be buried on time as the family members of the dead bodies were sent to be placed in the cooperatives,” Mr. Chhin recalled. The prosecutor asked where those people forced to disembark from the train were taken. The witness replied that he did know the arrangements, noting only that some disembarked at Leach under military orders and some remained on the train to Battambang province.

The prosecutor sought confirmation that Mr. Chhin saw trains return to Phnom Penh – or somewhere south – and collect more people, before again passing through Pursat. The witness verified this account. He explained that soldiers guarded the trains from Phnom Penh, and had to return back to the city with them. Mr. Chhin said he did not believe Ta Moum or Ta Meak knew about the trains carrying people. The witness recalled that he saw trains once or twice a week until December 1975, with the same wagons but different locomotives. They were old trains, Mr. Chhin recalled.



Witness Pressed about Superiors

Moving on with his questioning, Mr. Abdulhak quoted from Mr. Chhin’s statement as saying that Ta Moum was a member of the Communist Party of Kampuchea (CPK) and reported directly to the train unit in Phnom Penh. The prosecutor inquired if Mr. Chhin knew whether the trains coming through Pursat were under the authority of that unit in Phnom Penh. Mr. Chhin confirmed that the chief of the train unit in Phnom Penh managed the trains traversing through Sector 4.

In response to queries from Mr. Abdulhak, Mr. Chhin explained that phones at the train station in Pursat were used to control train traffic, as there was only one railway track. “All the train stations were under the management of the train unit in Phnom Penh,” the witness testified. He added that Ta Moum was in charge of train traffic in two sectors – Romeas and Pursat – but he did not know how often he reported to the train unit. Mr. Chhin confirmed to Mr. Abdulhak that Ta Moum would hold local meetings at which he would relay instructions to railway workers following his trips to Phnom Penh.

Next, Mr. Chhin testified that he did not know where people transferred to the northwest via train originated from, but he witnessed the trains going back to Phnom Penh after people disembarked, before returning with more people aboard. He explained that the trains came from the direction of Phnom Penh, but he did not know

where people boarded them. Mr. Abdulhak quoted further from Mr. Chhin's statement, where he described people waiting to be put on trucks at Leach: "I know that people were transported to different cooperatives in trucks by soldiers and militiamen of Pol Pot." Mr. Chhin testified that he saw this "with my own eyes."

The prosecutor further noted that Mr. Chhin's statement mentioned locations in Battambang and Banteay Meanchey provinces to which people were transferred – Svay Sisophon; Battambang; Thmor Kol; Phnom Touch – and inquired who informed him that people were sent to such places. Mr. Chhin testified that the chief of the line – a former worker he knew from the past – told him that people were dropped at those places. He explained that there was a station chief and railway line chief, with the former at the station waiting to receive people and the latter aboard the train. Mr. Chhin said the chief of the railway line would record the train's movement from departure to destination.



Khmer Rouge leaders ride together in a train during the Democratic Kampuchea period. First row shown: Pol Pot (left), Vorn Vet (right). Second row: Nuon Chea (left), Ta Mok (right). (Source: Documentation Center of Cambodia)

Citing Mr. Chhin's statement, Mr. Abdulhak asked what the witness meant when he said people were transferred to different locations according to their personal history and biography. Mr. Chhin testified that people evacuated from Phnom Penh had various statuses; their biographies were taken at their point of disembarkation – which he learned from relatives who left the city – and they were sent toward the northwest.¹² The prosecution thus concluded their questioning of Mr. Chhin.

Civil Party Lawyers Commence Examination of Witness

National Civil Party Co-Lawyer Ven Pov cited the written record of Mr. Chhin's witness interview as saying that his group at the railway station in Pursat comprised 18 people, and inquired if any members were former civil servants. The witness explained that the members were former railway workers, who were assigned to repair the tracks and overseen by three soldiers. When Mr. Pov inquired how Ta Moum reported to the train unit in Phnom Penh, Mr. Chhin stated that he only knew Ta Moum was required to attend study sessions in the city and left by train.

¹² Mr. Chhin's response was unclear in the English translation.

