



Denise Affonço, left, accompanied by her lawyer, Julien Rivé, continues her testimony via video-link from France on Thursday.

Civil Party Describes Suffering under an “Organized and Programed” Khmer Rouge System of Elimination

By Doreen Chen, Senior Consultant, Destination Justice, and LLM, Columbia Law School¹

French civil party Denise Affonço concluded her testimony in the Extraordinary Chambers in the Courts of Cambodia (ECCC) on December 13, 2012, with a powerful and emotional statement of suffering. Describing her physical and mental suffering, and the death of her daughter from starvation, the civil party recounted how the victims of the Khmer Rouge were dehumanized at the hands of a “famine [that] was organized and programed ... a way for the system to eliminate us while feeling they had washed their hands of the problem.” She concluded by imploring the Court “to do its work, and [ensure] the people who committed all of these acts ... be duly punished.”

In the morning, former Khmer Rouge messenger and driver for Ieng Thirith Phan Van *alias* Kamphan continued testifying for a third day, focusing in particular on the details of various telegrams and purges in Sector 105.

It was also the last day in court for International Co-Counsel for Nuon Chea Jasper Pauw, whose parting salvo to the Court was a speech in which he implored the Court to “do more to promote the rule of law in Cambodia today, ... do more to promote the accountability before the courts of anyone regardless of their position, and ... do more to stress the independence of the Courts of Cambodia.”

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>.

Judge Lavergne Questions Witness on Purges and Removal of Internal Enemies

Hearings began before an audience of approximately 200 university students from Kamchay Mear district in Prey Veng province, and approximately 100 villagers from Kampong Leng district, Kampong Chhnang province. In addition, French historian, Khmer Rouge expert, and regular courtroom fixture Henri Locard was once again in the public gallery. At the outset of proceedings, Trial Chamber Greffier Se Kolvuthy announced that all parties to the hearings were present except for accused person Ieng Sary, who was in the holding cell pursuant to a Trial Chamber decision to this effect.²

Following this, Trial Chamber judge Jean-Marc Lavergne resumed questioning witness Phan Van *alias* Kamphan, a Khmer Rouge messenger and one-time driver for Ieng Thirith.³ The judge first asked the witness to enlighten the Court as to relations between Sector 105 and its zone. Mr. Van described that “there was a connection between Sector 105 and the Northwest Zone. There was some kind of connection through the border. However, when it comes to administrative communication, the report had to be done vertically, from bottom-up.”

At this point, and when prompted by the judge, Mr. Van clarified that in fact, he was discussing the Northeast, not Northwest, Zone. As to who passed on these communications, Mr. Van explained that, to his understanding, communications went through Office 870, though a “committee along the border” also existed through which communications could be channeled. “This committee was set up by the ‘upper echelon,’” he stated, though clarifying that “I don’t remember all the names of who was in this committee.”

Ta Ya was the Northeast Zone secretary, Mr. Van testified next. As to what happened to him, and whether he was also known as Nai Saran, the witness said that he did not know about this latter point, although what he could say was that Ta Ya’s “wife was somehow connected to my mother, as she was my mother’s cousin.” Was Ta Ya an enemy, and was he purged? Judge Lavergne asked. At this point, International Co-Counsel for Nuon Chea Andrew Ianuzzi sought to object but was cut off by the president, who advised that Mr. Ianuzzi was already disallowed from objecting to the questioning of judges. Mr. Ianuzzi said he understood this but “would just like to make an observation: purges--.” The president cut Mr. Ianuzzi off forcefully and advised that no observations were permitted at this time. The witness then responded, “After his disappearance, there was a public announcement concerning this. He was said to have betrayed us. ... We heard that he had been affiliated with the Vietnamese.”

Review of Telegrams Concerning Division 920

² Cambodia Tribunal Monitor’s daily blog post detailing this ruling is available at <http://www.cambodiatribunal.org/blog/2012/12/civil-party-%E2%80%9Cwe-were-living-prison-without-walls%E2%80%9D>.

³ This is the third day of Mr. Van’s testimony. He has also testified on December 11 and 12, 2012. Cambodia Tribunal Monitor’s daily blog posts of this testimony are available at <http://www.cambodiatribunal.org/blog/2012/12/khmer-rouge-messenger-and-doctor-each-provide-insight-democratic-kampuchea-period> (December 11) and <http://www.cambodiatribunal.org/blog/2012/12/vivid-civil-party-testimony-how-khmer-rouge-promises-%E2%80%9Cparadise%E2%80%9D-resulted-%E2%80%9Chell%E2%80%9D> (December 12).

The judge presented the witness with a telegram entitled *Advice Given to 920*, dated September 23, 1976, and addressed to “Beloved and Missed Comrade Chhin.”⁴ The judge asked whether Chhin was the first secretary of Division 920, which Mr. Van confirmed. Judge Lavergne explained that the telegram advised how the revisionist or reformist “Group 7” enemies attempted to burrow “from the base” and that, among other things, education sessions for all division committees were required so that they were familiar with “enemy artifices” and “absolute vigilance” was needed. It was signed Khieu, the judge added, presuming that this was a reference to Son Sen. Asked if he had ever heard of “Group 7,” the witness denied this.



Moving on, the judge referred Mr. Van to *Telegram 33*, dated November 26, 1976, signed by Chan and addressed to Office 870.⁵ Asked who Chan was, Mr. Van stated that he did not know this person clearly. The judge asked whether there was a connection between Chan and Lang — perhaps the Lang who was the witness’s father. Again, the witness denied knowledge of this.

Removing the telegram from the witness at this point, the judge proceeded to instead explain its contents to Mr. Van, advising that it addressed similar issues as the previous telegram. In particular, it noted that there had been an adoption of military measures with respect to the “Group 7.” The telegram was copied to Brother Nuon (likely to be Nuon Chea, the judge said); Brother Khieu (likely to be Son Sen, according to Judge Lavergne); Office; and Documentation.

Next, Judge Lavergne referred the witness to another telegram, already shown to the witness during his earlier testimony before the ECCC, and which was sent by Chan to “Beloved and Missed Office 870.”⁶ Asked whether he remembered this telegram, Mr. Van responded:

During this period, my elder [sister] was working at that place, so to be precise about this person’s name, we may need to talk to my sister because this was a secret name. Chan could have been another person because my father did not use a name other than Lang. However, it could be possible that he used a different name because names could be changed from time to time during the Khmer Rouge regime.

Asked who “Comrade Sang” was, as this person was referred to in the telegram in question, Mr. Van said that he was Comrade Chhin’s successor at Division 920. In relation to succession issues in general, the witness added, “At the time, people continued to disappear one after another. I leaned about this.”

⁴ This telegram has the document number E3/1111, and the relevant ERNs are 00376671 (in Khmer), 00524192 (in English), and 00532706 (in French).

⁵ This telegram has the document number E3/1196, and the relevant ERNs are 00000879 (in Khmer), 00506647 (in English), and 00597060 (in French).

⁶ This telegram has the document number E3/877, and the relevant ERNs are 0021513 (in Khmer), and 00185226 00283109 (in French).

The final telegram the judge showed the witness was one from Sophea to “Beloved and Missed Brother Chan.”⁷ Asked whom Sophea might be, Mr. Van said, “I am not sure which Sophea the message referred to here, because there was a person called Sophea who was in charge of the military at that zone.” The judge read to the witness from the document, explaining again that it discussed “Group 7” and said that they “attacked us at Pich Chenda.” Asked whether these terms had any significance for him, the witness responded, “I can say that the ‘Group 7’ could have been the Vietnamese.”

Were the soldiers who participated in the revolutionary struggle under the command of the Vietnamese, and were they subsequently considered enemies? Judge Lavergne asked. Mr. Van responded:

At the time, there were some soldiers, particularly those who were in Monduliri province. They were also working alongside their Vietnamese counterparts. ... I recall some of the events. Actually, it was not in the form of superior command structure. It does not mean that the Vietnamese were superior and we were following them. We worked with them as counterparts. ... In 1975, we were [sent] to the border. I was also there as well in logistical support. ... At first, we cooperated in order to fight against Thieu Ky.

Nuon Chea Defense Team Questions Witness on Ta Sarun

As no other judges had questions for the witness, Mr. Ianuzzi took the floor to begin the examination for the defense. He first asked the witness to confirm the location of his current residence. The witness obliged, advising that he lives in Malai sub-district, Malai district, Banteay Meanchey province and that he has lived there ever since the arrival of the United Nations Transitional Authority in Cambodia (UNTAC).⁸ Prior to this, he said, he was living in Corridor 505. Now it is called Thmor Da, he said, which was where Mr. Chea, Pol Pot, and Khieu Samphan worked. Asked whether this was in the northwest part of Cambodia, the witness advised that it was “somewhere along the border of Pursat and Koh Kong province” and close to a province in Thailand.

