



*Khmer Rouge soldiers at Pochentong Airport during the Democratic Kampuchea period.
(Source: Documentation Center of Cambodia)*

Court Continues to Scrutinize Military Structure

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The hearings in Case 002/1 resumed on Monday, October 8, 2012, with rice farmer and former Khmer Rouge military commander Meas Voeun continuing to provide detailed insights on a range of issues, including, notably, the changes in command structure in the West and North Zones and the role of former naval commander Meas Mut during the Democratic Kampuchea (DK) regime. Numerous defense objections, a recurring multiparty debate on the possible use of striking from the record as a remedy, an engaged audience, and references to Humpty Dumpty and Alice (of Wonderland fame) kept things lively throughout the day.

Humpty Dumpty and Alice Makes Cameo Appearances

International Co-Counsel for Nuon Chea Andrew Ianuzzi began this week's proceedings by referring to his oral application from the morning session of the hearing last Wednesday, October 3, 2012, in which he sought to have certain portions of an Office of the Co-Investigating Judges (OCIJ) witness interview struck from the record on the grounds that they had relied on torture-tainted evidence (namely, an S-21 confession). Mr. Ianuzzi recalled that while Trial Chamber judges were leaving the courtroom for the lunchtime adjournment, he had stated, "Walking away doesn't solve the problem." Mr. Ianuzzi then noted that, two days later, Trial Chamber Judge Silvia Cartwright struck that comment from the record.

Next, Mr. Ianuzzi mentioned Judge Cartwright's explanation of the Trial Chamber's dismissal of that application, in which she had stated that the "applicable legal framework" in the Extraordinary Chambers in the Courts of Cambodia (ECCC) "does not provide for striking out as a remedy, so that is not an application that can be seriously considered by this Chamber." Mr.

Ianuzzi sought clarification as to what he implied was an inconsistency in the Trial Chamber's approach with respect to the possible use of striking out as a remedy. With respect to the use of judicial authority, Mr. Ianuzzi cited Judge Hunt of the International Tribunal for the former Yugoslavia's *Milosevic* case who himself was taking his cue from the English judge Lord Atkin, and who:

[Knew] of only one authority which might justify the suggested method of construction:

"When I use a word," Humpty Dumpty said, in a rather scornful tone, "It means just what I choose it to mean – neither more nor less."

"The question is," said Alice, "whether you can make words mean so many different things."

"The question is," said Humpty Dumpty, "which is to be master."

At this point, Trial Chamber President Nil Nonn interjected, emphatically denying permission for Mr. Ianuzzi to speak on the matter again. Despite this, Mr. Ianuzzi continued to stand for some time.

Following the morning's literary foray, Meas Voeun resumed his testimony, again with the support of his duty counsel and Cambodian lawyer Say Vuthy. An audience of over 150 university economics, law, and banking students from the University of Management and Economics in Battambang watched from the public gallery with interest, as did Henri Locard, the French historian and author of several books on Khmer Rouge history.

Details on Military Training and Orders

National Lead Co-Lawyer for the civil parties Pich Ang began questioning the witness for the day by first seeking the witness's clarification on his testimony on Thursday, October 4, 2012, that he had received training from Ta Mok. Mr. Voeun testified that the training related to the "status of our country – that our country lacked independence and that we were under French colonialism economically;" military tactics; strategies for seizing villages and barracks; and techniques for destroying bridges.

"After the victory," Mr. Voeun continued, Ta Mok "taught us about how to defend and construct the country: that on one hand, we were to fight the enemy and that on the other hand, we were to defend the country." Mr. Voeun clarified that bridge and road destruction was necessary because this was the main mode of enemy transportation, so such measures could "cut off their blood vessels."

Mr. Ang queried whether Ta Mok had instructed the witness on what to do in relation to civilians encountered in battle. Mr. Voeun replied:

In attacking the enemy, we [were] not [to] mistreat any civilians. ... [W]hen the soldiers were captured in 1970, they would be taken to the barracks and then to

the rear. If any family members of the soldiers died during the war, they would be taken to the back and religious ceremonies would be held and money would be provided to the families.

Next, Mr. Ang inquired whether lower-level soldiers had the option not to follow upper-level orders. Mr. Voeun replied, “Plans assigned to subordinates from the military headquarters ... had to be done,” but, when pressed, explained that where it was not possible for orders to be implemented fully, for example, if they were sustaining heavy attack, “then we withdrew ourselves.” The witness added:

After 1975 and up to 1979, the orders to us were [firstly] to defend the borders. At my [location], we did not have serious clashes with neighboring countries. Secondly, we had to be self-sustaining, which meant that on the one hand, we had to engage in defense, and on the other hand, we had to engage in rice production. But we did not achieve much [rice production], because the water in the coastal areas was salty water.

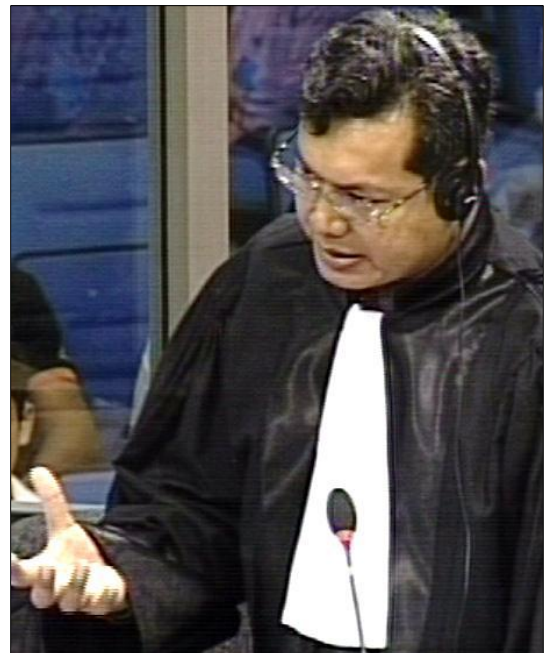
At this point, Mr. Ang queried whether there were orders on people attempting to flee across the border to Thailand. The witness replied that it was “virtually impossible” for people to cross the border due to difficult geographic conditions. In addition, when foreign fishermen encroached on Cambodia’s maritime border, the witness’s troops “had to capture them.”

The Fate of Lon Nol Soldiers, Phnom Penh Residents, and Hu Yun

Mr. Ang then moved on to the capture of Phnom Penh, seeking further details from the witness on this phase. Mr. Voeun advised that five days prior to the attack, he received orders to attack Phnom Penh on April 17 and to achieve victory by April 18, 1975. The witness added that during the attack, Phnom Penh was controlled by divisions from, for example, the East, Southwest, and North.

Regarding the activities of Lon Nol soldiers at that time, Mr. Voeun said that during the attack from his spearhead (that is, from Pochentong to Phnom Penh), there was little damage to Lon Nol soldiers and that by the time they arrived in Phnom Penh, there was no more shooting. Mr. Voeun sometimes saw Lon Nol soldiers on trucks but not in barracks. On a separate note, he added, “While we attacked from Pochentong to Phnom Penh, we actually used 120 mm artillery, but once we were in Phnom Penh, we no longer engaged in the use of artillery.”

As to the movement of the population from Phnom Penh, the witness advised, “at that time, I saw the civilians flying white flags at their houses and flats. They were not actually inside their houses. They were gathered around those houses. ... They lacked



food and medicine, but there were not many incidents. ... At that time, the streets were occupied by the Khmer Rouge soldiers.”