The civil party lawyer referenced Mr. Chhin's interview as stating that he knew of the evacuations in phases – the first in August; the second in October or November; and the third in 1978 – and inquired if the witness had observed all three.¹³ Mr. Chhin said he knew only that the evacuation by train occurred in two initial phases from Phnom Penh.¹⁴ Mr. Chhin testified that the Khmer Rouge soldiers guarding the train wagons looked “rather happy” compared to the passengers. He recollected that there were no seats in the wagons – which were designed to transport goods – and people sat on the floor or stood.

Mr. Pov inquired if Mr. Chhin observed local authorities, district or cooperative chiefs, receiving the people at different locations. The witness replied that he did not know the chiefs but saw people asked to board trucks. Trains returning from Battambang province contained only soldiers and crew, Mr. Chhin recalled. When asked if he had seen monks traveling by train, the witness responded that he had not, and could not, as he learned that monks were defrocked. The witness told the court that he could not move freely at the time, except within the confines of his work at the railway station.

Lawyers Quizzes Witness on Knowledge of Defendants

The civil party lawyer inquired if Mr. Chhin had a radio or listened to broadcasts through which he heard the names of the senior Khmer Rouge leaders. The witness testified that he did not have a radio to hear broadcasts but, during study sessions, they were told to pay respect to the national flag and briefed on individuals within the leadership. When asked if he knew about Nuon Chea's role and activities, Mr. Chhin told the court he only learned very recently about Nuon Chea's role. International Co-Lawyer for Nuon Chea Jasper Pauw objected belatedly that the civil party lawyer was asking the witness to speculate.

At this stage, International Civil Party Lead Co-Lawyer Elisabeth Simmoneau Fort took the floor, noting firstly that the witness testified that former railway workers worked with him and told court investigators that the Khmer Rouge kept Om Proeung because of his technical abilities. When asked about other former railway workers, Mr. Chhin stated that Om Proeung was chief of the railway station's technical unit, but he was unsure about others.

Condition of People on Trains Recounted

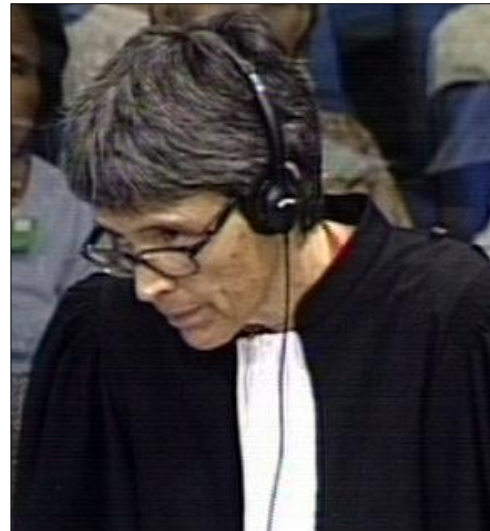
Ms. Simmoneau Fort inquired if people were pressed together in the train wagons he had earlier described. The witness replied that the wagons were spacious enough to accommodate the people who could sit or stand, though they had to squeeze in slightly. Mr. Chhin said he could not recall how long the trains would stop at Leach, but they would move on after people disembarked. When asked about the trains' exposure to sunlight, Mr. Chhin stated that they could be in sunlight, but it depended.

In response to series of questions from Ms. Simmoneau Fort about conditions and provisions for passengers, Mr. Chhin testified that the people received no water and had to source it from paddies to drink, and people had to figure where to sleep on their own. Some people had pieces of cloth to lie on the ground and others took refuge

¹³ Mr. Pov's question was unclear in the English translation.

¹⁴ Mr. Chhin's response was unclear in the English translation.

under trees, the witness explained, and while some had mosquito nets, they were not distributed on the trains. Mr. Chhin recalled that there was no hygiene and people had to wash using the water from the paddies that they also drank. He stated that he did not have enough food to eat or water to drink and could not think of assisting others. When asked if he discussed such things with his friends, Mr. Chhin explained that he related to his peers his sympathy toward those people, but he did not speak to them and could not do anything as he also experienced hardship. He stated, however, that talking was limited, as they were obliged not to say anything.



