



Civil Parties Offer Detailed Testimony on Suffering during Evacuation Phases

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It was a long hearing day in the Case 002/1 trial at Extraordinary Chambers in the Courts of Cambodia (ECCC) on Wednesday, December 5, 2012, with two civil parties providing lengthy and detailed testimony on conditions during the evacuation of Phnom Penh and life in the aftermath of the evacuations. Civil party Pech Srey Phal vividly outlined the sojourn of her family and one occasion where she and other “April 17” people were “tempered” by the Khmer Rouge by being abandoned on top of a mountain and left to fend for themselves for several months. Civil party Kim Vandy offered insight, in particular, into Khmer Rouge persecution of former soldiers and sailors of the Lon Nol regime.

Ms. Srey Phal also offered the following eloquent plea to the Court when concluding her testimony with a statement of her suffering:

[W]hoever commits a crime should be punished. For that reason, I urge Mr. President to find justice, and not just for myself but for all the victims. ... Please try to find, and to force those senior leaders and those most responsible to acknowledge the crimes that they committed ... and their plans to devastate the country, to engage in the mass killing of the people. I urge Your Honors to punish

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>.

them severely so that it can be used as an example to the younger generation that no one can be spared when they commit a crime.

Ieng Sary's Medical Status and the Potential Replacement of His Entire Defense Team

In the audience this morning were 44 survivors of the Khmer Rouge regime who had also attended the previous day's hearings. The group included civil parties, complainants, former Khmer Rouge, and people of Kampuchea Krom ethnicity, all of whom had been bussed into the court from Battambang, Pursat, Sihanoukville, Siem Reap, Preah Vihear, and Kampong Cham. They were accompanied by several staff members of the Documentation Center of Cambodia (DC-Cam), who brought them to the hearings and were interviewing them regarding their background and reactions to the Court. Also in the audience were 194 university students from the University of Management and Economics in Kampong Cham, together with 25 university student participants in the Office of the United Nations High Commissioner for Human Rights' "Fair Trial Rights Club."

At the start of the first morning session, Trial Chamber Greffier Duch Phary advised the Chamber that accused person Ieng Sary was present in the Court's holding cell, where the Trial Chamber had ordered he be taken each hearing day despite his protestations.² At this juncture, Mr. Sary's international co-counsel, Michael Karnavas, raised three brief points:

- Consistent with the Chamber's ruling yesterday, Ieng Sary's team's case manager would be taking notes and filing a daily report concerning the condition of Mr. Sary.
- As a layperson, Mr. Karnava's assessment of Mr. Sary was that he could not follow the proceedings today. The ECCC treating doctor advised it was difficult to tell; however, in counsel's view, comfort in the holding cell did not equate to ability to follow the proceedings.
- The Trial Chamber had contacted the Defense Support Section (DSS) regarding possible replacement of counsel. Mr. Karnavas said he had pleaded also on behalf of his national counterpart, Ang Udom. If, therefore, the Chamber wanted to replace Mr. Karnavas, they would also need to replace Mr. Udom and indeed the entire Ieng Sary defense team.

This submission prompted the Trial Chamber judges to confer for several minutes. Trial Chamber President Nil Nonn then gave the floor to Judge Silvia Cartwright to give the Chamber's response. Addressing Mr. Karnavas, Judge Cartwright first noted that while Mr. Karnavas was a counsel of great seniority, it was customary to stand when being addressed by a judge. Mr. Karnavas duly did so.

Judge Cartwright advised that, as indicated on December 4, 2012, in making any decision concerning Mr. Sary's ability to participate in the proceedings, the Chamber would "take note primarily of medical information." As to suggesting that Mr. Karnavas was making applications individually and not with the agreement of his team, this was "completely unintentional." Finally, the Trial Chamber's contact with DSS was a mere trial management consideration given Mr. Karnavas's indication "that if the rulings were not to your liking you would consider

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

resigning.” However, “the Trial Chamber is certainly not looking to replace you arbitrarily,” she concluded.

Mr. Karnavas clarified that he did not say he would resign but that his team would “walk out,” a common practice of lawyers when they considered it in the interests of justice for their client. Mr. Karnavas “had yet to resign from a case and abandon a client,” he clarified, saying also that he was not intending to assess his client’s ability but just make observations. He then apologized for not standing up when Judge Cartwright initially called upon him.