When Mr. Ang probed further as to the lack of food and medicine, the witness elaborated that “when we went to a location where medicine was stored, people looted the medicine. Some were injured by broken glass. We told them not to go into the building again because they would be injured, and I did not know what happened ... after that.” Mr. Ang seemed to understand that the location in question to be a hospital, as he then asked the witness whether there were any patients or other people in that place. The witness testified that the location was in fact a drug store and he did not see any such people. Mr. Ang pressed further on this point, asking whether the witness saw elderly people, sick people, and children. The witness said that he did see a lot of them, “in houses, in apartment buildings,” but he could not say how many of them there were.

Mr. Ang inquired how the witness’s troops gained civilians’ trust. Mr. Voeun responded, “Our soldiers just told them to be calm, to not worry, and that there should be no more firing. I then retreated.”

Mr. Voeun testified that during the evacuation of Phnom Penh, some people walked; others carried their luggage; others carried babies; and others pushed vehicles that had run out of gas. How did the people feel? Mr. Ang asked. The witness replied:

People told me that they did not want to leave behind their belongings, and I could tell very quickly from seeing their faces that they were not happy because they did not come with rice or other food. They could only grab some belongings like clothes, but not food.

The witness indicated that people were just told “that the city was liberated and ... that they had to leave and that there was no talk of a possible return.”

Next, Mr. Ang queried the witness on the fate of Hu Yun after 1979. Mr. Voeun testified that he loved “Hu Yun and Hu Nim; ... I treated them as my brothers and fathers.” He heard that Hu Yun was arrested due to “some morality problems,” and, when pressed further, that there had been some problems relating to “his opposing opinion with regard to money circulation.”

Mr. Ang then considered the witness’s time at Preah Vihear. The witness testified:

When I went to Preah Vihear, Pol Pot instructed me to go and see the people because a lot of people were arrested and starving. When I went there ... it was true that people did not have enough to eat. I was there for about four months – it was in late 1978. ... I reported on the situation ... on people being arrested and detained in Siem Reap. However, due to time constraints, I did not report to my upper echelon, although on one occasion I reported on the relatives of Khieu Samphan and the people who did not have food to eat and those who were arrested and detained. That was the only ... information in the report I made on one occasion [to Mr. Samphan].



Mr. Ang asked the witness whether there was any follow-up to the issues identified in the witness's report to Khieu Samphan. Mr. Voeun said that he did not hear any feedback about whether there was any solution. He recalled further that he told Mr. Samphan that about 500 people were detained in Ro Veang and that they later asked to be released, but the witness had no idea what happened to them.

Mr. Voeun testified that although when he first went to Preah Vihear (which was close to the harvest season) "people did not have enough to eat," when the harvest season arrived, there was some food, so people were brought back to the cooperatives so that they could be fed.

Mr. Ang pressed the witness further on prisoner release in the region. Mr. Voeun responded:

When I was at Preah Vihear, Bang Soeung released people at Ro Veang district. Indeed, these 500 people were kept ... in a location without any fences or wall but in solitary confinement. But later on, they were all released.

At this point, International Lead Co-Lawyer for the civil parties Elisabeth Simonneau Fort took over questioning on the part of the civil parties, first querying whether there were soldiers in the witness's division younger than 18. "It was not a division, it was a brigade," the witness clarified, and his soldiers "were all 17 years of age and above."

Civil Party Experiences in Security Centers

Ms. Simonneau Fort moved to the issue of internal security in relation to civilians. She first asked whether the witness had been given orders as to how to manage internal security. Mr. Voeun replied that "soldiers at the border were not in charge of civilians. We were in charge of soldiers" and he did not receive any orders regarding civilians. This prompted Ms. Simonneau Fort to begin reading aloud excerpts of the testimony of several civil parties in various documents. In the first of these, which was the written record of a civil party interview, the civil party in question stated:

One day during the night I was sleeping with my woman who had been ordered to go dig up spuds in the area. A soldier called Aok came to call me, telling me to go fix a machine in a rice paddy that night. I said to myself that maybe it was not to fix a machine that I had been called because usually civilians would call me, not soldiers. When I arrived at the rice paddy, I saw soldiers waiting along the road. I knew I was going to be arrested. ...

When I arrived at Comrade Aok's, as soon as I stepped out of the trailer, I was tied up suddenly, and they put me into a shed. They told me to first rest before they sent me the following day to the detention center. The following morning, I noticed that in front of Comrade Aok's house, there were all kinds of human organs. That day, I was given solid rice to eat. That evening, I was tied up, and I

was escorted from Veal Rean, to the Koh Kchhang detention center ... I was tied up with hammock rope and was drawn like an ox.¹

Ms. Simonneau Fort asked the witness whether this situation reminded him of any situations he had heard of from soldiers. The witness denied this. Ms. Simonneau Fort then asked whether he knew of any orders being given by the person referred to in the passage; the witness also denied this.

Ms. Simonneau Fort read out the same civil party's account of his treatment at Koh Kchhang security center:

This morning I was the fourth person to be brought away for interrogation. Among those who had been interrogated before me, only one person survived. He was able to come back with his feet shackled. When I was in front of the door of the interrogation room, I saw that bodies were being dragged out and they had been beaten until they died. ... The first shackles they used on me were wood shackles; then they used steel shackles. ... The leader and two soldiers were those who interrogated me. At the beginning, they showed the torture instruments to me, such as steel rods, a wooden stick, and a plastic raincoat.²

Again, Ms. Simonneau Fort asked the witness whether this reminded him of any reports from soldiers. The witness denied this. As to whether he had heard of any escapes from prisons, Mr. Voeun replied, "No one escaped from my location because it was very far from other locations."

The next civil party Ms. Simonneau Fort quoted had been living in the witness's area, and testified:

Ten days later, soldiers transferred me to the correction center in the prison where my feet were shackled at night and during the day. I was sent to pick sweet potatoes. Every evening, Khmer Rouge soldiers would bring new people, people accused of treason, to execute them. Their bodies were buried next to the prison. During the day, the prison guards ordered the detainees to dig pits by the mangoes and coconut trees. I dug two pits obeying their orders.

One day during the dry season of 1978, a prisoner called Chhan escaped from the prison. Seven days later, he was caught by the Khmer Rouge soldiers. These Khmer Rouge soldiers brought together the other prisoners and took them to a banana plantation in front of the prison. Then another Khmer Rouge soldier ... said we shouldn't follow the example of Comrade Chhan and finally, he executed him with a hoe and dumped him into a pit. A month later, two other prisoners were caught by the prison guard following an attempt to escape. These Khmer Rouge soldiers brought the prisoners together again and ordered the escapees to dig a pit and plant a pole. They crucified them to the pole. Lan, the commander,

¹ This statement is from the written record of a civil party interview, which has the document number D170/1 and D22/27. The relevant ERNs are 00485416 (in French), 00338390 (in English), and 00304334-35 (in Khmer).

² This document has the ERNs 00485417 (in French), 00338391 (in English), and 00304335 (in Khmer).

ordered another prisoner, Thy, and myself, and gave us a knife and asked us to open up their stomach, and since I did not refuse, I disemboweled them.³



Once again, Ms. Simonneau Fort queried whether the witness could recall any situations like this. At this point, National Co-Counsel for Khieu Samphan, Kong Sam Onn, objected, on the basis that the witness went to Preah Vihear province after August 1978 and the facts mentioned in the civil party record were in the dry season of 1978, which would have been before the witness went to Preah Vihear. As such, the witness would be unable to testify to those facts. Ms. Simonneau Fort responded that she was reading these passages as examples of events of which the witness may have heard. The president declared the objection unfounded. The witness responded that he did not know about such events, because the area in question “belonged to the secretary of the division, and the distance from that location to my location was very far.”