As Ms. Simmoneau Fort pressed the witness on the reason for this obligation, National Co-Lawyer for Nuon Chea objected that the question was speculative. Ms. Simmoneau Fort responded that the witness presumably knew why he was required not to speak. President Nonn overruled the objection, and Mr. Chhin responded that he had nothing to ask people about, as he saw that they suffered and their food was insufficient and he experienced the same circumstances. “I was absolutely afraid to say anything at all because I was instructed to be silent,” Mr. Chhin testified.

Chamber Announces Scheduling Changes due to Financial Constraints

After the civil party lawyers finished their questioning, President Nonn announced that the chamber had been informed by the UNAKRT (United Nations Assistance to the Khmer Rouge Trials) administration that due to financial constraints, the chamber would be unable to replace a significant number of international legal and other personnel, reducing their staff to about half of that foreseen. The president noted that over the previous three months, the chamber had repeatedly advised UN bodies and the UNAKRT administration of such difficulties, and though assurances of a resolution to staffing issues were given, no solution had yet been reached.

Consequently, President Nonn stated, there was insufficient staff to support the chamber’s work and it could no longer continue to sit for four days per week. As of November 5, 2012, the chamber will sit from Monday to Wednesday only, he said. “Regrettably this will lead inevitably to an extension of the time needed to conclude Case 002/01,” President Nonn concluded.¹⁵

Judge Briefly Puts Questions to Witness

Trial Chamber Judge Jean-Marc Lavergne inquired if Mr. Chhin knew the final destination of people who travelled by train through Battambang province after the fall of Phnom Penh 1975. The witness said he was unsure and knew only that people would be let off at various cooperatives. Finally, Judge Lavergne asked if Mr. Chhin

¹⁵ An official ECCC statement on this decision was released today. The statement is available at: <http://www.eccc.gov.kh/en/articles/trial-chamber-reduces-number-weekly-hearing-days-case-0021>

saw people being transported through other modes besides trains. He replied that he had only seen people transported by train.

Nuon Chea Defense Probes Witness Interview with Investigators

Mr. Pauw proceeded with his questioning by inquiring if Mr. Chhin could approximate when OCIJ investigators interviewed him. The witness first stated that he could not recall but when pressed, testified that it may have been in 2008 or 2009. When asked if the OCIJ investigator explained the reasoning behind the interview to him, Mr. Chhin again said he could not remember. In response to string of questions from Mr. Pauw, Mr. Chhin said a group from the ECCC came to his house and asked him about when he started working for the railway. A number of former railway workers lived in his village, which was near the railway track, Mr. Chhin explained.

Mr. Pauw inquired if any of those other workers accompanied investigators during the interview. Mr. Chhin replied that nobody was with the investigators, who came to his house. The investigators interviewed two other former railway workers that day, he recalled, but he did not know the substance of the interviews.

Citing Mr. Chhin's earlier testimony, Mr. Pauw asked if he worked with Om Proeung during the Democratic Kampuchea (DK) regime. Mr. Chhin confirmed that he had worked with Om Proeung throughout the entire DK period, explaining that Om Proeung was the chief of the technical section, specializing in roads, bridges, and buildings. The witness said he still met with Om Proeung as they were neighbors and he was also a retiree. When Mr. Pauw asked Mr. Chhin if he knew court investigators also interviewed Om Proeung, the witness replied that he did not ask him about it. The witness testified that Om Proeung was outside when he was interviewed, as he saw him through a window, where he was probably chatting to neighbors.

At this point, Mr. Pauw noted that, according to a summary of interview with Om Proeung, he spoke to court investigators off the record – that is, without the conversation being recorded. Pointing out that this interview occurred on the same day of Mr. Chhin's interview, Mr. Pauw inquired if investigators also spoke to the witness without recording the conversation. Mr. Chhin recalled that they talked, but he could not recall the subject matter.