Mr. Ianuzzi asked the witness about Ta Sarun, the person who the witness said succeeded his father as the Sector 105 Secretary. Asked whether this was correct, the witness confirmed this. This led Mr. Ianuzzi to advise the witness that in one of his interviews before the Office of the Co-Investigating Judges (OCIJ), he had described killings in Sector 105 during Ta Sarun’s era as follows: “During my father’s era, there was no killing, but during the Ta Sarun era, the arrests of whole families were made, but I don’t know where those families were taken to be killed.”⁹

Mr. Ianuzzi asked Mr. Van whether this was a correct statement of his testimony. The witness confirmed this. Mr. Van elaborated that while he did not know of the specific arrests himself, he was aware that arrests occurred and that these people did not return. He continued, “During my

⁷ This telegram has the document number E3/1030, and the relevant ERNs are 0033312 (in Khmer), and 00324806 (in English).

⁸ UNTAC arrived in Cambodia in 1992.

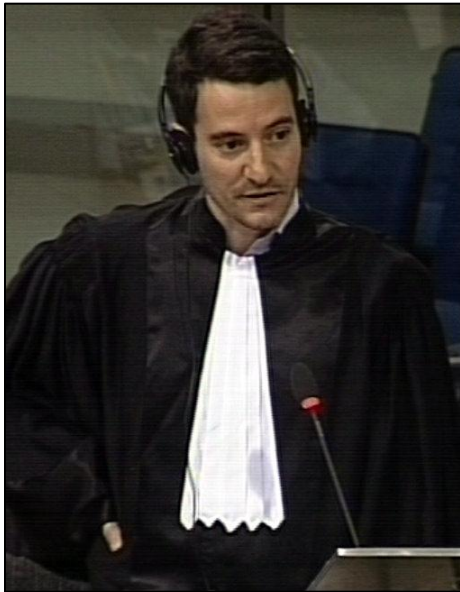
⁹ This record has the document number E3/57, and the relevant ERNs are 00287705 00290508 00353104

father's era, there were only a few families disappeared. ... But when Ta Sarun came to take the place of my father, whole families were taken away.”

The defense counsel next referred the witness to a document prepared by the Documentation Center of Cambodia (DC-Cam) entitled *Khmer Rouge Purges in the Mondulkiri Highlands*.¹⁰ This document stated, among other things, that:

With Horm's death, Sarun, an ethnic Lao, became secretary of region 105. The conflict between Kham Phuon and Horm and the installation of Sarun as region secretary led to the imposition of stricter rules in the region and coin with the period with the greatest number of deaths.¹¹

Asked whether the witness could confirm that Horm was an alias used by his father, the witness confirmed this was indeed so. As for whether the rules in Sector 105 indeed became stricter under Ta Sarun, Mr. Van responded that he did not know as he was not in the region at the time, but, he elaborated, “to my understanding, those who were at the sector level had to follow the instructions from the upper authority. They did not dare to make any decisions on their own. At the time, everyone was self-disciplined.”



Thus, Mr. Ianuzzi queried, did the witness agree that the period under Ta Sarun was “associated with a greater number of deaths than your father's”? Mr. Van confirmed this, advising he heard this from his friends as well.

In the next passage Mr. Ianuzzi read to the witness, the DC-Cam document stated, “Many informants marked the beginning of the most radical changes in Mondulkiri to late 1977 and 1978 when Sarun took power.”¹² Asked whether he agreed with this statement, the witness responded, “I actually witnessed the disappearance of people. I asked the villagers, for example, where was the family of Mr. Ea. They told me that they had already disappeared.”

The DC-Cam document also stated, “After Sarun became the regional secretary, they arrested ... four or five people a day. The chief of the cooperative tried to intimidate people to work harder by telling them that Sarun would kill the lazy people.”¹³ Asked whether he thought this statement to be accurate, the witness responded:

I actually disagree with this. It was not as harsh as what is stated in this. They did not actually kill lazy people as stated. We could actually ask people who are still

¹⁰ This document has the document number E3/1664, and the relevant ERNs are 00397566 to 749 (in English), and 00742838 to 89 (in French).

¹¹ The relevant ERN is 00397653 (in English).

¹² The relevant ERN is 00397654 (in English).

¹³ The relevant ERN is 00397654 (in English).

alive, those who came across those experiences. Some of them are still alive and living in Long Veng district.... I did not think the policy at that time was that harsh. ... I simply do not believe that only the fact that they were lazy was the reason for their execution. ... I did not believe that this would amount to the execution of those people. ... It was also the decision of the upper authority.

The defense counsel directed Mr. Van to his testimony on December 11, 2012, that there was a “12-point moral code” under the Khmer Rouge. Mr. Ianuzzi advised that according to the draft transcript, the witness had said that people later deviated from this code. Asked if this was a correct reflection of his evidence, Mr. Van said that it was, elaborating:

It was the truth, and I simply would like to give an example. ... During the war era the 12 moral codes were strictly applied. For example, in Mondulkiri province, people had to pay great respect to Buddhist monks, and they were not to steal, not even a piece of chili from the villagers. ... But later on, the Khmer Rouge confiscated peoples’ belongings. ... People were not happy with this, so they did not follow the 12 moral codes anymore. They did not see Buddhist monks either. Money was also abolished. ... They no longer abided by these 12 moral codes.

As to whether his father had tried to follow these moral codes when he was the Sector 105 Secretary, Mr. Van responded:

During my father’s tenure, he did not agree with the practice. Everyone wanted to protest but they dared not do it. At that time, I was too young as well. I did not follow the politics. ... At the time, all people were discontent with this practice, but they dared not protest it. ... Everyone did not prefer these policies, but they were not brave enough to challenge.

Did Ta Sarun, that is, Sao Sarun, “exercise his leadership in a different manner”? Mr. Ianuzzi queried. However, before the witness could respond, International Senior Assistant Co-Prosecutor Vincent de Wilde said this question was “on the verge” of being speculative. The witness himself was not there, and the question therefore “expected too much” of him.

Mr. Ianuzzi responded that he was not asking the witness to speculate and would rephrase the question. He also added that “nearly all of the witnesses” who had testified at the ECCC had given “hearsay evidence,” as hearsay was not only admissible but widely used in the Court. In addition, the defense counsel added, the witness had already testified that he did have some knowledge of the situation under Ta Sarun’s tenure.

Mr. Ianuzzi reformulated his question and asked Mr. Van to contrast his father’s leadership to that of Ta Sarun. Mr. Van contended that he was unable to make this comparison as he did not stay in the area while Ta Sarun was the leader. Rather, he said, he only asked questions of the villagers about the matter after hearing that people had disappeared.

The defense counsel responded that the witness might not have been aware that Ta Sao Sarun¹⁴ had testified before the ECCC already. In particular, Mr. Ianuzzi recounted, Mr. Sarun had been confronted with the witness's testimony that there were "arrests of whole families" under Sao Sarun's reign and rejected and denied the testimony, stating, "No. No whole family members would ever be arrested. I think the person who stated this ... must be exaggerating."

Was the witness indeed exaggerating, or was his evidence accurate? Mr. Ianuzzi asked. Mr. Van responded:

I did not observe the proceedings during the time when Om¹⁵ Sao Sarun took the stand, but I am not in a position to exaggerate. I do not know who gave him orders to arrest people, but I learned that people were arrested, and a lot more people were disappearing. Another person who was a very honest tribal person was also arrested, and I couldn't believe that such an honest person like him could disappear. Some other people were also believed to have disappeared. I did not really implicate him in making such arrests, but the arrests were made during his tenure. I asked a lot of people about this, and they confirmed that these arrests did happen.



Did the witness have any personal knowledge about why Sao Sarun would reject Mr. Van's evidence? Was he attempting to minimize his own responsibilities? Mr. Ianuzzi asked. National Lead Co-Lawyer for the civil parties Pich Ang objected that this question invited the witness to speculate. Likewise, Mr. de Wilde added, the Chamber had already decided several times that witnesses were not to answer hypotheticals.

Mr. Ianuzzi said he would fully accept that witnesses should not be permitted to speculate on hypothetical matters, but "would strongly disagree that a witness cannot know something because someone may have told him that." Indeed, much of what we all experienced came from our interactions with others, he said, and Mr. Van may "have direct personal information about it."

Voicing his support for Mr. Ianuzzi's position, International Co-Counsel for Ieng Sary Michael Karnavas added that the defense counsel's questions were not only relevant but appropriate and no different from the questions asked by Judge Lavergne. The witness was not being asked to speculate but to give observations based on his own personal knowledge and experience, he contended, arguing that the defense should be allowed to explore the same areas and ask the same questions as others.