Ms. Simonneau Fort inquired whether the witness received orders to supervise mobile units in Koh Kong. The witness responded that there “were no mobile units in Koh Kong; ... it was purely military forces.” Ms. Simonneau Fort then read out an excerpt from a civil party who testified to being part of a mobile unit in the West Zone:

When I went to work in the fields, I had to participate in meetings in order to produce monthly reports to the regiment and to the commanders of Sector 37. Back then, my workplace was called Sector 37, and since I was ill, I sent my reports to them through a young soldier who was usually going to the meetings.

At the beginning of the evening, the young soldier in question came to tell me that Brother Voeun wanted to see me just for a small moment. Then I followed him. At the place where I was arrested, the young boy said, please wait for my brothers, I’m going to look for Brother Voeun. Voeun was the person in charge of all the mobile units in Sector 37. Back then, Voeun’s position was equivalent to division commander. A little while after the young boy left, two soldiers with AK-47 rifles threatened me and told me to raise my arms. They took off the scarf around my waist so they could tie my hand behind my back.⁴

Again, the witness denied any knowledge of such events. At this point, Ms. Simonneau Fort questioned whether, given the witness’s rank, he had ever been given orders to transfer witnesses from security centers such as Koh Kchhang to cooperatives so that these prisoners could work in these cooperatives. The witness denied any knowledge of such events.

³ This document has the document number D22/1328, and the relevant ERNs are 00850561 (in French), and 000525741 to 42 (in Khmer).

⁴ This document has the document number D125/86, and the relevant ERNs are 00243025 (in French), 00243011 (in English), and 00206389 (in Khmer).

Ms. Simonneau Fort read from one final civil party document, specifically a civil party application, which stated:

Two weeks later, the prison leader, whose name I do not remember, ordered me to go work outside of the prison, for example, to dig earth and to plant sweet potatoes and raise dykes and plant rice. In May 1977, the Khmer Rouge soldiers took about 100 families and mine as well, by truck to ... Kampong Seila district, Kampot province. When we arrived, the soldiers designated 10 group leaders who had to take care of these hundreds of families.⁵

Again, the witness denied knowledge about any such situations. As to whom the soldiers in the security centers reported, the witness responded, "My soldiers did not control the security at the rear at all because we were constantly at the front. We did not go to the rear."

Ms. Simonneau Fort asked the witness why the witness feared for his own safety, as he had testified to the Office of the Co-Prosecutors (OCP). The witness responded that this was because he had to obey orders from the upper echelon which he never refused to do. The witness stated that he was afraid that he "might have been arrested because my in-laws were arrested." He did not bother or interfere with the events at the rear, he said, because he was at the front and was focusing on the work he had been instructed to do. Finally, Ms. Simonneau Fort inquired as to the fate of those in-laws. Mr. Voeun stated that they were arrested, and he was afraid that due to their connections, he would face the same fate. In particular, his elder in-law "engaged in immoral acts, was imprisoned, and died."

Military Structure in the West Zone

Judge Jean-Marc Lavergne then took the floor, distributing a colored map of the DK so as to assist the witness in discussions of zones, sectors and districts. Asked by Judge Lavergne, the witness confirmed that before the capture of Phnom Penh, the witness had been leading a regiment that was part of Division 1, which was under the orders of the secretaries of the Southwest Zone. The secretary of the Southwest Zone was Ta Mok, the witness continued, and Ta Sy succeeded Ta Mok in this role. The witness could not recall the names of any other members of the zone committee.

Next, the witness testified, in response to questioning from Judge Lavergne, that the Southwest Zone only had one division. Judge Lavergne queried whether the witness had ever heard of a Division 2 under the orders of Sambith. Mr. Voeun said that he had heard of that name but did not know "what military structure he was in charge of" and "never saw his face." The witness did confirm that he had heard of someone by the name of Meas Mut and that he believed that Division 3 had been under his control. However, the witness did not know who Meas Mut reported to because they rarely communicated. He had heard of Division 3 during the capture of Phnom Penh, although he did not know to which target they had been assigned.

Judge Lavergne then sought the witness's clarification on the leadership of Division 1 and in particular, whether there was a political commissar. "It was Ta Soeung; he was the sole political

⁵ This civil party application has the document number D22/772 and the ERNs 00850348 (in French), and 00502123 (in Khmer).

commissar,” the witness replied, “There was another person whose name I cannot recall. He replaced Ta Soeung.” The rank of the person leading Division 1 was “the division secretary,” he continued, “There was [also] the commander and deputy commander. As for Ta Soeung, he was in charge. ... Below that, there was another deputy by the name of Yun. ... He passed away in 1976.” Ta Soeung was the commander, Mr. Voeun said, adding that “sometimes he alone was in charge; sometimes another person came to act in his capacity” in the battlefield, including regimental commanders.

As to regimental structure in Division 1, Mr. Voeun testified that “in a brigade, there were three regiments: Regiment 16, Regiment 15, and Regiment 17. There was another special battalion attached to the brigade, but I cannot recall the designated number of that battalion.” Judge Lavergne sought details as to the function of the “special battalion.” The witness stated that it “was in charge of bringing intelligence concerning the enemies at the battlefield.” Mr. Voeun had been the head of Regiment 16, and there were three battalions in his regiment. There were about 300 to 400 soldiers in each battalion, a number that fluctuated depending on circumstances, for example casualties.



After the adjournment, Judge Lavergne sought Mr. Voeun’s clarification on the total number of soldiers in Division 1. The witness responded that it was usually about 7,000. Next, Judge Lavergne asked the witness whether the military structure changed after 1975. The witness replied that all military personnel were under the control of the Communist Party of Kampuchea (CPK). When pressed by Judge Lavergne for details on the chain of command, the witness added that he “did not know the details of the affairs of the Center; ... the divisions could issue commands to ... subordinate units ... but it was beyond my knowledge which divisions were under the control of the Center.” The witness then confirmed that there was indeed a separation of the West Zone into the Southwest and West Zones after 1975, although he could not recall the precise date of this event.

When the witness first moved to Kampot, he went on under questioning from Judge Lavergne, he “was tasked to lead the soldiers to [remove] the mines along the railway tracks so that the trains could be mobilized.” The soldiers “engaged in demining from Tuk Meas to Tram Tra Sar areas,” he added. The head of the Kampot sector, the witness testified, was Ta Ran. Judge Lavergne asked the witness if the sector was called Sector 35 and whether someone called Kang Chab *alias* Sy was part of the sector committee. The witness denied knowledge of such a person.

Mr. Voeun testified that he went to the West Zone “probably in late 1976.” He clarified that he was appointed to the role of deputy leader of Division 1 “one year later, when I was stationed in Koh Kong.” Judge Lavergne asked whether all Division 1 soldiers were sent to Koh Kong. The witness disagreed with this, stating that “only one regiment went there.” The rest stayed at Longvek” with the division commander, he added. The witness added that when 100 soldiers

were sent to the northwest, they were sent by the division commander from amongst the soldiers at Longvek. While in Koh Kong, the witness had approximately 2,700 soldiers, he concluded.

Maps, Meas Mut, and Military Commanders

Judge Lavergne directed the discussion to the previously distributed map, a document that had first been published in 1976. Judge Lavergne first sought the witness's advice on the geographic extent of the West Zone. The witness confirmed that it went from the Kampong Chhnang to Koh Kong. Next, Mr. Voeun confirmed that there was a Sector 37 in Kampong Speu, and that Koh Kong was part of Sector 37. Judge Lavergne then directed the witness's attention to the mention of a "Sector 11" on the map. Mr. Voeun replied that he did not know of its existence.