Responding on behalf of the prosecution, International Senior Assistant Co-Prosecutor Keith Raynor said that Mr. Karnavas had raised a valid point, that the best information was regarding



Mr. Sary’s ability to follow the proceedings and not his comfort. He consequently asked if it would be possible to urge the Court to ensure that the daily medical report was sufficiently detailed as to such ability.

Mr. Udom expressed full support for Mr. Raynor’s suggestion, noting that Mr. Sary faced three problems: old age, and physical and psychological ability. However, the ECCC treating doctor indicated only that Mr. Sary was fatigued and could not sit for long, he continued, and it was unclear if this related to the first, second or third problem, an issue for which a detailed report would assist.

The Trial Chamber judges huddled in deliberation briefly. Upon turning back to the parties, the president did not address the discussion any further but rather invited the next civil party to begin her testimony.

Details of Civil Party Pech Srey Phal’s Pre-1975 Experiences

Seventy-year-old civil party Pech Srey Phal took the stand dressed in traditional Khmer dress. Under questioning from the president, she advised that she was born on October 24, 1952, in Battambang, and lives in Kraol Krabei village, Pursat, where she is the first assistant commune councilor. She is divorced and has two children, although only one child survives today.³

National co-lawyer for the civil parties Chet Vanly assumed the floor to question Ms. Srey Phal. Ms. Vanly indicated that most of her questions would relate to Ms. Srey Phal’s record of Office of Co-Investigating Judges (OCIJ) interview.⁴ The Court therefore provided a copy of this interview record to the civil party.

Ms. Srey Phal first testified that before 1975, she lived in Tuol Kork. Her husband “was a military medic for Lon Nol. He worked near Calmette Hospital.” Her family had relocated from

³ It would later become clear from the civil party’s testimony that she meant that only one child survived the Khmer Rouge regime.

⁴ This interview has the document number D296/10.

Tuol Kork to her uncle's home at Klang Rumsev, near Psar Domkor,⁵ because they noticed that "the situation in Phnom Penh was rather chaotic and we had to make sure that every member of the family could reunite and live together." She further added that at that time:

We had noted some new faces: in particular, evacuees who came to Phnom Penh. We saw the influx of new people into the city. At the same time, medicine, food and other items were more expensive. ... We also heard some shells being launched into the capital city. Every now and then we would hear bombs dropped in different areas of the town, also at the former place we lived. When we were traveling on the roads, we noticed that some people got seriously injured and died from the bombardments.

My father, who was a spy for Lon Nol soldiers, was a CIA agent who tried to obtain some intelligence. When he returned home, he would tell us not to go out unnecessarily because bombs were being dropped and we had to avoid being injured. We stayed at home and did not go to school anymore. ... We saw Domkor Market was on fire ... people set fire to the market ... because food was scarce ... so a lot of people started looting things. There were a lot of thieves. Noting this, there was assistance from outside counties to make sure food was provided to people.

Between April 14 and 16, Ms. Srey Phal went on, her family members could not come home and her father was very busy at work. She elaborated:

People came to get medicine from the hospital and there were a lot of wounded in Phnom Penh. People, in particular medical staff members, were too busy to go home. At different hospitals, the situation was also very chaotic because there were a lot of patients both inside the hospital and outside. The hospital was filled with wounded people and sick people.

Asked to describe her family's livelihood at the time, Ms. Srey Phal said:

We did not have enough to eat because my father worked but didn't earn a decent salary ... we had a big family. We had 10 members of the family. My mother would sell Cambodian puddings. When the price of goods increased, we could not manage to buy anything at all to keep for future use.

April 17, 1975, A Day of Rapid Change: From Joyous Celebration to Shock and Terror
On April 17, 1975, while at her uncle's house in Klang Rumsev, Ms. Srey Phal described:

We heard people talk over the loudspeakers. We heard the announcement. We did not know what was said, but by 10 a.m., we came out of our house to see some soldiers. We did not know that they were Khmer Rouge soldiers, because they

⁵ This is a market in Phnom Penh.

wore black clothes with sandals and were armed.⁶ They had rifles. They shot cannons into the air. Some soldiers were carrying some B40 rocket launchers. On the roads, we also saw some jeeps packed with soldiers in khakis.