The Trial Chamber judges conferred for several minutes. The president then instructed Mr. Ianuzzi to rephrase his question and ask questions that avoided speculation. Mr. Ianuzzi therefore

¹⁴ Sao Sarun testified before the ECCC in June 2012. CTM's accounts of his testimony may be found at: <http://www.cambodiatribunal.org/blog/archive/201206>.

¹⁵ Om is an honorific for an uncle who is older than one's father.

asked the witness whether he had any personal knowledge about why Sao Sarun would wish to minimize his own responsibility. Mr. Van advised that he did not know anything about this.

Before leaving the topic of Sao Sarun, Mr. Ianuzzi said that the passages that the witness had just confirmed had also been put to Sao Sarun and he had “rejected them outright.” He asked Mr. Van again whether he had any personal knowledge as to why Mr. Sarun would do this. However, the president instructed Mr. Van not to respond to this question since it was speculative. Mr. Ianuzzi agreed to move on but first stated “for the record” that his question was framed entirely appropriately. The president cut Mr. Ianuzzi off, however, insisting that the defense counsel move on as questions inviting witnesses to give personal conclusions would not be allowed. Mr. Ianuzzi asked the president whether witnesses were not permitted to give their “personal conclusions” and if so, “what else are we doing here?” The president responded that this had been the practice all along: only questions put to experts could invite such conclusions.

Mr. de Wilde sought to clarify that in the French translation, what was objectionable was “hypothetical conclusions.” Mr. Ianuzzi said it was perhaps a question of language and that perhaps it should be stressed that he was not trying to ask the witness to discuss a hypothetical but whether it was in Mr. Van’s knowledge that a particular thing occurred. The president eventually cut Mr. Ianuzzi off yet again, advising that it was not for Mr. Ianuzzi to tell the Chamber how to conduct itself. “I wouldn’t dare,” the defense counsel responded.

Communication Structure at Office K-17

Moving on, Mr. Ianuzzi directed the witness to his December 12, 2012, testimony about his father being invited to a meeting with Nuon Chea shortly before his death. Mr. Ianuzzi reminded the witness of his own position concerning the relevance of that issue.¹⁶ The president cut Mr. Ianuzzi off at this point, advising that he was to get to the point and ask simple, short, precise, and non-repetitive questions. The defense counsel responded that at times, it was necessary to set a context and everyone did so. The president cut Mr. Ianuzzi off again and advised him that the floor had been put to him. “Tout de suite,” Mr. Ianuzzi responded.¹⁷

Moving on, the defense counsel referred the witness to one of the records of his OCIJ interview, in which the witness advised that he came to Phnom Penh “in late 1977.”¹⁸ Asked whether this refreshed the witness’s recollection on the last trip his father made to Phnom Penh, Mr. Van replied, “I stated that I did not remember this quite clearly. . . . I’m not quite sure about that.” Mr. Ianuzzi noted that the witness had testified always accompanying his father to Phnom Penh and asked the witness how many trips he made to Phnom Penh. When pressed, Mr. Van said, “I may say it was less than 10 times.”

Mr. Ianuzzi started to ask, “Do you know the reason that your father was--.” However, the president interjected, this time with apologies, advising that as the time was now appropriate for an adjournment, Mr. Ianuzzi should continue with this new line of questioning after the adjournment.

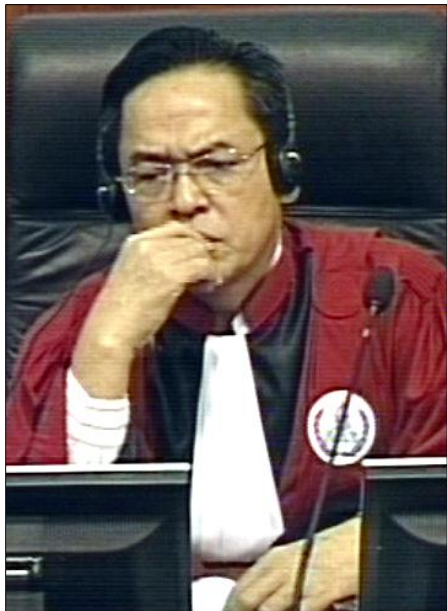
¹⁶ Mr. Ianuzzi had objected on December 12, 2012 that the specific details of purges were irrelevant to Case 002/1.

¹⁷ This French phrase, which was not translated in the English version, means “immediately.”

¹⁸ This record has the document number E3/57.

Following the mid-morning break, Mr. Ianuzzi asked the witness whether his father or anyone else informed him why his father was invited to Phnom Penh on the occasion where he ultimately died. The witness denied any knowledge of this. This led Mr. Ianuzzi to refer the witness to the record of his OCIJ interview on this issue. However, Mr. Ianuzzi said, the written record of interview left out a segment of what the witness had said, as the audiotape made clear,¹⁹ contending that this was a “serious problem” that the “judges did not seem too concerned about.”

According to Mr. Ianuzzi, in his OCIJ interview, Mr. Van said his father had been called to Phnom Penh “to discuss something about Vietnam.” Mr. Ianuzzi asked whether this refreshed the witness’s recollection, but Mr. de Wilde intervened before the witness could respond. The prosecutor explained that he was not opposed to the question at all, but simply the prologue that preceded it. He also stressed the necessity of referring to the relevant ERNs from the audio transcripts. Mr. Ianuzzi responded that the purpose of the prologue was a “futile attempt to influence the Trial Chamber.” The defense counsel reiterated his question to the witness but then



advised the witness not to respond as another colleague was about to object.

Taking the floor, International Lead Co-Lawyer for the civil parties Elisabeth Simonneau Fort requested the precise references for the audiotape transcript, a request which the president repeated along with an instruction to “avoid making any lengthy comments that may influence the witness.” Mr. Ianuzzi reiterated that the relevant document number D125/160R, with the designation “R” indicating that it was a recording and had been used “all along since the beginning,” apparently echoing the president. Ms. Simonneau Fort intervened again, stating that she did not know if the defense counsel was doing this on purpose, but Mr. Ianuzzi should indicate the relevant passage. Mr. Ianuzzi said that he had already indicated it was question four, and that as all parties were aware, that passage was

actually an amalgamation of many questions and answers, so it could take up to 20 minutes to refer back to it in the transcripts.

Mr. de Wilde rose to make a comment, and it appeared Mr. Ianuzzi also sought to continue, but before either could address the Chamber, the Trial Chamber judges huddled in deliberation. After this, Mr. de Wilde advised that normally, parties gave the R letter code and the time point in which the relevant exchange took place. Mr. de Wilde suggested that Mr. Ianuzzi’s current practice might result in influencing the views of the witness. Mr. Ianuzzi responded that he did not think there was necessarily a fixed, normal practice; in any case, however, his team was undertaking cross-examination and their need to present transcripts was not something they anticipated in advance, as they prepared these questions in response to Judge Lavergne’s questions of December 12, 2012. He stated that he would put in a request to the Interpreting and

¹⁹ This record has the document number E3/58, and the relevant ERNs are 00239937 (in Khmer), 00250089 (in English), and 00283915 (in French).

Translation Unit to request the transcript in due course but was currently relying on the advice of his teammate that the transcript contained a reference to Vietnam.

Turning his attention back to the witness, the defense counsel asked him not to take any notice of what he had previously said and asked him if he remembered saying that his father's meeting in Phnom Penh had anything to do with Vietnam. Mr. Van denied this.

Clarification on Witness's Testimony on the Activities of Accused Person Nuon Chea

At this juncture, Mr. Ianuzzi advised the witness that he would seek his clarification on various topics including communications. He cautioned the witness that he should only refer to his personal knowledge and that Mr. Ianuzzi himself would limit his questions to the current trial and its factual base, namely the evacuation of Phnom Penh. Before he was permitted to do so, however, Judge Silvia Cartwright took the floor first, chastising the defense counsel by saying, "Mr. Ianuzzi, you've been asked repeatedly to stop making comments, or as you call them, prologues or submissions. Please ask questions, and please keep your questions brief and slow, because we will be unable to use much of what you ask the witness if it cannot be translated."

After this, Mr. Ianuzzi asked whether the witness or his family ever had any communication with Mr. Chea regarding the evacuation of Phnom Penh. Mr. Van replied, "I don't know anything about this, but I learned that there was contact between my father and him. ... I did not know what could have been the content of their communication, but they did meet."

The defense counsel emphasized that he was concerned about any communications regarding the evacuation of Phnom Penh. Mr. Van denied any knowledge of this.