As Mr. Pauw posed another question, Judge Lavergne interrupted, asking the defense counsel to explain the reason for his "assertion" and its relevance. Mr. Pauw read that Om Proeung's interview occurred on December 8, 2009, from 9:15 a.m. to 2:30 p.m., while the interview with Mr. Chhin commenced at 2:50 p.m. Confusion arose briefly about the nature of Mr. Pauw's "assertion," as characterized by Judge Lavergne. Mr. Pauw assured the judges he did not assert that the investigator told the witness he had spoken to Om Proeung in the morning but merely asked if this had taken place. After a brief discussion among the judges, Mr. Pauw was permitted to continue. When Mr. Pauw repeated the aforementioned question, Mr. Chhin said he could not recall.

Mr. Pauw inquired if the OCIJ investigator also spoke to Mr. Chhin off the record, to which the witness replied that he could not recall what he was asked but he was later requested to give an interview. Mr. Abdulhak argued that it was inappropriate to read information to the witness about interview techniques used with another witness,

when the current witness was not present at said interview. Defense counsel could just ask the witness if he had questions put to him off the record, Mr. Abdulhak stated.

Mr. Pauw countered that, while he would ordinarily agree with the prosecution, these particular interviews transpired on the same day and were conducted by the same investigator, with two witnesses who are neighbors and worked together during the DK regime. He asserted that the defense was not claiming Om Proeung had been spoken to off the record. There were grounds to examine whether or not Mr. Chhin may have also been questioned off the record, he said. “This is not the defense going off on a fishing expedition. It’s the OCIJ itself acknowledged that off-the-record conversations have taken place,” he added.



President Nonn referred the defense to ECCC Internal Rule 76(7).¹⁶ He stated that he did not know defense counsel’s intention but Mr. Pauw had spent considerable time on this particular point. Mr. Pauw noted that he was not raising a procedural defect but discussing the witness’ sources of knowledge, and whether an OCIJ investigator or another witness may have contaminated his testimony.

Defense Turns to Testimony on Nuon Chea’s Role

Moving on with his examination, Mr. Pauw recalled the witness’ earlier testimony that he learned only recently about Nuon Chea’s role during the DK period. He asked how Mr. Chhin acquired this information. Mr. Chhin testified that he learned about Nuon Chea’s role through television broadcasts of ECCC proceedings on CTN (Cambodian Television Network) but did not know Nuon Chea’s status when he was chairman of the peoples’ assembly. Mr. Pauw inquired if Mr. Chhin had discussed events during the DK period with his family since 1979. The witness replied that he had not spoken about it with either family or friends.

Lawyer for Nuon Chea Probes Witness’ Work

Citing Mr. Chhin’s prior testimony, Mr. Pauw asked if he went everyday to check and repair the railway tracks on the 21-kilometer stretch he was responsible for. The witness confirmed that he did and was living in Trapeang Chornng commune in Pursat province at the time. Mr. Chhin explained that for technical work in his commune, they had a lorry to transport workers, which had to be pushed. There was no time off except when they were very sick, Mr. Chhin testified, but they rarely said they were sick because they would have been accused of being “consciously ill.” “We had to work even if we were sick,” he said. When asked how often he travelled to Leach, Mr. Chhin stated that there was a road across the railway that led to Leach, but he had never visited Leach himself during the DK period. Mr. Chhin testified that his job was to repair the railroad and he did not know to whom the goods transported belonged.

¹⁶ ECCC Internal Rule 76(7) reads: “Subject to any appeal, the Closing Order shall cure any procedural defects in the judicial investigation. No issues concerning such procedural defects may be raised before the Trial Chamber or the Supreme Court Chamber.” The ECCC Internal Rules (Rev.8) can be found at: [http://www.eccc.gov.kh/sites/default/files/legal-documents/ECCC%20Internal%20Rules%20\(Rev.8\)%20English.pdf](http://www.eccc.gov.kh/sites/default/files/legal-documents/ECCC%20Internal%20Rules%20(Rev.8)%20English.pdf)

The witness said he knew only that people and items were carried by rail and there was a crossroad along the railway that connected to Leach.

Under questioning from Mr. Pauw, Mr. Chhin recalled that certain wagons carried goods in the past, but during the DK period, these wagons were used to transport people.¹⁷ The wagons were like small rooms about four meters wide and 16 meters long and had four doors through which people boarded, but no windows, Mr. Chhin described, adding that the doors remained open. When Mr. Pauw inquired if this meant people transported had sufficient ventilation during the trip, Mr. Abdulhak objected that counsel was asking the witness to speculate unless the witness had been on one of the wagons.