At this point, Judge Lavergne noted that, as indicated on the map, Sector 32 was adjacent to the city of Kampong Som. Asked whether that city had any special status, the witness said that he "never went there because when I went to Koh Kong, I would take the inner road via Sre Ambel." Neither did the witness know who was in charge of Kampong Som.



*Map of Democratic Kampuchea, divided into zones, from 1976.
(Source: Documentation Center of Cambodia)*

Judge Lavergne asked whether the witness knew of the fate of Division 3, which had been under the leadership of Meas Mut. The witness replied that "the south was under the control of Division 3" but that communications were only maintained at battalion and regimental level, not at division level.

The judge questioned whether Mr. Voeun had ever heard of a Division 164. The witness denied knowing of it while in the West Zone but stated that he learned of it when they went to engage in battle at the eastern border." He could not recall the name of Division 164's leader but said he learned through his soldiers that Ta Mut, that is Meas Mut, was in charge of Division 164.

Judge Lavergne turned to the subject of the organization and leadership of the Cambodia navy. Mr. Voeun stated that “the naval forces were under the control of Ta Mut, that is, Division 164. ... The naval forces were stationed in Kampong Som and Poulou Wai ... and maybe other islands I did not know.”

The witness indicated, in response to the next line of questioning concerning Sector 37, that his duty was “to protect the border, some islands, and the maritime border.” He was not in contact with commanders of Section 37 because “there was constant replacement” of these people. He advised that “initially, Ta Sary, who was an amputee, controlled at the sector level. Then, when he was gone, there was Ta Ran, and Ta Nhoek.” As to their fates, the witness testified:

Ta Sary was my supervisor; ... he was stationed at Sre Ambel. During the time of his disappearance, I believe he went to the zone. Later on, there was Ta Ran. Ta Ran was also an amputee. Later on, there was Ta Nhoek but I did not meet him when he was in charge. Then, there was Ta Chou. Ta Chou was in charge of Sector 37. He already left when I went there; ... I only knew he was sent to the zone.

Judge Lavergne presented to the witness a confession of a person named Puk Pin *alias* Siev.⁶ Mr. Voeun denied knowing this person, at which point Judge Lavergne noted that the confession was dated August 26, 1977, and that there were several annotations on the first page concerning the incrimination of “Kim” and “Ta Noh.” The witness confirmed that he did know the first person and that his name was “Khim.” He elaborated that “Khim was previously at Sector 31 in Kampong Speu. He was in charge of the military sector there. As for Ta Noh, he was in the forest ... and then he went to engage in the work at the rear.”



*Khmer Rouge military cadres during the Democratic Kampuchea period.
(Source: Documentation Center of Cambodia)*

⁶ This document has the document number D43/IV Annex 78, and the relevant ERNs are 00174775 to 81 (in Khmer), 00782272 to 78 (in English), and 00224640 (also in English).

Asked to clarify, in relation to the heads of the West Zone, whether he knew Chou Chet *alias* Sy, Mr. Voeun confirmed that he did know this person, under the name Ta Sy, but that while he learned that Mr. Chet had disappeared, he did not know when. At this point, Judge Lavergne referred to Mr. Chet's S-21 confession.⁷ He added that the Court was also aware that Mrs. Ly Neary, Mr. Chet's wife, headed a sector in the West Zone. The witness replied that he saw her on one occasion in 1975, although he did not know she was Ta Sy's wife. The judge added that the Court knew that Mrs. Neary had been arrested and, in principle, led to Phnom Penh; they also had a letter from Pall⁸ stating that he had seen Mrs. Neary. Thus, the Court knew, Judge Lavergne summarized, of a series of arrests in March 1978.

Judge Lavergne asked the witness who replaced Mr. Chet as the head of the West Zone. "When he disappeared, there was no one else other than Ta Soeung from the division who remained," the witness responded. The witness clarified that Ta Soeung "was only in charge of the division and was second [in charge] from Ta Sy."

Judge Lavergne asked who replaced Sector 37 head Nhoek when he was arrested. The witness answered that he saw Ta Ros *alias* Roth come to take over and perhaps another man. Judge Lavergne questioned whether this person had previously been deputy secretary of Sector 31. The witness confirmed this.

Judge Lavergne noted that part of Sector 37 included land-based locations at Sre Ambel. Asked what was in Sre Ambel, the witness responded that "there was a sector named Sre Ambel and also a pagoda where the head was located." Asked whether Sre Ambel was known for its salt marshes, the witness did not respond, stated that he never went to the salt fields. However, he did confirm that the Koh Kchhang security center was located there, and that "at the beginning, ... Ta Nhoek was in charge of Sre Ambel and Prey Nob sectors, but when I went to Koh Kong, Ta Ros came to take over, and later on, Ta Soeung."

Coastal Defense and the Fate of Foreign Fishermen

At this point, Judge Lavergne turned to the issue of the witness's activities in the coastal defense of Cambodia. He first asked Mr. Voeun about his role in coastal defense, to which the witness responded that he "was contacted by Division 3" and requested that "somebody had to meet with me so that we could build communications and avoid any conflicts." He was asked to watch out for ships or vessels in the sea.

As to the resources at the witness's disposal and method of daily work, the witness responded:

We didn't have any airbases or proper sea ports. Some heavy weaponry was transported and installed in Koh Kong location. Some weapons were also brought to Koh Yorng. ... Later on, forces would be deployed to smaller islands. ... We did not have enough weapons to attack our enemies because we were in short supply. We had enough supplies to protect ourselves against mosquito bites, for example, we had mosquito nets, but not heavy weapons.

⁷ This confession has the document number E3/1682, at ERNs 00013660 to 990 (in Khmer), 00818951 to 9084 (in English), and 00842835 to 96 (in French).

⁸ This letter has the document number E3/198.

Neither did the witness have ships; the naval forces were completely under the control of Division 3. Ships would be docked at islands under the witness's control and "we would be asked to help guard the vessel," he said.

Upon seeing foreign vessels, Mr. Vooun said, they would communicate this via radio to their respective divisions, to "people concerned." As to whether these types of situations implied that Mr. Vooun had occasion to send messages to Division 3, the witness stated that they did not. He would communicate to the people in charge of the vessel who would report to the relevant superiors; Mr. Vooun had to report to Ta Soeung. Khieu Samphan seemed to be listening carefully to this testimony, stroking his chin with his hand and turning to watch the respective speakers in turn.

At this point, Judge Lavergne then cited a series of documents. First, he referred to a document dated August 13, 1977, which discussed a meeting between Ta Soeung and Comrade Mut.⁹ The witness denied any knowledge of such meeting. Next, the judge referred to a telegram regarding an incident with ships close to Koh Kong and the seizure of a Thai vessel.¹⁰ The telegram, Judge Lavergne noted, was signed "Office 09, Koh Kong." He asked the witness whether there was an office of the naval forces, or Division 3, in Koh Kong. The witness denied this.

Judge Lavergne asked Mr. Vooun whether there was a radar located in Koh Kong or on the coast transmitting information to the witness. Mr. Vooun denied this, stating that they "only used binoculars to see things from a far distance."

Judge Lavergne referred to a telegram dated April 12, 1978, and signed by Roth.¹¹ Judge Lavergne asked the witness whether this Roth was the secretary of Sector 37 known as Ros *alias* Roth. The witness confirmed this. Judge Lavergne stated that according to the telegram, it appeared that on April 10, Ta Roth delivered letters and instructions to be sent to the Ministry of Foreign Affairs. The Thais raised the issue that Khmer Rouge troops and Thai Communists had entered and attacked them. They said that they reported this to the Ministry of Foreign Affairs, and that there was in fact no fighting. The last paragraph of the telegram described conditions for cooperation between the Kampuchians and Thais and indicated that Thailand was awaiting a request from Cambodia on this matter.