Mr. Ianuzzi turned the witness's attention to the second phase of the evacuation. He asked the witness whether he or his family had any contact with Mr. Chea regarding population movements in the Southwest or Central Zones. The witness denied this, adding, "I was too young to know about this." Mr. Ianuzzi asked the witness the same question as for the East or West Zones. However, before Mr. Van could respond, Ms. Simonneau Fort objected that the defense counsel should limit the question to Mr. Van's own experience. Mr. Ianuzzi agreed to do so, but not before commenting, "In my estimation, 80 per cent of what this witness has been telling us throughout his testimony has related to his work with his father, and he has been telling us what his father told him."

The witness then denied any knowledge about communication with Mr. Chea concerning population movements. Neither, said Mr. Van, did his father, brother, and sister have such communication. Mr. Ianuzzi moved on, asking the witness whether he engaged with Mr. Chea in communications concerning Battambang, Pursat, Banteay Meanchey, Kampong Thom, or Kampong Cham provinces, Mr. Van denied this. For completeness, Mr. Ianuzzi went on, did the witness engage in any lines of communication with Mr. Chea from late 1977 until 1978 regarding population movements in the East Zone? "No, I didn't," Mr. Van replied.

The defense counsel turned back to telegrams shown to the witness by the Office of the Co-Prosecutors (OCP) or Judge Lavergne. Asked whether any of these telegrams had anything to do with population movements, Mr. Van denied this, stating, "I don't understand the messages

concerned that.” Mr. Ianuzzi asked whether the witness would be “surprised” to know that there was “not a single allegation” in the Closing Order suggesting of any forced population movement into or out of Sector 105.

National Co-Lawyer for the civil parties Pich Ang objected that this question was “put to confuse the public,” as it invited the witness to make comments concerning “procedural matters in this Court.” Mr. de Wilde added that Mr. Ianuzzi’s question should be reworded so that no comments are made on the contents of the Closing Order concerning Sector 105, but instead, as to whether the witness had any knowledge on this subject.

Responding first to Mr. Ang, Mr. Ianuzzi asserted that he was intending instead to “alert the public” that much testimony the Court had heard concerning administrative and communication structures did not appear to have a nexus with the underlying crimes being tried. Continuing, Mr. Ianuzzi said, “Those base crimes are clearly, and I don’t think anyone can contradict me on this-” but he was cut off by the president before he could finish. Sustaining Mr. Ang’s objection, the president advised that the witness was not here to comment on the Closing Order or which facts were at issue.

The defense counsel duly moved on to a new topic, asking the witness whether he personally experienced US bombings of Cambodia before 1973. The witness confirmed this, and added, “I think everyone did.” As to the intensity of those bombings, Mr. Van described:

I knew only what happened at my region. I could hear bombs being dropped almost on a daily basis. ... I did not just hear what they told me about this but I saw this first hand. At that time, people had built a trench or bunker at every home, and they had to make sure they could cook their rice early in the morning so they could eat the rice for the whole day when they took refuge in the bunkers.

The witness confirmed that rice fields were destroyed by this bombing campaign; that people took refuge in the bunkers to avoid being injured by the bombs; and that people died as a result of them.

Mr. Ianuzzi questioned whether, as the witness appeared to testify on December 11, 2012, he encountered Ta Mok at B-20. The witness denied this, and said that, in fact, he never encountered Ta Mok.

Turning back to one of the records of the witness’s OCIJ interview, Mr. Ianuzzi noted that the witness had mentioned that “Keat Chhon, and Sao Khim Mut also worked with Ieng Sary.”²⁰ Who was Keat Chhon? Mr. Ianuzzi asked. The witness advised that he did not know and that when the OCIJ investigators came to visit him, they asked him about this person or that person, and that “I told them that I did not know them personally, I only knew their names ... but I did not know them personally.” The witness denied telling the investigators that these people worked with Mr. Sary. Mr. Ianuzzi noted that this person, Keat Chhon, is the current Minister of Finance in the Royal Government of Cambodia.

²⁰ This record has the document number E3/447, and the relevant ERN is 00486512 (in English).

Mr. Ianuzzi inquired whether the witness knew that the Minister of Information of Cambodia had refused to cooperate with the ECCC. However, this elicited an intervention from the president, who advised the witness not to respond to this question, as it was not relevant at all.

Moving on to the witness's experiences at Office K-17, the defense counsel asked whether the witness could give any information regarding population movements in "K-Prum." However, Mr. de Wilde intervened at this point, commenting that while the witness may appreciate that Mr. Ianuzzi was attempting to speak Khmer, others did not understand what he was referring to. Mr. Ianuzzi explained that he was referring to K-5 and asked the witness what he could tell the Court regarding population movements in the northwest regarding K-5 in the 1980s.

The president interjected that the witness should not respond to this question since it was not relevant. Mr. Ianuzzi submitted that "it is relevant to the number of deaths attrib--" but was cut off by the president. This line of questioning was not allowed, the president emphasized.

Mr. Ianuzzi agreed to move on but first requested clarification whether the reason he was not permitted to pursue the topic was because "many of the crimes that were committed in K-5 were similar to--." The president cut him off, and said, with a wry smile, that the question was not relevant to the alleged facts against the co-accused.

International Co-Counsel for Nuon Chea Andrew Ianuzzi is Held in Contempt and Expelled from the Courtroom

For his final question, Mr. Ianuzzi said that on December 11, 2012, the witness indicated that he did not attend the rally at Olympic Stadium but did go and watch a play there. He asked what kind of play it was and whether it was at all similar to the play unfolding here in the ECCC. The president interjected, advising the witness not to respond. Judge Cartwright could be heard whispering something inaudible to the president and could then be seen beckoning to the other judges on the bench with her index finger. They accordingly moved over to gather in quick conference, before the president advised Mr. Ianuzzi to move on or his act would be considered "contempt."



Mr. Ianuzzi said that he was only trying to insist in his "boorish way" that if the court proceedings continued "to work from a script with cues and stage directions," the proceedings would take on the appearance of a bad Gilbert and Sullivan play. The judges gathered in deliberation once more. After a few minutes, they resumed their seats. Mr. Ianuzzi advised the president that this was all he had for the witness. The president then advised Mr. Ianuzzi that he was not given the floor, as the bench was going to rule on this matter. Judge Lavergne could be observed rifling through some papers and speaking to Reserve Judge Claudia Fenz. After a minute, Judge Lavergne went to hover over the president and Judge Cartwright, while Judge You Ottara could be observed standing, hunched over his desk, also rifling through documents.

After an extended period of conference by the judges, President Nonn took the floor, instructed Mr. Ianuzzi to stand, and announced:

The Chamber finds that the lawyer has abused the proceeding and he has contempered the court despite repeated warning by the Chamber throughout the course of the proceedings. Today, it is very obvious that the lawyer is intending to obstruct the proceedings. Counsel is also abusing the proceedings. The Chamber therefore decides to [expel] you from these proceedings.

Mr. Ianuzzi asked whether this meant he should leave the courtroom. The president confirmed that this was so, pursuant to Internal Rule 38 concerning the misconduct of lawyers. He also said that Mr. Ianuzzi was not allowed to make any comment. Mr. Ianuzzi said, "I believe I will remain with my client." Judge Cartwright could then be heard whispering something to the president, which sounded like "security." The president reiterated that Mr. Ianuzzi was to leave the courtroom for today. He instructed security guards to "ensure the order of this courtroom." Mr. Ianuzzi advised that he would "await his escort." Once again, Judge Lavergne could be heard whispering something to the president.

Further Questions Concerning Witness's Background and Relations with Nuon Chea

The president then asked whether National Co-Counsel for Nuon Chea Son Arun had any questions for the witness. Mr. Arun said that he had prepared his questions, and they would take approximately 40 to 50 minutes. The president permitted Mr. Arun to proceed.

Mr. Arun first sought to clarify Mr. Van's qualifications by asking how old Mr. Van was when he joined the revolution. "I joined the revolution with my father since I was very young," the witness responded. Mr. Arun advised that this was the point: how old, precisely, was Mr. Van at that time? The witness said he could not recall this precisely. The defense counsel asked when the witness became a messenger. Mr. Van advised that he could not recall this exactly, but "it was after the war," and, when pressed, that "it was before 1975." Did the witness have any other portfolio, other than as messenger? Mr. Arun asked next. The witness denied this.