“I did not hear the prosecutor object when the civil parties asked about exposure to sunlight,” Mr. Pauw replied, adding that if the witness saw the trains he should be able to answer. President Nonn sustained the objection. Mr. Pauw asked the witness if, in his assessment, there was enough ventilation for the train passenger, to which Mr. Chhin replied that there was sufficient ventilation.

When asked about his life in the commune, Mr. Chhin testified that they built houses in Trapeang Chornng commune for the workers to reside in. They reached the commune by rail – parts of which were derailed and in various states of disrepair – and the duration of the trip varied daily depending on their strength, Mr. Chhin explained. He recounted that the commune was near the railway and their houses were about 10 meters from the tracks. There were also dining halls and worksites near the railroad, he said.

Witness Questioned about Superiors and Orders

Next, Mr. Pauw pressed Mr. Chhin about his knowledge of Ta Moum’s authority. Mr. Chhin explained that day to day the workers had to abide by Ta Moum’s directions, or face being accused of not respecting the party’s – or Angkar’s – policy. In response to questions from Mr. Pauw, the witness explained that he saw Ta Moum travel by special train to Phnom Penh. Ta Moum would convene a meeting upon his return and generally set the direction for their work, Mr. Chhin stated. He testified that they were at the sub-national level and could not order trains to travel. Only Phnom Penh could have issued such orders, the witness said, though he informed the court that he had never seen written documents to that effect.

Mr. Chhin went on to explain that the work was similar to that under the previous regime, unless there was an order issued by Phnom Penh authorities. “The order or the structure was similar to that existing in the previous regime,” he stated, emphasizing that his work on the 21-kilometer stretch was always done under Ta Moum’s orders. “There was nobody else below Ta Moum who would issue orders to us.” Mr. Chhin testified that he could not recall the number of staff under Ta Moum’s control, but there were 18 members in his group.

At this point, Mr. Pauw requested the mid-afternoon break, in order to confer with his national colleague on a particular point. National Co-Lawyer for Ieng Sary Ang Udom informed the chamber that the defense team had no questions for the witness,

¹⁷ Mr. Chhin’s response was unclear in the English translation.

and the Nuon Chea defense could therefore have additional time. National Co-Lawyer for Khieu Samphan Kong Sam Onn echoed Mr. Udom's comments, stating that the team had not questions for Mr. Chhin either.

After a short recess, Mr. Pauw informed the chamber that he had wanted to ensure that there was no confusion over the translation of the term "off the record" for Khmer speakers. Mr. Pauw clarified that, by this term, they usually meant a conversation conducted that was not recorded.

New Civil Party Takes the Stand

President Nonn briefly questioned civil party Lay Buny.¹⁸ She stated the chamber that she was born in Phnom Penh on March 20, 1950. Ms. Buny said she currently lived in Phnom Penh and was a housewife with three children.

Civil Party Lawyers Lead Examination

National Civil Party Co-Lawyer Moch Sovannary noted firstly that her questions would center primarily on the civil party's statement to the OCIJ dated August 9, 2009. Ms. Buny recalled that after applying to become a civil party, she was called to discuss her application and interviewed.



Ms. Sovannary began her examination by asking about the period prior to the arrival of Khmer Rouge soldiers in Phnom Penh, noting that Ms. Buny's statement described her son's death at this time. Ms. Buny testified that the country was "chaotic" at the time she was pregnant. Ms. Buny said her mother did not send her to the hospital out of concern that they would be separated and asked a traditional midwife to help her with the delivery. The civil party recounted how she delivered her baby, who died prematurely, which she believed was the midwife's fault. Ms. Buny told the court that she felt unwell after the birth, perhaps due to the lack of hygiene during the delivery. Twenty days after giving birth, on April 17, 1975, she was evicted out of the city, Ms. Buny recalled.