By the time we reached the road, we heard people saying Phnom Penh was now liberated and we would now live in peace. So people at Psar Domkor and Klang Rumsev were very happy, because ... the war was over and we were really happy. Some made use of white cloths to wave to the people to congratulate such victory.

At the same time, we saw people walking in line. People were then split up. They were asked to go along different small roads. Those people had loudspeakers and weapons, and announcements were then made over the loudspeakers that the country was now in peace and everyone had to now pack and leave for three days so the Khmer Rouge soldiers could reorganize the city. Without leaving in these three days, everyone would be bombarded by the Americans, so for peace and the safety of Phnom Penh dwellers, everyone should leave.

At that time, we were very terrified. We were wondering how we could leave [since several family members were in different locations around the city]. So we decided not to leave. We pleaded, we asked the soldiers to allow us more time ... but then the soldiers told us that we had to leave in the day because if they came back and we were still in the same place, we would be in big trouble.

Finally, we were pushed to leave in the Steung Meanchey direction ... but then we were stopped at the bridge⁷ because the soldier did not let us cross to the other side of the river. So we returned. By 3 p.m., I was waiting for my husband, my father, and my siblings. Then the soldiers came to us and warned us to leave the city or we risked being shot at.

At that moment, I thought, look, we were so happy in the morning but by 3 p.m. things changed completely. We were in shock that the change was so rapid. I told myself that I could not leave the city without having my family with me, but the Khmer Rouge militia really did some things to scare us. Some people who protested such a move were beaten with a gun butt, so we had no choice. We had to leave with very few family members. We departed ... it was about 3 p.m.

The civil party then added, in relation to former Lon Nol soldiers' treatment at that time:

When the Khmer Rouge said we had to leave the city immediately, they said to us that those in the possession of military uniforms or weapons had to surrender them. I saw a lot of weapons being packed and surrendered and thrown on the roads near my location. Uniforms were also removed and surrendered. I saw some men who were bare-chested and wearing only shorts. Some were wearing military

⁶ There may be an error in the English translation on this point, as it is more likely the civil party would either be saying they knew they were Khmer Rouge soldiers or that they did not, but could describe their clothing.

⁷ It becomes clear in the civil party's testimony that this is a reference to Steung Meanchey Bridge.

uniforms. When they were walking on the road, the Khmer Rouge asked them to remove their clothes and ... go about without ... clothes at all.

Ms. Vanly asked Ms. Srey Phal whether her family brought any belongings with them when they evacuated. The civil party responded:

We prepared some things for a three-day trip. ... We wrote a note on [our] car telling other family members that if they wanted to leave, they should leave in the direction of Steung Meanchey because some family members were walking in that direction already. ... We packed only enough food for a three day period ... and some clothes.

The civil party and her family members evacuated with her elderly grandmother and a car that they pushed along with them. At the time, Ms. Srey Phal had a three- to four-month-old son. There were 13 family members altogether including her uncle and grandparents. Asked to describe what she saw while en route during the evacuation, Ms. Srey Phal explained:

I saw a lot of people on the road and people were marching, walking from the Russian hospital.⁸ I could see that some people, in particular patients, were pushed on the hospital beds with the IV fluid still attached to some of them. Everyone had to move together on just one road and in one direction. We could not move about quickly. Some were seen riding bicycles or taking cyclos. Some had to carry some belongings. Some had to walk some sick people ... The atmosphere was very tense. The Khmer Rouge soldiers did not allow us to walk freely. From the Russian hospital direction, there were some soldiers escorting the crowd. ... We were escorted by armed Khmer Rouge soldiers all along. We had to leave through Steung Meanchey Bridge. No one could go anywhere without permission.

Asked to elaborate on the treatment of the sick and the elderly, Ms. Srey Phal responded:

By the time we got to Steung Meanchey, we saw some dead people on hospital beds. We believed that these people could have been seriously sick; ... the corpses were left unattended. Some elderly and sick people who could not walk were escorted ... by their loved ones. ... Children of the elderly asked the Khmer Rouge soldiers if they could stay behind to look after the elderly. [The Khmer Rouge responded that] those who could walk [should] walk. Those who could not could be left behind. ... We had to move forward.