Judge Lavergne noted that the telegram in question was sent to Uncle Nuon, Brother Ban, Brother Von, and Archives. He asked whether this refreshed the witness's memory regarding border clashes between Cambodia and Thailand. The witness responded that the Roth in the telegram could not have been the Sector 37 secretary "because this person ... had nothing to do with foreign affairs."

⁹ This document has the document number D10828/48 and ERNs 00233647 to 48 (in English), 00623217 to 18 (in French), and 00000860 (in Khmer).

¹⁰ This telegram has the document number E3/1037 and ERNs 00161770 (in Khmer), 00233645 (in English), and 00710220 (in French).

¹¹ This telegram has the document number E3/2007 and ERNs 00000111 (in Khmer), 00324834 (in English), and 00811278 (in French).

As to what would have happened when Vietnamese or Thai fishermen were arrested, the witness stated, “When people were arrested, we would have to report to the people who had to receive them in Kampong Som. ... The people who were arrested would then be handled by them, not us.”

Prior to the lunchtime adjournment, Mr. Ianuzzi was granted permission to make a few final comments, with university students in the audience smiling in apparent amusement. He clarified first, that he had earlier been quoting from Lewis Carroll’s *Through the Looking Glass, and What Alice Found There*, published in 1871; second, that when referring to Judge Cartwright’s application to have comments struck from the record, he was referring to a written order to strike, with document number E/129/1; and third, that for health reasons, his client wished to watch the remainder of the day’s proceedings from his holding cell. The president granted this final request and adjourned the hearing.



The hearing resumed at 1:30 p.m. before a new audience consisting of villagers from Batheay district, Kampong Cham province. Judge Lavergne resumed his questioning of the witness, first asking Mr. Voeun for more information regarding people arrested at the rear, in particular, Thai prisoners who were arrested and taken to Kampong Som. Judge Lavergne quoted from a telegram signed by Mut and addressed to Uncle Nuon and to the archives, which read as follows:

In all, as of March 27, 1977, until March 30, 1978, the number of arrived Vietnamese and shot was 120 men, five boats, with five h.p. and a certain number of weapons, as well as other material that was confiscated.

The liberation of the Thais was delayed and not able to be completed by the set date because of the error of the names of the people who came to capture the people ... but after verification ... there were only small errors.

Judge Lavergne asked the witness whether he was aware of the release of the Thai fishermen pursuant to diplomatic negotiations. Mr. Voeun denied this. Judge Lavergne then referred to two documents which, according to the judge, detailed defendant Ieng Sary’s involvement in such negotiations.¹²

¹² The first document had the document number D56/Doc.098 and the ERN S00008979, while the second document, an article of the *Far Eastern Economic Review* dated July 31, 1978, had the document number E3/1275 and the ERNs S00008277 (in English), S00795923-25 (in Khmer), and S00768339 (in French).

Purges, Marriages, and Conditions in the West and North Zones

Judge Lavergne next referred to a monthly report of July 1978 from Zone 401 addressed “To the Angkar.”¹³ He first asked whether the witness had received direction regarding servicemen who did not have good biographies, had ties to the previous regime, or were of Chinese descent or Vietnamese. The witness denied this. Judge Lavergne then read the following passage from the monthly report:

1. Regarding the purges of Vietnamese and CIA agents and of bad elements, we eliminated 100 Vietnamese, whether big or small, whether old or young.
2. We executed 60 people who were high-ranking people and CIA agents or infiltrated American imperialists in units and in cooperatives.
3. In the regional army, we conducted purges on Chinese combatants who were in the army. Forty Chinese soldiers in the army were kept, however, to perform production work.
4. Measures were taken against three Vietnamese soldiers.
5. Ten people from sections and companies in all cooperatives were purged. Among these elements, some were lazy, whereas others were dissidents and insulted the populations. Some others were denounced by the enemies and they did not accept to work. Our measures against the enemy operatives mentioned above continued to proceed and to look for enemies from all sides who were boring from within. We had to continue purging the bases, the units, the offices, and the different ministries, for these units to be clean.¹⁴

The witness confirmed that “there was a plan to smash the June enemies and infiltrated enemies within the units. However I did not know whether those enemies were smashed.” As to whom the “regional army” term referred, the witness responded that he was not in control of them, as he took charge of forces outside the sector.

Judge Lavergne turned his focus to the term “moral misconduct.” The witness stated that it referred to:

The moral offense between a man and a woman, and people were prohibited from committing such moral misconduct, but the important point was for those men not to play around with women or to violate any military disciplines regarding women. ... It was important for them to adhere to such guidelines.

According to the witness’s recollection of a zone meeting, males getting married had to be at least 20 years old and women at least 18. In Mr. Voeun’s section, the prospective couples needed to see each other first. If they liked each other, they would inform the witness. Therefore, marriage was based on the parties’ consent, and not force, he stated. Weddings did not involve

¹³ This document has the number E1E3/1014.

¹⁴ The relevant ERN is 00593530 (in French).

“musical performances,” he continued; couples would simply hold each other’s hands and make a commitment.

At this point, Judge Lavergne read a passage from another document that stated that a man living in a mobile unit in Takeo hung himself in July 1978 two weeks after his marriage, which had been arranged by Angkar.¹⁵ The witness testified that he had no knowledge of such events.

Moving on to the topic of the witness’s activities in the North Zone, Judge Lavergne inquired whether the witness knew of the history of the different sectors in the North Zone, Sector 106 (covering the Preah Vihear area), and Sector 103 (covering Siem Reap and Oddar Meanchey). He asked specifically whether some of these sectors been under the control of someone called Koy Thuon *alias* Kun *alias* Thuch, the former secretary of the North Zone and former Minister of Commerce. The witness stated that he had heard of the name but that he had been situated at the East Zone. He also confirmed he had heard that Koy Thuon had been arrested but did not hear whether he had made any confessions. Judge Lavergne informed the witness that in his S-21 confessions, Koy Thuon had incriminated a number of people in Sector 106. Accordingly, he asked, did the witness hear of any purges in that area? The witness denied this.



*Koy Thuon (back row center) with other Khmer Rouge cadres in the North Zone.
(Source: Documentation Center of Cambodia)*

International Co-Counsel for Ieng Sary Michael Karnavas interjected at this point that it appeared that Judge Lavergne was commenting on contents in an S-21 confession and, noting the Chamber had barred his own previous attempt to refer to such a confession, opined that there appeared to be a double standard from the Chamber in terms of the use of such confessions. Mr. Ianuzzi stated his support of this application. However, Judge Lavergne responded that this was information available not only in the confession in question but also in the Revised Prisoner List of S-21. Judge Lavergne then put to Mr. Voeun a series of names from that list and asked the witness whether he had heard of any of those individuals, namely:

¹⁵ This document has the number E3/1094, and the relevant ERN is 00593529 (in French).

- Ta Pall *alias* Sot, secretary of Sector 106 arrested on February 21, 1977;¹⁶
- Nem Yun *alias* Houn, secretary of Sout Nikom district;
- Praksam *alias* Ben, secretary of Pouk district;
- Tuk Sakun *alias* Chhann, member of the Commerce Committee of Sector 106;
- Yong Pao, head of security in Sector 106; and
- Nov Cham *alias* In, secretary of Division 350 in Sector 106.

The witness responded that none of these names meant anything to him.