Mr. Arun noted that the witness had testified to his father and Nuon Chea discussing security matters. Queried as to what, precisely, "security" meant, Mr. Van responded:

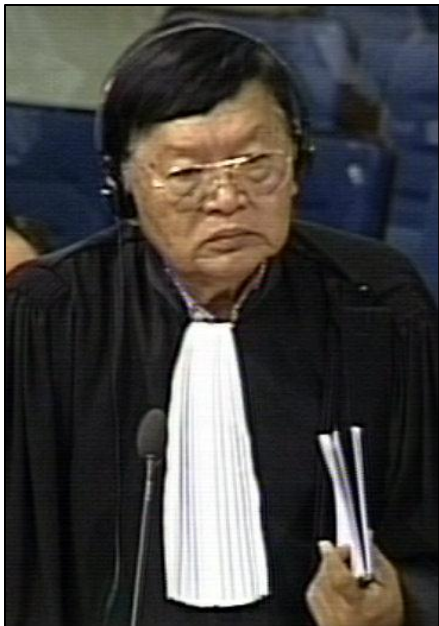
It encompassed the orders, and general security, the killing, the fighting, and so on and so forth. There were forces who did not get along with each other, and then they took refuge in the jungle where they were resisting. ... You may ask them for the details. I think that those "uncles" also knew me, and they knew my father as well.

Mr. Arun noted that the witness had discussed various telegrams in his testimony before the Chamber. He noted that these telegrams were on Mr. Van's desk, and asked the witness whether these telegrams were sent from Sector 105 or elsewhere. Mr. Van responded, "Having looked at the telegrams, I can say that they are genuine telegrams. However, I do not know anything about

the names, because at that time, it was my sister who decoded the telegrams ... but the format is genuine.”

Accused Person Ieng Sary Appears to Be Unwell

Mr. Arun noted that there were some annotations in Khmer, a logo depicting a naga,²¹ and the word “Tela.”²² Mr. Van said that in his copy of the telegram, there was no such term. At this point, National Co-Counsel for Mr. Sary Ang Udom said that he had received a report from his case file manager in the holding cell downstairs that Mr. Sary had not been following the proceedings since 11:49 a.m. and his heartbeat was also irregular. He requested that the hearing be adjourned and for an update to be given on Mr. Sary’s medical status.



At this point, the president advised that the Chamber would adjourn the hearings until 2 p.m., when the Chamber would reconvene to hear the testimony of civil party Denise Affonço who would be testifying via video-link from France. The president advised that Mr. Van would need to return for continued testimony tomorrow and requested that he remain in the vicinity of the Court for this afternoon as well so that he could be called back to testify if Ms. Affonço completed her testimony before the close of the day’s

proceedings.

Mr. Arun requested for Mr. Chea to be permitted to spend the afternoon in his holding cell due to his headache, lack of concentration and lower back pain. The president granted this request and adjourned the hearings for lunch.

Civil Party Denise Affonço Resume Testimony by Providing Details on Pre-1975 Phnom Penh

After a prolonged lunch break,²³ the hearing resumed at 2 p.m. with civil party Denise Affonço taking the floor via video-link from France. The president advised that the Nuon Chea defense team would be next to question the civil party. Nodding, Ms. Affonço responded, “Thank you. I am ready.” However, before International Co-Counsel for Nuon Chea could proceed with his questions, there appeared to be a technical difficulty, with the Court appearing to lose its connection with Ms. Affonço.

After a few minutes, International Co-Counsel for Nuon Chea Jasper Pauw proceeded with his questions. He stated that he “could not help but hear,” when Ms. Affonço did a sound check, that she was rather nervous. He said that he understood this and would ask straightforward questions based on her experience; if she felt them to be too complicated or emotional, she should let him

²¹ A naga is a mythical Khmer creature described as a fire-breathing snake living in the sea.

²² This appears to be a description of the logo of the Tela gasoline company in Cambodia, which indeed depicts a naga with the word “TELA” written beneath it.

²³ This lunch presumably took account of additional time to set up the video link with Ms. Affonço.

know and they could move on. He asked her if this was clear. She agreed that she entirely understood.

Mr. Pauw first noted that she had testified that in the Lon Nol years, many refugees had entered Phnom Penh. Asked to estimate how many refugees there were at the time, Ms. Affonço replied:

Listen, you are asking this question 32 years later. I can't give you precise figures. All I know and all I was able to see at the time was that everyday, crowds of refugees arrived in Phnom Penh. In the city then, there were about two million inhabitants, and with all of these refugees ... there were about three million of us. But this is not a specific calculation I have made myself. ... On their arrival, they had practically nothing. They had left their lives in the villages they had left. They told us about the trials and tribulations they had had before arriving.

Once they arrived in Phnom Penh, where would they live? Mr. Pauw asked. Ms. Affonço responded that some of the people had family members in Phnom Penh with whom to live, while others who did not have a connection would camp on the pavement. She noted, however, "Now, I can't tell you the living conditions of each and every one of those people because we ourselves were particularly traumatized at the time ... there were shells falling."

As to where specifically they camped, the civil party said, "Well, counsel, I can't give you any accurate information on the subject apart from what I have just said."

Mr. Pauw advised that he wanted her to testify only on what she had seen, asking whether she had moved around Phnom Penh at times during that five-year period and if so, whether she saw these refugees at all and where. Ms. Affonço responded:

I am not sure if I can tell you much information about that, but on the other hand, what I can tell you is that we saw a lot of soldiers and military people from the pension fund, and they were sheltering a good many of their family from outside the city. On many of the main boulevards like Monivong, we saw people camping ... in a ramshackle way. Most of these people were, in fact, accommodated by their friends and families.

The defense counsel asked the civil party to provide more details about the price of food during the Lon Nol regime. Ms. Affonço said, "Well, counsel, for the precise costs and prices, I would need to go back to my book.²⁴ Now I am in my 70s, so if you ask me now to exact the prices, that I cannot do." Indeed, she referred Mr. Pauw back to her book, before adding that "all of the foodstuff prices shot right up. There was a black market. Even the sweet milk that we made [where I worked] ... went up considerably."

Mr. Pauw quoted a passage of her book that described "an astronomical rise in the price of raw materials such as rice ... gas and so forth."²⁵ Mr. Pauw asked whether the refugees in Phnom

²⁴ Ms. Affonço appeared to be referring to her book *To the End of Hell*, which she authored and published in 2009.

²⁵ This book, *To the End of Hell*, has the document number E9/32.2.29, and the relevant ERN is 00678324.

Penh had enough money to buy “elementary foodstuffs” up until April 1975. Ms. Affonço responded emphatically:

Counsel, once again, let me repeat that I have not had time to garner information so as to know if the refugees who were coming in and were not actually housed by friends and family had enough to eat. I think that those days, the Lon Nol regime had enough resources with all the US assistance they were receiving. But I personally did not have enough time to deal with all of these issues.

Healthcare in Phnom Penh

Moving on, Mr. Pauw asked the civil party if it was true that the French repatriated their doctors before the Khmer Rouge arrived in Phnom Penh. Ms. Affonço agreed, elaborating:

From March 1975, in other words, about a month before the Khmer Rouge arrived, the first [French] military plane arrived. ... Those involved in official assistance like teachers were allowed to take those planes out. Then a second plane arrived in mid-March to take everybody else. Then a final plane came in just before the city fell. The people who left were the teachers, all the westerners, the people working in assistance and cooperation, and that included a great many doctors who were working in the hospitals. ...

I don't know if there were French nurses who left, counsel. I was in the cultural service; I wasn't in the Ministry of Health. I wasn't working in health matters. ... If I saw French nurses, no. But there were Cambodian medical staff and doctors in the country. The wealthy people were able to jump ship. It was the poor who stayed behind and got killed.

As to what happened to the Vietnamese population during the Lon Nol years, Ms. Affonço explained that the Vietnamese population in Phnom Penh was partly repatriated to Vietnam at the time. But, she continued, “a considerable majority was massacred on the way.” She described, “I know about this because I saw Vietnamese people being killed in pagodas. Some of them were friends of my mother's, and there was a definite witch-hunt for these people.”

In her book, Mr. Pauw said, Ms. Affonço had written:

The Vietnamese and the Cambodians of Vietnamese origin underwent authentic pogroms ordained by Lon Nol. It was a radical cleansing operation: a wave of barbaric and bloody terror in the history of Cambodia between 1970 and 1975, followed by the tidal wave of Khmer Rouge savagery. On the following day, all the Vietnamese were arrested, brought together in makeshift camps in schools to be “repatriated.”²⁶

On the next page, Mr. Pauw continued, the civil party wrote:

²⁶ The relevant ERN is 00678322.

Cholera and dysentery²⁷ hit the children, and then programmed massacres were put into practice. All of those who left on the boats towards Vietnam were executed and their bodies were thrown into the water without any kind of trial. The women were raped, and the male and female monks were accused of complicity with the Viet Cong. They were exterminated in their pagodas. They were ravaged and burned.

Mr. Pauw asked the witness whether these events took place in the Lon Nol years. Ms. Affonço agreed, stating:

It's quite true, counsel, but don't forget that the Lon Nol regime was made up of nationalists. They were anti-Vietnamese. They said that in the Vietnamese community, there were refugee Viet Cong elements, and that is why they brought them all together and massacred them. They were nationalists. All of the diseases in the pagodas that I saw, that was entirely true, because I went to see people that I knew crammed into these pagodas and these Chinese schools.