Referring to another section of Ms. Buny's statement, Ms. Sovannary noted that Ms. Buny told investigators her husband was a captain in the Lon Nol army and asked when he left this position. Ms. Buny recounted that her husband removed his uniform because the situation was chaotic, and he told her Lon Nol had left Phnom Penh and he did not work as regularly.¹⁹

The civil party lawyer pressed Ms. Buny on the situation in Phnom Penh prior to the entry of Khmer Rouge soldiers. Ms. Buny testified that food prices surged, they could

¹⁸ The correct spelling of this name was unclear in the English translation. Names and places are spelled phonetically according to the live English translation. Those who wish to verify the official spelling of any name should consult the official ECCC transcripts. Transcripts of Case 002 proceedings can be found at: <http://www.eccc.gov.kh/en/case/topic/2>

¹⁹ Ms. Buny's response was unclear in the English translation.

barely find rice to buy, and commodities were volatile. There was an influx of people from the countryside into Phnom Penh and the family dug a trench under the house to hide in, the civil party recollected. She explained that because her husband was a soldier they had enough rice but could not find other foods like meat. There was gunfire and shelling across the country, she said.

Civil Party Details Khmer Rouge Entry into Phnom Penh

Ms. Sovannary asked the civil party about her expectations of Khmer Rouge soldiers after the city fell to them on April 17, 1975. Ms. Buny testified that when Khmer Rouge soldiers entered Phnom Penh they were happy and congratulated them. “We raised white cloth to welcome them. We saw people chanting and clapping along the street, and everyone believed that peace would return to Cambodia,” she recalled. Ms. Buny said that at the time she lived in a house near Kampuol Pich Theatre, near Pet Chen. She recounted that the Khmer Rouge came to Phnom Penh on April 17 and ordered them to leave for three to seven days, under the pretext that Americans would bomb the city.

Ms. Buny said she had two children – aged 3 and 5 at the time – and could carry little, but brought banknotes to buy things with in the countryside. She later heard the money was not being used anymore. There were many roadblocks and jams out of the city, with people all over the place, and they moved very slowly from Koh Pich to the Royal University of Law, Ms. Buny stated. The civil party explained that she had just delivered a baby and had to travel on foot, carrying her two children in the sun.

When asked about communications from the Khmer Rouge, Ms. Buny recollected that they announced through national radio broadcasts that they had taken complete control of the country, so people in Phnom Penh were calm and remained in their houses until receiving further instructions. She said she heard a radio announcement about the evacuation, but they received direct instructions from soldiers who came to their house. Ms. Buny told the court one soldier initially arrived at their house, but two others soon joined them. All were carrying guns and wearing black uniforms with berets, she described. After the soldiers spoke with her husband, Ms. Buny testified, he told her they had to leave as he saw their “firm character” and they packed their belongings and put them onto a truck. “We dared not protest because we saw them carrying guns on their shoulders and their attitude was very firm,” she said.

Under questioning from Ms. Sovannary, Ms. Buny said the Khmer Rouge soldiers did not know her husband was a former Lon Nol soldier, whom she was told had their arms tied behind their backs. Her family, including her husband, two children, and cousins, and the two families of her cousins’ housemaids, boarded their truck, the civil party recounted.

During the Evacuation

In response to queries from Ms. Sovannary, Ms. Buny explained that they were told dead bodies along the road were people who had been shot for wanting to return home. Describing the transport of sick people from the city, Ms. Buny told the court:

There were hospital beds and some of them had the IV injection on. Those who could walk would walk, and those who could not walk would be carried, and some of them would stay on the hospital bed and were pushed or pulled by another person. I saw Khmer Rouge soldiers. Their facial expressions were firm, they carried guns and

their eyes moved around, but they did not pay much attention to the patients. They said all people had to be evacuated, including the patients.

Ms. Sovannary quoted Ms. Buny's civil party statement as saying that she saw dead bodies along the road in Prek Pra village and pressed the civil party for detail on the situation in that village. Ms. Buny testified as follows:

Upon my first arrival, I was very thirsty due to the heat from the sun, so I asked my husband to look after the two children and I went to look for water. At that time, it was in early evening, and I saw dead bodies and I moved to another place, another house, I also saw dead bodies. So I was so terrified and shocked because I did not see such dead bodies around before.