Were the Khmer Rouge soldiers the same ones as the ones who the civil party congratulated on the liberation? Ms. Vanly asked. Ms. Srey Phal responded:

These soldiers were wearing the same clothes but I did not recognize their names. They came in huge numbers. I could only recognize their outfits, for example their black clothes and caps and the red checked scarves they wore around their necks.

⁸ This is presumably a reference to the Khmer-Soviet Friendship Hospital.

Some wore khakis and were armed. Many had slung rounds of ammunition on their bodies. But I did not recognize their faces.

Ms. Srey Phal confirmed seeing some people trying to return to Phnom Penh, elaborating:

After my family passed the Steung Meanchey Bridge and the market there, I saw three people walking in the opposite direction. They said they were returning to the capital because they did not bring along their money or their children ... but they were stopped by the Khmer Rouge soldiers who did not allow them to come back. They were even threatened. They were told that if you step over the line, you will be killed. They were terrified [so] they did not [disobey] this instruction and they did not reach the capital city.

Regarding shelter for evacuees, Ms. Srey Phal said:

By the time we got to Steung Meanchey Bridge, night had fallen. So we spent the night there at the roadside. Some slept at the stalls in the market. There were no more cars or motorbikes. There was no traffic on the roads, only people, who could sleep on the roads if they wished.

Registration and Separation of Lon Nol Officials and Soldiers, Teachers, and Doctors

Ms. Vanly asked what other instructions the civil party received regarding the evacuation. Ms. Srey Phal responded:

Before we reached Chamkar Dong, I heard over the loudspeakers that people could go to their hometowns if they wished to, but they could not return. We also heard that after three days, people would be allowed to return to the capital city, in particular those who were former officials, soldiers, teachers, doctors ... because they would be needed to reorganize the city. ... However, they were told that in order to make sure they were the right people, they had to have their names registered. ... We saw a crowd of people going to have their names registered so they would be allowed to return to Phnom Penh.

Upon having their names registered, these people did not continue along with Ms. Srey Phal and her group. She explained:

They were taken by another group. They also told their family members to proceed further, and when they could get work back in Phnom Penh, they would go and get their family members. They told their family members not to go far from the outskirts of Phnom Penh. ... They were put aside.



Pressed to specify precisely the identities of these people who were separated, Ms. Srey Phal said, “From what I knew ... most of them were teachers and professors. ... Those people were the public servants of the old [Lon Nol] regime.”

Treatment by the Khmer Rouge and Life at the Initial Evacuation Destinations

Moving on, Ms. Vanly asked Ms. Srey Phal whether the Khmer Rouge provided them with food and medicine. The civil party denied this, elaborating:

During the evacuation, the Khmer Rouge soldiers did not give us any food, water or shelter. We left without bringing sufficient food or belongings. ... Wherever we reached in the late evening, we just rested there. We used tree leaves to cover the ground and rested on it. The food we brought for a three-day period was almost gone. We did not cook rice ... [just] porridge so we could save some rice.

Ms. Vanly asked whether any of the civil party’s family members tried not to rush ahead so they could be returned to Phnom Penh after three days. Ms. Srey Phal replied:

My family members walked slowly in order to wait for my father and elder siblings to catch up with us. But for ... three days ... we didn’t see them and we were not called to return. ... We were only told that we needed to proceed further and we would be greeted by Angkar. We did not know who Angkar was. We thought Angkar could be a non-governmental organization which would assist us.

By the time the civil party and her family reached Chamkar Dong, she added, “The hope to return to Phnom Penh had gone.” However, upon arrival, the Khmer Rouge soldiers would not allow them to stay in the village, rather pushing them to continue on. Ms. Srey Phal continued:

During that period ... I had a relapse after my baby’s delivery. I had no breast milk to feed my young baby. I did not have medicine or milk. I could only afford water to feed my baby. Unfortunately, my baby died during that evacuation. I did not even know what to do with my dead baby. I was instructed to bury my baby in the forest. It was like an animal. It was my first time to have a baby, because I was married in 1975. My baby died.