Asked for further details about the destruction of pagodas, Ms. Affonço said:

It was in Kampong Speu. My mother had a friend. She had two friends who were nuns and they were living in a pagoda in Kampong Speu. ... This is where my mother's friends were, and that was the pagoda [that] was pillaged and burned down and where the nuns were massacred. But in Phnom Penh, the pagodas were spared, they were not burned down. ... At the time, there were only Lon Nol soldiers in the country. The Khmer Rouge had yet to come to power.

Further Details from the Civil Party Concerning the Actual Evacuation of Phnom Penh

Mr. Pauw asked the civil party if she remembered describing that the city as being divided into four sectors. She said:

All that I remember very clearly ... is that everyone who lived in the south could not travel to the north end of the city. There were roadblocks everywhere. My mother was in the western end of the city and she wasn't able to join me, and I wasn't able to join her either. It was impossible for me to get to the French Embassy ... because there were roadblocks and barriers everywhere. I was in the south and I had to go towards the south.

Quoting from the civil party's book, Mr. Pauw noted that she wrote about the city being divided into four and described how "there were soldiers in the northern sector and they were forcing people to go in the subsequent direction, and we were in the south."²⁸ Mr. Pauw asked her if this was an accurate description of what she observed at the time. The civil party could also be heard trying to say something while the defense counsel was speaking. Responding to Mr. Pauw, Ms. Affonço said:

²⁷ This was not heard in the English translation.

²⁸ The relevant ERN is 00678330.



I can tell you the following, counsel. When I realized that I could not go north and that because I was located in the south and I was sent southerly, I wanted to go to the west and I wanted to join my mother. Because of that, I assumed that the city had been divvied up in that manner. I simply could not go anywhere or move forward in order to verify this. This was a conclusion that I had arrived at given the situation that I was waiting for my mother who was living in the western end ... she had to go in a different direction.

Turning to Ms. Affonço's destination after the evacuation, Mr. Pauw asked Ms. Affonço to clarify Ta Man's position at the village. The civil party advised, "Once again, if I may, I would like to consult my notes, because 32 years after the fact, I am unable to give you the exact details, but in my book, I have described these facts in detail." She asked Mr. Pauw to look at the passage if he had it; otherwise, she would have to look at her notes. Mr. Pauw obliged, quoting, "As far as we were concerned, the villages of Ta Krain, Ta Sach and Ta Lein, constituted a *sahaka*²⁹ and [a merciless] *Yo Thea*³⁰ which was led by a chief called Ta Man."³¹ He asked if this was how she remembered him. Ms. Affonço said, "Yes, absolutely ... it was from that point on that disappearances began and punishments were being meted out. If one had transgressed even moderately from the line of Angkar, we were punished. People were sacked."

Thus, was Ta Man the leader of the *sahaka*? Mr. Pauw asked. Ms. Affonço confirmed that he was indeed the chief of the cooperative.

Mr. Pauw noted that in her book, Ms. Affonço had described how "under the reign of Ta Man, death penalties abounded."³² He asked whether this was accurate. The civil party responded, "Counsel, as I answered previously ... when Ta Man arrived at the camp, there were many more disappearances. There were many more executions or punishments that were being handed out. Does that suffice as an answer, Counsel?"

Who is Angkar? Questions Concerning Discretion of Khmer Rouge Leaders

Indicating that this did suffice, Mr. Pauw moved on to a new topic. He noted that the civil party had testified to the OCIJ that there was a district chief who "judged me for stealing food from a courgette³³ field, and once more, he spared my life. Below him were the village chiefs."³⁴ Asked if Ms. Affonço could remember this person's name, she responded:

²⁹ This is the Khmer word for a cooperative.

³⁰ In Khmer, this means "military."

³¹ The relevant ERN is 00678383.

³² The relevant ERN is 00678385

³³ This is the French word for zucchini.

³⁴ This record has the document number D199/15, and the relevant ERN is 00346936.

I can recall this very, very well. I didn't steal zucchinis, I stole eggplants, and I had asked, I had known that the spies were going to be sent to the west, which would be tantamount to death.

Perhaps there were a few details missing, but at one point, there were two soldiers who took me to the village. I explained my situation to the chief of the village, who came on bicycle. His name was Ta Yin. I said I stole because I was hungry. He replied, "Well, we're hungry as well, so why don't we steal?" At the same time, there was the wife and children of the village chief who were eating fish and rice, and they were eating to their fill. I asked for forgiveness. I said I would never commit such an act again. That's when he began to ask me questions. He asked ... "Do you want to go back to France?" I said, "It's entirely up to Angkar." He asked me do I like the work here? I said yes. ... I simply said what he wanted to hear. If I said otherwise, I wouldn't be here.

Was it the case, Mr. Pauw inquired, that people like Ta Man and people like Ta Yin could decide on issues of "life and death, whether she would live or die? Before Ms. Affonço could respond, international co-lawyer for the civil parties Emmanuel Jacomy asked Mr. Pauw to be more specific about the time period to which he was referring. Mr. Pauw responded that he was asking this question with respect to her time from the evacuation of Phnom Penh until early to mid-1977. Mr. Pauw then repeated his question to the civil party. She responded:

Counsel, in order to answer your question, I can only say that I only saw Ta Yin once. Ta Yin was stationed at the island with us. He certainly wielded discretionary powers and he implemented all the orders of Angkar. He would tell us that "you have not followed Angkar's line, you must not do this, you must not do that." If there is any transgression from Angkar's line, we were told, we would be disappeared.

This prompted Mr. Pauw to ask Ms. Affonço to elaborate on what she thought Angkar was. Ms. Affonço said as follows:

The first time I heard the term "Angkar," I had no idea what it meant. I had no idea who Angkar was. I thought it was a specific person. It was only through the course of my cavalry, my journey through hell, that I discovered that Angkar was the party, the organization. This was what everyone told me. Everyone who was giving us orders day after day, all the chiefs of the villages, those who abused us. ... We didn't know who Angkar was and who the head of Angkar was.

Turning to the subject of the 1979 trial of Pol Pot and Ieng Sary, Mr. Pauw asked Ms. Affonço whether she was aware that documents of that trial survived, including her own statements. The civil party said:

Up until a few years ago I didn't know of the existence of the archives of that trial. It was only in the '90s that I realized that the sentence handed out in the first trial had not been validated. I only received the documents that you may be

referring to through my lawyer Julien Rivé. ... I noted that there were many deficiencies and mistakes with the French language version.

As to when she read those documents, Ms. Affonço said, “As I have just stated, counsel, I only consulted those records a week ago. I did not have time to search through these archives. ... When I arrived in France in 1979, I had lost everything, and I simply did not have time to go through the past.”

At this juncture, Mr. Pauw sought to read the civil party part of these documents, which had been collected in a publication entitled *Genocide in Cambodia: Documents from the Trial of Pol Pot and Ieng Sary*. In particular, the defense counsel read to the civil party from the record of her testimony before the 1979 court, in which she had stated, “Only when we got to the island did I figure out just what Angkar was: Angkar means the government. Anyone empowered to direct a village or a work team could always speak in the name of Angkar. Angkar is everywhere.”³⁵

Asked whether she stood by this statement, Ms. Affonço replied emphatically:

Yes, absolutely, that is exactly what I said. At the time, in fact, I think there may even have been a translation error because Angkar should not have been translated as “government” but as “organization” or “party,” but unfortunately I was not there to provide advice on the translation.

Mr. Pauw asked whether this meant anyone could “claim” to speak in the name of Angkar. The civil party agreed that all these people “took their decisions in the name of Angkar.” She continued, “When they wanted us to work, they said that Angkar ordered it. When they wanted to take our rice, they said Angkar decided it. ... Today, I would like to know who Angkar is. Kindly enlighten me on that, counsel, if you can.”

The defense counsel said that he wished he could, but this was not his role, and he hoped that this trial would be able to do so. The civil party thanked him.

Mr. Pauw asked the civil party whether it was fair to say that the leaders of the Democratic Kampuchea (DK) did not always know what Ta Man was ordering people to do in the village, even when speaking in the name of Angkar. The president interrupted at this juncture and gave the floor to Mr. de Wilde, who said that this question was speculative and beyond what Ms. Affonço could testify to. Mr. Pauw responded that he was not asking the civil party to speculate, but to refer to her experience of Ta Man’s daily activities and whether he was a despot with discretionary power, or whether every action seemed to be directed from above. He thought Ms. Affonço could answer the question, but in the interests of time, would nonetheless move on.