Judge Lavergne referred to Chann Sann *alias* Kang Chab *alias* Se. He asked whether the witness met anyone who had worked with this person and in particular, whether this person had any ties with Ta Mok or Ke Pauk. The witness stated that he had heard of the names in question but did not know of the contact between any of them. The witness then added, with respect to Ke Pauk, that “after we fled from the Vietnamese, through the women’s unit, I learned that Ke Pauk was in charge of Kampong Thom.”

Next, Judge Lavergne referred to an April 30, 1977, telegram signed by Comrade Ouk.¹⁷ In this telegram, Comrade Ouk stated that “he already provided recommendations to Bang Say ... to go to Ampil district following an incident that occurred in this district, because this district depended on the Oddar Meanchey area, and grenades had apparently been thrown.” The witness denied knowing of this incident.

Judge Lavergne asked whether Ke Pauk had carried out purges in the North Zone. The witness stated that he learned that Ke Pauk had fled “to Kampong Thom through Preah Vihear” but did not know more than that. Nor, the witness added, had he heard about such purges from other leaders.

At this point, Judge Lavergne noted that there were a significant number of telegrams on the case file from Comrade Say to “Angkar” or “Office 870” and also addressed to “Uncle” (that is, Pol Pot), Nuon Chea, Brother Van, Brother Von, and sometimes Brother Khieu. These telegrams all discussed “cleansing” and sometimes “purges.” Judge Lavergne pressed yet again as to whether the witness heard anything at all about this when he went to Preah Vihear. The witness stated that when he went to Preah Vihear, he did not stop at Kampong Thom; he also asserted that he did not see anyone in Preah Vihear except one leader and that he did not know to which zone Preah Vihear belonged. He met “only Ta Khim,” he concluded, noting that “the affairs of the zone was not my knowledge.” Judge Lavergne asked to whom Ta Khim reported. Mr. Vooun responded:

Ta Hong, but Ta Hong already died before I came to the location. I do not remember whether he was shot dead or died of other causes. Ta Hong was responsible for a sector. Also, there was another person by the name of Phen. Phen was later on removed and allowed to stay home, and I paid him a visit at his home when the Vietnamese attacked

¹⁶ Judge Lavergne noted that this person’s S-21 confession was on the case file. It has the document number D366/7.1.91.

¹⁷ This document has the number E3/239.

Phnom Penh; he was still alive. ... The North was an autonomous zone or sector and I was in charge of carrying out duties in respect of Sector 103 only.

Judge Lavergne recited a detailed list of the telegrams sent to Office 870,¹⁸ after which he probed the witness on the meaning of his statement that the sectors of the North zone were autonomous. Mr. Voeun stated that this referred to sectors where Nuon Chea and Khieu Samphan entered, but noted that he did not see either defendant during his time at his sector.

Judge Lavergne turned to the telegram which the witness had previously testified on Thursday, October 4, as having received from Khieu Samphan. The witness said that he had already testified about this previously and did not want to answer it again. Judge Lavergne duly turned to ask whether the witness met with Khieu Samphan, and if so, what Mr. Samphan told the witness precisely regarding the situation in the North Zone. The witness replied that he only spoke to Mr. Samphan of his family members, and when pressed, that Mr. Samphan did not tell him anything in person; instead, Mr. Samphan wrote to the witness in a telegram asking him to look after his relatives. Mr. Samphan did not mention names, Mr. Voeun added; he merely indicated that his parents were old and he wanted the witness to take good care of them.

For his next line of questioning, Judge Lavergne sought further details as to the situation that the witness encountered when he first entered Preah Vihear. Mr. Voeun responded that when he entered Ro Veang district, he noted that:

People under Ta Khim had been living in fear that they would be arrested, because there had been arrests at night. ... They told me that they could not sleep very well at night ... and they noted that a jeep could be seen coming to the location. Some nights, people came from Chheb district to report of such situations. I told them not to be fearful ... [and that] if anyone wanted to arrest them, they could tell me and I could help. Later on, some people kept coming to report their fears that they would be arrested. Eventually, they learned that Angkar was in a position to assist them; they treated us as Angkar and they said that with our presence, they would not feel intimidated as they did before.

The witness added that he sent some telegrams to Mr. Samphan regarding the situation near the border although he did not know if they were received. Mr. Voeun then stated that, as to the shortage of mosquito nets and blankets:

I went to the warehouse to see that the blankets were stacked in the warehouse only to be destroyed by termites. They were not really being offered to the people. I could feel that people's livelihood was in great difficulty. Salt was left in the open to be destroyed. It was not offered to the people. When I reached Choam Ksan, the location near Mlue Prey, near the mountain, I also went to the cooperatives and also saw what the living situation of the people was like. Then I

¹⁸ The details of these telegrams are as follows: document number E3/1091 dated August 23, 1977; document number E3/1044, dated September 5, 1977; document number E3/898, dated December 11, 1977; document number E3/1918 dated January 10, 1978; document number E3/996, dated March 13, 1978; document number E3/1077, dated April 10, 1978; and document number E3/1209.

went to Daun Ton, or Damnak Trach. I was told that people had been arrested and sent there, and I went there to tell people not to be afraid of being arrested again ... that as long as I was there, no-one could be further arrested. I went all the way to Khieu Samphan's parents' home. When people had to be moved to the co-ops, Khieu Samphan's parents had to be left alone in the house. I reported on this to Khieu Samphan but I did not know whether he received the message or not because I did not receive any response from him on this.

Asked whether he was surprised by the situation in Preah Vihear, Mr. Voeun reported feeling that if he were not there, "people could be in even greater danger than this." The witness denied being forewarned as to "whether there would be any obstacles or problems at Preah Vihear." He requested to perform farm work and assisted the people to build houses.

Judge Lavergne moved on to the meeting with Ta Soeung in Phnom Penh that the witness had previously mentioned. Specifically, Judge Lavergne asked whether the witness was instructed to "be liberal, to apply the Party lines in a moderate manner." The witness responded that when Pol Pot discussed enemies who had attacked the East Zone around August 1978, Pol Pot told the witness to go to Preah Vihear:

To see the situation concerning the arrests of people, because he heard that a lot of people had been arrested, and this situation had to be under control, because other senior leaders could be implicated. He asked me to be there to build canals like we did in the 1970s, and also I was instructed to build houses for people to live in, because it was a kind of plateau area where canals could not be properly dug.

Judge Lavergne then referred to the witness's testimony that there were several hundred people detained at a security center in Ro Veang. When prompted for further information on this location, the witness stated:

There were guards who were on duty; they were guarding the people who were detained. There were more Cambodian detainees than the Vietnamese. The Vietnamese had been there long ago during the Issarak regime and there were about three families of Vietnamese. Apart from them, there were about 100 women – I can't say exactly how many detainees there were because I did not pay attention and count them.

Detainees were kept in sheds or shacks where they were made to live and they could raise pigs. There were no fences. When I was there ... I could see that a lot of women in the women's unit were mentally challenged and kept there. ... Some people told me ... that they were detained because they asked to go home. Others would say that they stole some eggs. On top of that, a woman who had an affair with another person was detained at the hospital, and she perhaps had been influenced by some kind of magic spell. She presented to me a kind of bag in a small box ... a kind of love magic bag. She was transferred to Siem Reap and she could be heard crying, shouting when on board the [transfer] vehicle.