Ms. Sovannary noted a section of Ms. Buny statement in which she said she could not move further because she had just delivered a baby and they left the truck and stayed in a pagoda. Ms. Buny testified that they crossed Koh Krabey commune to get to Sa'ang commune where there was a pagoda that they stayed in. She recalled that she was "very unwell" and her husband said they could no longer move. Her cousin also rested there, but people on the truck said they had to go ahead to meet Angkar to improve their situation, Ms. Buny recalled. The civil party told the court she did not see Khmer Rouge soldiers take care of people at Svay Protil village, where she stayed for about four or five days. They had no rice to cook, nor did the base people who ate corn instead of rice. Ms. Buny

testified that she exchanged some of her possessions for corn and her younger daughter suffered from bowel problems because she had never eaten such food. The civil party said base people told her to register her name to receive rice rations from soldiers and her family received four cans per day.

Ms. Sovannary quoted Ms. Buny's civil party statement as saying that she wanted to go to Ksach Kandal district²⁰ because her mother lived there, and asked how she could know this given the chaotic situation. Ms. Buny said she knew that her mother and other relatives had already reached the district because their cousin – whom they met – told them. Her family carried what they could and went to meet her mother because she and her daughter were both unwell, and Ms. Buny explained that her family could support her physically and psychologically and perhaps find them herbal medicine.

Under questioning from Ms. Sovannary, Ms. Buny explained they were told to enter the village²¹ and not wander around, but they did not go into the village. She testified that she and her family had to flee on foot with their small pool of belongings on the fourth night. Ms. Buny said she carried her younger daughter at the front and her older daughter on her back, and her health was very weak, as she had just given birth. Detailing the places through which the civil party traveled, Ms. Sovannary inquired if Khmer Rouge soldiers checked biographies en route from Phnom Penh. The civil

²⁰ Ksach Kandal district is located in Kandal province.

²¹ This appears to be reference to Svay Protil village.

party said her mother told her that her in-law – a colonel – was taken and returned to Phnom Penh to work.

In response to a query from Ms. Sovannary about the cooperative in Ksach Kandal district, Ms. Buny explained that they registered their names with Comrade Yorn – the chief of the group – upon arrival, and were permitted to stay in his house. The civil party told the court she farmed and helped to build dykes, and she, her mother, and others were given a plot of land on which to build a house. Ms. Buny testified that her elder sister and her family also built a house nearby, and she learned to plant rice during the rainy season. “I tried my best how to follow the local people there because I was afraid that if I could not do it, I would be killed,” Ms. Buny testified. She described almost drowning when she crossed a lake to plant rice, but other women rescued her and from then she tried to work hard with the base people.

Ms. Sovannary quoted Ms. Buny’s statement that Yorn was her relative and concealed her identity – and those of her relatives – and inquired how she knew this information. Ms. Buny explained that Yorn’s wife – one of her uncle’s in-laws – told her because they knew the family’s background. Yorn’s wife told her that if anyone asked about her husband’s profession, she should say he was a taxi driver and never reveal that he was a military official, Ms. Buny recalled. The civil party testified that she told her relatives this information and that the villagers knew the husband of another relative of Yorn was a military official and he was taken away.

When asked what Ms. Buny meant by the term “newcomers,” the civil party replied that it referred to the 17 April people evacuated from Phnom Penh, such as her family. Ms. Sovannary read from Ms. Buny’s statement that the village chief named Pat approached them and told them to pack in order to relocate from Kandal to Battambang province and inquired if she knew whether he had been instructed to do so. Ms. Buny said Pat told her to pack and that “newcomers” would be resettled in Battambang, which was a rich province where there was enough rice to eat:

He said that we had to go to Battambang, as Battambang had plenty of rice and down here Angkar could only accommodate a certain amount of families and the food was insufficient and there was plenty of food in Battambang. And when we learned about that, we were rather happy because Battambang was a rich province.

Ms. Buny said the village chief arranged the trip and they piled their belongings onto an oxcart, whose driver knew where to take them.

With this response, President Nonn adjourned the day’s proceedings, which are set to resume on Wednesday, October 24, 2012, at 9 a.m. with further testimony from civil party Lay Buny.