Role of the Vietnamese in Ieng Sary’s 1979 Trial and a Speech by Heng Samrin

Mr. Pauw noted that, as the civil party had previously testified, before the 1979 trial, she was instructed not to refer to the fact that her husband had been a Communist. Asked why she thought she was given such instructions, Ms. Affonço replied:

³⁵ This record has the document number E3/2144R, and the relevant ERN is 00190592 (in English).

Counsel, today, I understand the decisions taken at the time where I was asked not to talk about [my husband's] Communist convictions. If I had said this, then that would have meant that broadly, all Communists would have been judged guilty. I believed this when I thought about this. At that particular time, I was asked by Mr. Vien Kat Tien³⁶ simply not to mention this fact. ... He was a great Vietnamese writer. So, with hindsight, I can say that I have understood the reasons. ... All I wanted to do at that time was to leave that hell that I never wanted to see again.

The civil party then sighed deeply. When Mr. Pauw next asked whether she listened to testimony of any other witnesses, she responded, "Yes Counsel. I was there and I listened to the testimony of other victims who were there. There were monks. There were Chams. There were women. ... I didn't take any notes on that day. I was in tears. It was extremely taxing for me; ... it was extremely hard."

In her book, Mr. Pauw went on, the civil party described how Vietnamese lawyers came to assist people who wished to write out their testimony in French or English.³⁷ He asked Ms. Affonço to elaborate on this episode. She obliged, describing:

In August 1975, we were in a hotel to prepare that trial. I didn't need a lawyer. I had a handwritten note. But I do remember that there were people who came in from the countryside who didn't know how to read or write, and there were people there to help them. I didn't participate in any of those interviews. The only person I met was that writer I mentioned.

Next, Mr. Pauw said, the civil party had testified on December 12, 2012, that she had never heard the names Pol Pot or Ieng Sary. The court suffered a momentary power cut at this juncture, but as it did not affect the defense counsel's microphone or the video-link with Ms. Affonço, he continued on unfazed. He asked Ms. Affonço why those names appeared frequently in her statements in 1979 if she did not know their names at the time. He then decided to rephrase, and instead asked her why she used their names in her testimony. She responded:

Counsel, Pol Pot, Ieng Sary, were the names that I had not heard of until I came out of the hellish camps. The first question that was asked to me by a Vietnamese military doctor was "Do you know who is behind all of your misfortune?" He told me they were called Pol Pot and Ieng Sary. That's it. That was the point in which I knew that those people were deeply involved in that wretchedness, and I quoted their names in my testimony at that time. ... For me, these [Vietnamese] soldiers were my liberators, and if they didn't arrive on time, I wouldn't be here talking to you, counsel.

The defense counsel read a second extract from the 1979 trial documents to the civil party, namely the text of a speech given at the conclusion of that trial. It went as follows:

³⁶ This is a phonetic spelling.

³⁷ The relevant ERN is 00678421.

After five days of sessions and with facts expounded clearly, demonstrated convincingly, and argued objectively, this tribunal has shed light on this truth: the crime of genocide of this Pol Pot-Ieng Sary clique is indefensible. ... Every Kampuchean is a witness and a victim ... of the crimes of Pol Pot, Ieng Sary and their associates. ... The People's Revolutionary Authority of the Kampuchea Tribunal has condemned Pol Pot and Ieng Sary to death, thus revealing their reactionary nature ... and the People's Republic of Kampuchea as the only legitimate representative of Kampuchea.³⁸

The defense counsel advised Ms. Affonço that this was a speech given by Heng Samrin.³⁹ He then asked the civil party whether she attended this speech. Ms. Affonço responded, "No counsel, I was not present at that speech and when I read it out, I didn't really understand who was talking. ... I was called to testify one morning only. I told them everything I had to say, and after that, I was released."

With this, Mr. Pauw stated that he did not have any further questions, and wished the civil party the best. Mr. Udom advised that his team did not have any questions for the civil party. National Co-Counsel for Khieu Samphan Kong Sam Onn advised the same.

Civil Party Denise Affonço's Powerful Statement of Suffering

Ms. Affonço was then given the floor to deliver a statement of suffering. Speaking emphatically, gesturing animatedly, and at times crying and shaking, she said as follows:

Thank you, Mr. President. Indeed yes, I would like to say today that throughout that entire period, I suffered a huge amount. My life had been proceeding happily in a peaceful country and it suddenly switched to hell, and from one day to the next, people were expropriated, chased out of their houses. Everything that you had built in 30 years was demolished. I was aged 30, and everything that I lived through in those 30 years was destroyed from one day to the next.

I have undergone a lot of harm as a result. Firstly, physical: from the fact that we didn't have any kind of medical care or doctors and that we were malnourished and lived in total absence of any hygiene, I contracted many diseases. The major one was tuberculosis. If the soldiers — the invaders, if you like — did not arrive on time, then I wouldn't be here today. I was looked after for three months in the Saint Antoine Hospital in France from the tuberculosis. I also caught hepatitis B and malaria. I have sequelae from both, still. I still get attacks of malaria because you don't get rid of malaria, and those are the physical kinds of harms I suffered. When you are undergoing malaria and you are pulled out of your hut to go and work in the rice fields under a beating sun, then I would really like to ask you, Mr. President, judges, kindly imagine what it must have been like!

As to moral prejudice, I simply can't describe what I have been through. We were deported. We were forced to leave our homes. We were told lies, saying it was

³⁸ The relevant ERN is 0019698.

³⁹ Mr. Samrin is the current president of Cambodia's National Assembly.

just for a few days. In fact, when you leave your house, you never, ever see it again. You don't see any of your possessions again. Once you are in the fields, you are obliged to work. But in addition to backbreaking work, you are laughed at. You are made a mockery of. Your children are taken away from you without even telling you where they're going. They simply told you looking after your children, they are no longer your children, don't worry about them. And when you get back to your children, in fact they aren't your children anymore, because they are completely indoctrinated and changed.

When you see your daughter dying of hunger, and she says, "Mummy, can I have a bowl of rice?" and I was never able to give her that bowl of rice before she died, then I can tell you I have undergone harm!

Everything I really want to know is, have these people been punished? I appear to be in reasonable health, but I can tell you inside my head, it's not healthy at all. I have to be healthy for other people, for my son, for his children. I have to stay in good health for them. I am in a world where you have to work to survive. So imagine what it's like, and ask yourselves how I survived.

And when you asked me about harm, about all the atrocities, all the torture scenes. Young Chinese women who stole some palm sugar and who were stretched out and died in the sun while we had to watch. Do you think any kind of human rights were respected there? Do you think we were human beings? We weren't! We were totally dehumanized! We became animals! We were utterly dehumanized. That's all I have to say today.

And let me tell you again and again, if you want to listen to me, that famine was organized and programmed. It was a way for the system to eliminate us while feeling they had washed their hands of the problem. But they could say, "We didn't kill those people, they died because they were eating rubbish." Is that not a technique to assassinate somebody without getting your hands dirty?

To do this without giving us any care and any medical assistance is a way to simply kill people, and it was programmed in advance. That is why I can tell you that my nights are filled with nightmares. That's why I no longer wish to set foot in that country, which I do love. Thirty years have gone by, and I no longer wish to set foot in that country because I am plagued by nightmares. I am haunted by everything I went through in my head, I can tell you.

How is it possible that the people of Cambodia endured all of that? I wasn't alone! There were also another two million Cambodians who suffered this, physically and morally. Now that they can speak, I hope they are liberated. We have a very, very high price to pay.

I can't rebuild my life. I can't start a new family. I miss my daughter. I only have my son, and that son was so traumatized that he never ever talks about this. He

was tortured. He was beaten, and I want this Court to do its work, and the people who committed all of these acts to be duly punished. Thank you very much, Mr. President and the entire Court.

Exhaling deeply and wiping away her tears, Ms. Affonço was heard remarking to Mr. Rivé, “It’s not possible.” The president advised Ms. Affonço that her testimony had come to an end and she was now excused, with the Court’s thanks. As no parties appeared to have comments on Ms. Affonço’s statement of suffering, the president advised that the Chamber would return to hear the testimony of Mr. Van.

Son Arun Resumes Questioning Witness Phan Van on Various Telegrams

Following a shortened mid-afternoon break, Mr. Van returned to the courtroom to continue his questioning by Mr. Arun. The defense counsel first advised Mr. Van that he wished to read Mr. Van a series of seven telegrams (*Telegram 00*,⁴⁰ *Telegram 2*,⁴¹ *Telegram 3*,⁴² another *Telegram 3*,⁴³ *Telegram 10*,⁴⁴ *Telegram 22*,⁴⁵ and *Telegram 33*⁴⁶). The president permitted Mr. Arun to proceed.