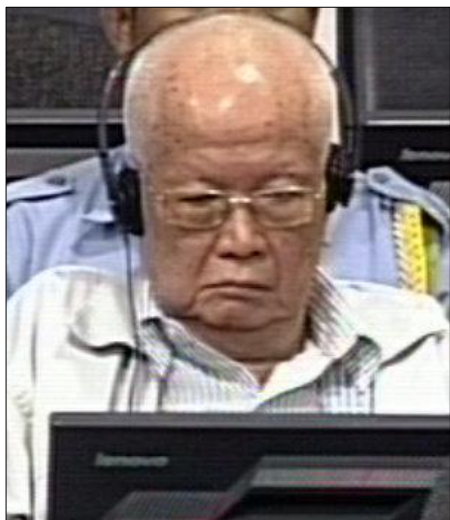
By August 1978 ... I noted that there was not enough food at the detention facility and at the same time, intensive attacks by Vietnamese at the border could be heard. Then we allowed some people to go to Tala Borivath. Before they were released, they were allowed to kill some pigs for food. Then the Vietnamese came, and that's the end of the story.

Mr. Voeun testified that he decided to release the detainees because “if they were to be kept there, nobody would take care of them, so I made that decision ... together with one person from the district who came with me. Also, due to the intense situation at the front, I decided to set them free.” The witness confirmed that he had never received any order from higher up to release the detainees.

Judge Lavergne asked the witness whether he later on had the opportunity to meet Khieu Samphan. Mr. Voeun denied this. At this point, Judge Lavergne referred to a number of public statements by Mr. Samphan, in particular a report of one of his interviews in Pailin on August 17, 2005. The report writer summarized Mr. Samphan's testimony as follows:

The zone secretary was considered like a vice-king, managing the affairs in the zone according to his desires. The Central Committee was not able to control what was happening because it only received reports. In the North Zone, after Kang Chab was designated as head, there were arrests and they were against the instructions of the hierarchy. In 1978, Bong Number One [Pol Pot] sent men to receive tourists, and then they learned about this and then they reported about what had happened.¹⁹

The witness denied any knowledge of such tourists. Aside from Pol Pot and Mr. Samphan, the witness did not receive any instructions from the new leader of the North Zone; that leader “went to my workplace once to see the living conditions of the people there. He went only to two districts” because they were far away and the modes of transportation challenging.



The witness clarified, upon prompting from Judge Lavergne, that he went to Preah Vihear in August 1978. He had two staff, who were remaining from Ta Hong's era, Aeuy and Ol, who the witness used to send and receive telegrams. He also recalled having equipment to send and receive messages, noting they initially received telegrams from Phnom Penh, the first being the message from Mr. Samphan. Mr. Voeun added that he did not report to anyone at that stage except Khieu Samphan, since “due to unfavorable conditions,” he could not send many reports. In particular, this was because the Vietnamese were already close to Preah Vihear at that time. Further on the approach of the Vietnamese, the witness testified that:

¹⁹ This document has the number E3/198, and the relevant ERNs are 00296212 (in French), 00184680 (in English), and 00078213 (in Khmer).

Vietnamese soldiers first entered Phnom Penh and ... had not yet reached Preah Vihear. ... I do not remember when they reached Preah Vihear, it was likely that they entered in November or December [1978], but I cannot recall the date.”

The witness did not know exactly when they reached Phnom Penh but he recalled being at home in Ro Veang and hearing a Voice of America radio broadcast that they entered Phnom Penh on January 6, 1979. Ta Soeung had been staying with him at the time and did not believe this information when the witness relayed it to him, Mr. Voeun recalled, though he did note that Ta Soeun later left for Siem Reap. The following day, Mr. Voeun said, he saw American soldiers crossing over from Steung Trang and they said that Vietnamese soldiers had reached Kampong Cham and Snuol. “I could confirm that American soldiers arrived by January 7 or 8, [1979],” he concluded.

Judge Lavergne sought the witness’s clarification as to whether, between August 1978 and January 1979, communication between Phnom Penh and Preah Vihear was not possible. The witness confirmed this to be the case.

Following the mid-afternoon adjournment, Judge Lavergne briefly addressed the Ieng Sary defense team’s objection, supported by the Nuon Chea defense team, to Judge Lavergne’s use of S-21 confessions. He noted first that the Trial Chamber had not changed its decision regarding forbidding use of the contents of these confessions. However, his questions were not based on the contents of those confessions, but other sources, notably the fact that Koy Thuon had links with Sector 106, he explained.

Prior to concluding his questioning, Judge Lavergne cited a document entitled “Minutes of Meeting on Base Work” involving Comrade Secretary, Comrade Deputy Secretary, Comrade Em, Comrade Doen, Comrade Sleng, Comrade Hang, Comrade Sot, and Comrade Touch concerning Sector 106 and the situation in the North Zone. Judge Lavergne noted that Koy Thuon and all participants of the meeting were arrested except for Pol Pot, Nuon Chea, and Khieu Samphan.²⁰ He further indicated that Mr. Samphan attended that meeting and that all commanders were required to report by telegram so that the Standing Committee could take decisions.

Further Details on Military Structure and Training

At this point, National Co-Counsel for Nuon Chea Son Arun commenced questioning on the part of the Nuon Chea defense team with a follow-up question concerning military structure and, in particular, the military training that the witness testified he was asked to attend in 1970. Mr. Arun sought details of the hierarchical structure of the military, at all levels, at that time. Mr. Voeun responded:

First, they called them the squads, or teams – a group of 12 people. Then there was a platoon that comprised of three squads. ... After the platoon, there was a company composed of three platoons. Then, three companies made a battalion. Three battalions then made a regiment. When three regiments combined, we had a

²⁰ This minute of meeting has the document number E3/232, and the relevant ERNs are 00017116 to 123 (in Khmer), 00323932 to 36 (in English), and 00182628 to 31 (in French).

brigade. In the brigade, there was a special battalion. Finally, three brigades, altogether combined, made a division. There were also other units within that structure. We had the arsenal unit, the special unit under the direct supervision of the division and the brigades. I can say that to understand the structure of the military, you could start from the 12 member team. Then ... keep multiplying by three ... until finally you [reached] the division. ... The exact number of soldiers could vary from time to time in each unit.

The witness clarified that there were no more than, on average, 3,000 people in each brigade. As for the number of people in the regiment, Mr. Voeun advised that there were no more than 600 people in the regimental unit.

Mr. Arun referred to Mr. Voeun's testimony to the OCIJ²¹ regarding his initial joining of the revolution and his role as a bodyguard to cadres. Mr. Arun sought further details, in particular on the witness's joining of the Patriotic Youth League and the struggle against colonialism and capitalism. Were these terms referring to people or countries? Mr. Arun asked. The witness responded that this was a reference to France, adding:

When the French left, we still felt that French influence was still there. For example, a soft drink factory or plantations were all under the control of the French people. Cambodian people did not have any authority to control the French. They were of course controlled by the French. So by this I referred to French colonization. When it comes to capitalism, this had to do with the exchange of commodities from one country to another. In the exchange of commodities, we noted that when the goods or produce were purchased from the people, they were purchased at a lower price, and then they were sold back to us, they were sold back at a higher price. So Cambodian people suffered and we did not have any power to control or contest this. We did not have any power to control trading. This is part of the economy. Our struggle to liberate the country from feudalism was also the same cause because our people did not enjoy the right to go about their normal business.

Mr. Arun inquired whether this explanation was based on his training at the time or on any particular documents. Mr. Voeun stated that he learned about national affairs from Hu Nim, Ta Krin, and other nationalists and intellectuals, with lessons taking place "under the trees in the jungle."

Striking Out Strikes Back: Witness Disavows Testimony on Nuon Chea

The witness then confirmed that he had been in command of Regiment 16 in Division 1, under the direction of Ta Soeung. He also confirmed that only Division 1 attacked Phnom Penh from the Pochentong, O'Bek Ka-Am, and Stung Meanchey direction. At this point, Mr. Arun asked the witness whether he was informed of the plan to evacuate Phnom Penh before the attack on Phnom Penh. The witness denied this.

²¹ This record of OCIJ witness interview has the document number E3/424.

Mr. Arun noted meetings with Son Sen and Nuon Chea prior to the attack on Phnom Penh stating that the intention was to liberate Phnom Penh by April 18, 1975. Mr. Arun asked whether the army attacking Phnom Penh was given any further instructions apart from not to counter-attack or loot. The witness stated that they were not. Mr. Arun then asked about a meeting with Son Sen and Nuon Chea that the witness claimed to have attended in previous testimony, in which he also referred to Son Sen and Nuon Chea as members of the general staff. Mr. Arun queried how the witness knew that they were members of the general staff. The witness replied, that Ta Soeung:

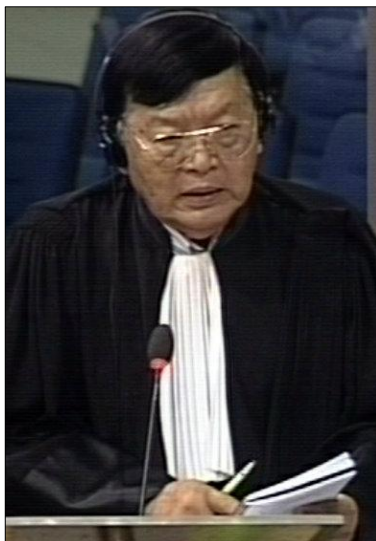
Did not tell me the names Son Sen or Nuon Chea, but he said that he had a meeting with the general staff ... when he learned of the plans to attack, and he relayed ... [those] plans, the so-called Battlefield 940 ... and that we had to achieve victory by April 18. ... I received those orders and plans from Ta Soeung.

How then, Mr. Arun went on, could the witness identify Son Sen and Nuon Chea as members of the general staff in his OCIJ witness interview? At this point, Senior Assistant International Co-Prosecutor Tarik Abdulhak interjected, stating that it appeared that Mr. Arun said that the witness did not know who was on the general staff but merely that Ta Soeung did not tell him so.

Mr. Arun next reiterated his query, to which Mr. Voeun replied:

I learned of the names of [Son Sen and Nuon Chea] after the liberation. I learned that the general staff comprised of Son Sen and Ta Mok. But I did not have that knowledge before the liberation. During that meeting, when I received orders for the division, the divisional commanders received information from the upper echelon, but [Ta Soeung] did not mention the names of the general staff.

Did the witness therefore still stand by his statement that Son Sen and Nuon Chea were members of the general staff? Mr. Arun continued. No, the statement “should be removed,” Mr. Voeun responded, because he had not learned of that information at that time. At this point, the



president interrupted and directed the witness to carefully read the relevant record of the OCIJ witness interview and in particular, his response to question three, so as to avoid any confusion being caused by questions put to him by the counsel. After doing so, the witness stated that he wanted to “strike out the names Son Sen and Nuon Chea,” and did not know whether there had been a mistake in the OCIJ interview.

Next, Mr. Arun asked whether the witness knew of the attack target from the west, presently known as Kop Srou area. Asked which division was responsible for the attack from this direction, Mr. Voeun responded that it was Division 1. As to whether other parts of other divisions had also participated in the attack, the witness confirmed that a division from the North also participated.

Mr. Arun asked the witness whether the witness issued direct orders for the attack, and whether he issued such orders as relayed from the general staff or divisional commander. The witness indicated that he relayed orders from the latter source. He also indicated that he knew that from the west, there were forces from Division 1; coming from the eastern spearhead were forces from the North; and coming from further east was another force from the East.

As to why Phnom Penh was liberated by April 17 and not one day later, Mr. Voeun testified that this was because “the enemy had been defeated earlier and as they lost their battle spirit, so we were able to advance rather quickly towards Phnom Penh.” Mr. Arun sought further clarification on whether the witness had been informed by the general staff or the division as to a negotiation taking place with the Lon Nol forces. The witness disclaimed any knowledge of this.

Mr. Arun turned to another record from the OCIJ witness interview²² regarding meetings in March 1976 in Chbar Morn, Kampong Speu, in the West Zone, and in Longvek, Kampong Chhnang, attended by Nuon Chea and Pol Pot. Asked whether he also attended these meetings, the witness confirmed that he did, although he left the first meeting following advice from Ta Soeung that the situation in the battlefield had changed. Mr. Voeun added, “At that time, I saw Pol Pot, who led the meeting, and Ta Sy, who chaired the meeting. I did not see Nuon Chea there.” Mr. Arun asked whether this meant that the two meetings were attended by Pol Pot, not Nuon Chea. The witness agreed that this was correct. He added, however:

At that time, Soeung told me that Nuon Chea also attended, but ... I did not see him. ... I personally did not see him. I was not sure whether he was present or not, but I did not see him back then. For that reason, I wish to remove his name.

Mr. Abdulhak then interrupted at this point arguing that it was not appropriate in the ECCC to ask a witness whether the witness wished to remove something from his prior statement. Mr. Arun responded that the witness statement had been used by the OCP and various parties without objection at that time, and the witness did have such a right.

Mr. Karnavas interjected at this point, opining that the OCP was incorrect and the witness did have the right to disavow information in a prior statement. Mr. Sam Onn also indicated his support for the other defense teams’ positions since the prior written records were not verbatim records but summaries; as such, there could be mistakes, he argued.

The president responded to Mr. Sam Onn that the positions of the two defense teams were “far removed from one another” in the Khmer language version of the hearing. The president queried whether Mr. Sam Onn believed the Nuon Chea and Ieng Sary teams in fact held the same position. Mr. Sam Onn stated that removal or striking out was the right of a witness.

Mr. Ang rejoined in the discussion, with apparent amusement from audience members. He noted that the written record had been read back to the witness at the time of the OCIJ interview and Mr. Voeun had confirmed its accuracy. Parties therefore had the right to question him about the veracity of that written record, and the witness had provided his thumbprint, so he could not now

²² The document number for this record is D3/73.

withdraw it, Mr. Ang contended. Following this submission, the Trial Chamber judges conferred at length. Judge Cartwright then responded on behalf of the Chamber, stating:

After a brief deliberation, the Chamber agrees that there is no procedure available for striking a statement from the record made by the Co-Investigating Judges. However, we take into account the oral testimony of this witness in placing such weight as we think appropriate on his evidence in reaching our verdict.

Mr. Arun was permitted to proceed. He asked the witness about his service as a soldier between 1971 and 1975. Did the witness learn the name Nuon Chea during that time? Mr. Arun asked. Mr. Voeun responded that he heard of Mr. Chea's name in 1975, but neither met nor communicated with Mr. Chea through any other means. Mr. Voeun confirmed that he did not know Mr. Chea well and clarified that he learned of Mr. Chea's name through his division.

For his final question of the day, Mr. Arun asked the witness about communications between divisions and between divisions and regiments during the attack on Phnom Penh. Regarding the means of communication, the witness stated:

We would meet at the battlelines and identify the area of our supervision, which area could be controlled by any particular regiments. We had some focal persons to communicate the particular messages. People did not stay far away from one another. We were close, like the seating arrangements here, so we could communicate.

The president adjourned the hearings for the day. The hearing in Case 002/1 will resume at 9 a.m. on Tuesday, October 9, 2012, with continued testimony from witness Meas Voeun under questioning from the defense teams.