Mr. Arun advised that he wished to ask a general question to Mr. Van concerning the format of these telegrams and not a question concerning any particular telegram. He noted that he was cut short this morning when discussing a logo containing a picture of a naga and the word “Tela.” The defense counsel asked Mr. Van how long he decoded telegrams. The witness responded, “I worked as a telegram decoder before Phnom Penh fell. A short while after Phnom Penh fell, I was a driver, and my sister was my successor in the telegram section. ... [I worked there for] about two years.”

Mr. Arun asked the witness when he last decoded a telegram. The witness said, “It was late 1975 or early 1976.” Noting that Mr. Van’s sister was his successor, Mr. Arun said that perhaps the witness was not in the best position to tell the Court about them. The witness confirmed this was so.

While the witness worked in the telegram section, the defense counsel went on, did Mr. Van recall whether the telegrams were in the same format as the seven he could presently see? Mr. Van affirmed that the format was “exactly the same.” Mr. Arun noted that the telegrams before the witness had names and dates, including the name Brother Nuon or Khieu. The defense counsel directed the witness to the bottom of the telegram and the words “Tela.” He asked the witness whether this appeared on the telegrams the witness saw. Mr. Van denied this.

Therefore, Mr. Arun inquired, did the witness believe these telegrams were the genuine telegrams sent from Sector 105 to the “upper echelon”? Mr. Van confirmed that they could indeed have been sent, but he conceded that he never saw “Tela” or any other such script on

⁴⁰ This telegram has the document number E3/1191.

⁴¹ This telegram has the document number E3/1192.

⁴² This telegram has the document number E3/1193.

⁴³ This telegram has the document number E3/1189.

⁴⁴ This telegram has the document number E3/1194.

⁴⁵ This telegram has the document number E3/1195.

⁴⁶ This telegram has the document number E3/1196.

telegrams when he worked there. Before Mr. Van could respond to a request to clarify his testimony, the president intervened first and gave the floor to Mr. de Wilde. The latter stated that this morning, the witness had stated that it was a telegram, and regarding whether the defendant was there or not, it seemed the defense was trying to mislead Mr. Van. However, Mr. de Wilde contended, the defense was misleading the witness, because these documents in question were not sent by Sector 105 but simply received by the Center.

Mr. Arun responded that these pieces of evidence were precise, holding them up for display. If the prosecutor did not agree that they could have been sent from Sector 105 to the Central Committee or submitted that they were fake, Mr. Arun said emphatically, the witness should shed light on this. If the witness said they were not fake then “let it be.” Mr. de Wilde sought to respond but was cut off by the president.

The president said it was observed that the telegrams were typewritten and received in Phnom Penh and the witness’s testimony related to encoding and decoding telegrams in Sector 105. If the defense counsel sought to an answer as to the veracity of the seven telegrams, President Nonn asserted, he should speak to someone who was working in a telegram decoding section in Phnom Penh. As the witness did not work in Phnom Penh, he could not tell Mr. Arun anything about it, the president concluded.

Nevertheless, Mr. Arun persisted. He explained the purpose of putting these questions to the witness was to know whether he ever saw such documents during his time in the telegram unit in Sector 105. The witness had admitted that the form of telegram was familiar, and Mr. Arun’s question concerned the naga logo. The president said that this was not hard to understand, and Mr. Arun’s question was better kept for people who decoded telegrams in Phnom Penh.

Moving on, the defense counsel said that on almost every telegram sent from Sector 105, Brother Nuon was copied. He asked the witness whether he could understand the difference between a telegram being addressed to one person and copied to another. Mr. Van responded, “I don’t think I understood this very much, because as a telegram decoder, I was in charge of decoding the text only, and people in charge of typing would be tasked with typing the telegram only.”

Witness’s Knowledge of Senior Leaders through His Role as Driver for Ieng Thirith

Based on the witness’s role as driver for Ieng Thirith, Mr. Arun asked next, did he know Mr. Chea very well? The witness agreed that he did and had on occasion spoken to Mr. Chea. The defense counsel asked what Mr. Chea was like, for example, whether he was a barbaric man or a gentle man who loved his own nation and countrymen. Mr. Van said:

I knew him very well after the Vietnamese entered Phnom Penh, when we went to the jungle together. ... I was fully engaged in the movement. I noted that he did not love his own country very much but was in favor of individuals. He would implicate people as being enemies, those he didn’t like. I don’t think he would be a person best described as loving his own country very much.

Mr. Arun asked the witness about the continued disappearance of people when Ta Sarun was in power. He asked the witness whether he learned about this disappearance first hand, or whether

he only heard about it. Mr. Van responded, “I knew about this. I didn’t see this first hand. I learned about this because I asked people some questions. I was suspicious when I didn’t see the people I used to see everyday. The people I asked told me that these people had disappeared, or were executed.”

The defense counsel asked whether his father personally received the telegram Mr. Chea reportedly sent to the witness’s father, Ta Lang, summoning him to Phnom Penh. The witness clarified that his sister received it, and also that he did not see the telegram. As the witness had not seen the telegram, Mr. Arun asked, how did he know about this; did he speculate? The witness disagreed with this. He said that his father told him that “Brother Number Two” had summoned him to Phnom Penh. The witness also testified that he could not recall whether, in response to this telegram, his father had gone to Phnom Penh alone.

In one of the records of his OCIJ interview, Mr. Arun went on, the witness testified that Mr. Chea wrote typewritten telegrams to sector secretaries including Ta Sophea, the witness’s father, and other people, summoning them to study sessions in Phnom Penh, and that his father and Kham Phuon were executed after attending one such session. In this interview, the defense counsel noted, Mr. Van’s father and Kham Phuon were accompanied.⁴⁷ Mr. Arun again asked whether Mr. Van’s uncle and Kham Phuon came to Phnom Penh alone. Mr. Van advised that they did not and reiterated a list of people who came to Phnom Penh as well, including himself.

Therefore, when Mr. Chea sent this telegram, had he intended to invite four people to Phnom Penh, not just Ta Lang? Mr. Arun asked. The witness said that the telegram “invited only two people: my uncle and my father, but then two people accompanied them.”

Questions from the Khieu Samphan Defense Team

At this juncture, Mr. Sam Onn took the floor. He first asked when Mr. Van first knew Mr. Samphan. The witness said that he first met Mr. Samphan at B-20 but he could not remember precisely when, suggesting that Mr. Sam Onn should ask Mr. Samphan. The defense counsel asked what Mr. Samphan’s role was at the time. The witness said, seemingly by way of denial, that he was very young at the time. He clarified, when pressed, that he did not know Mr. Samphan’s role back then,; he simply addressed him, like everyone else, as “uncle.”

Mr. Sam Onn asked the witness to clarify where he received training. The witness advised that this was at B-20 and he “was taught how to write and also how to decode telegrams.” The witness clarified that he was taught Khmer. Asked to elaborate on decoding training, the witness advised, “We learned how to decode telegrams, as well as the code used in radio communications.” The only trainer the witness could recall was a woman named Sim.

Mr. Sam Onn asked the witness to describe the functions of K-17. The witness said it was a messenger office. Asked how long he worked there, Mr. Van asked the defense counsel to clarify whether he was referring to K-17 at Sector 105 or at the Center. Mr. Sam Onn indicated that he was referring to the former and asked the witness to describe the general structure of that office. The witness advised he could not recall it well. Returning to the question of dates, Mr. Van

⁴⁷ This record has the document number E3/58, and the relevant ERNs are 00239937 (in Khmer), 00250089 (in English), and 00288915 (in French).

advised that K-17 was set up “approximately a year prior to the fall of Phnom Penh, and I stayed there up until the day my father died.” Did this mean, Mr. Sam Onn asked, that the witness stayed there from 1974 until about 1977? The witness agreed this assessment was fair.

Plea to the Court to Extend its Legacy

At this juncture, the president sought to adjourn the hearings for the day. However, noting Mr. Pauw was on his feet, the president gave him the floor. The defense counsel advised the Chamber that this was his last day before the Chamber and he made the following statement:

This tribunal can do more to promote the rule of law in Cambodia today, and it can do more to promote the accountability before the courts of anyone regardless of their position, and it can do more to stress the independence of the Courts of Cambodia. I believe that should be part of the legacy that the ECCC leaves behind. I think it is in your hands, the hands of the Trial Chamber, and I think it is not too late to start.

He then thanked all his colleagues in the courtroom but was cut off by the president, who gave the floor to Mr. Ang. The latter said that these kinds of statements were inappropriate at this time and this could “unnecessarily affect the Chamber as a whole.”

The president then advised Mr. Pauw that he was not granted the floor to make any other statement, and he proceeded to adjourn the hearings for the day.

Hearings will continue at 9 a.m. on Friday, December 14, 2012, with the continued testimony of Mr. Van. Following this, the Chamber will begin hearing the testimony of another witness, TCW 665.