Next, the civil party described confiscation of property from her family, stating:

A bit further after we left Chamkar Dong ... there was a checkpoint and there, we were searched. They said that the feudalists needed to abandon all their personal belongings and property there. We had to leave our belongings as requested by Angkar [or otherwise] we would be referred to as feudalists ... and accused as enemies of Angkar. We had some personal clothes and a [concealed] can of medicine, but they saw it and threw it away. They said that this medicine was for traitors ... They actually stripped everything from us: my clothes, my gold. They said gold was no longer used and we should give it to Angkar.

... About one kilometer further we were told that money was no longer circulated. Those people who were rich, who had their bags filled with money, fell ... unconscious because of disappointment. But for us, we did not have much money. ... They gathered all the money and burned it. At that juncture, we thought that we would die, because we could only rely on money, and now we had no money ... so there would be further consequences ahead.

The civil party noted that they were reunited with their father and husband at Chamkar Dong and then they all continued on to Prey Trop village. Asked to describe their initial arrival, she said, "The chief of the Prey Trop cooperative ... did not say anything. ... There were unit chiefs and militiamen who instructed us to divide into various groups and live in various houses." The civil party said they were instructed to stay at Prey Trop until Angkar instructed them to evacuate further, and they had "no right to protest" this order.

Ms. Srey Phal denied, when asked, seeing any monks during their evacuation and that indeed, they wondered why as they were searching to no avail for a monk to pray for the soul of her dead baby. She added, "At pagodas along the road, there were of course people there; ... if we had to rest, we would rest in a pagoda if there was any. But we were not allowed to wander around; ... we were monitored by armed people."

Ms. Srey Phal then went on to explain:

When we were in Prey Trop village, about one week later ... then a meeting was convened. In that meeting, all the "April 17" people ... were called to the meeting. We were asked if any of us were soldiers or worked in Phnom Penh, or if we were students or intellectuals. Some of us who worked registered that they worked. ... Some people said that they were military or soldiers or worked in a government ministry. ... One of my uncles ... told them that he was a soldier ... [so he could go with] his godson [who was a soldier]. ... One of my cousins also registered himself as a soldier ...

I did not know how many people actually registered their names. ... I heard the people who registered their names say that it took them three days to register their names, and the total number of people who registered their name reached 60. ... After their registration, they were told to stay put in that location and that they would be taken by truck back to Phnom Penh to their respective previous employment. ... They were not tied up or anything.

Two days later, we saw a military truck coming into the village. Then they put a mobile loudspeaker on the truck. Upon hearing the announcement on the loudspeaker, I came out to check. They said the truck would only transport the people who registered their names to Phnom Penh, because Phnom Penh had already been reorganized. So then they called their names ... and then the truck left. I did not know what happened to them. A while later, another truck came, names were called to board the truck, and the truck left.

Civil Party Describes Her Family's Attempted Escape through the Forest

Ms. Srey Phal described how her family was “gathered up”; she speculated that this may have happened due to her father listening to his radio “about the CIA or other events.” She explained:

They said that although my family was not registered, my family could go in our Lambretta.⁹ ... They poured half a liter of petrol in it and we were instructed to follow the truck to Phnom Penh. So we gathered all the family members and boarded the Lambretta. About halfway through, we ran out of petrol. So we were sitting in the Lambretta. Then we saw the truck that left return and we were asked why we did not proceed further and we said that the Lambretta ran out of petrol. They said they would pick up three families from the village and then returned to tow the Lambretta.

Then fortunately we saw a man, I believe he was a “base person,” riding an ox-cart. He asked us what we were waiting for. We said we were waiting for the truck. He looked around and then he whispered to my father that we should just disappear because those people were not sent to Phnom Penh, they were killed. He gave my father some rice cakes and said we should flee. My father asked where we should flee to. He told us the direction and we left. We were scared. We only brought with us some belongings, and then we fled. ... We ran to almost midnight. Then we arrived at a lake ... My father said that the water was deep and we could not cross. We had young children and an elderly woman. ...

When we reached the Neak Ta¹⁰ Prum Roy Lake ... we had to take turns to cross the lake. I had a young sibling sitting on the neck of my father and he had another one on his back ... but I was afraid of the water because I never touched the water before. So I waited, together with my grandmother. Just before my husband and father were about to cross the lake, we saw a flashlight. We saw people shouting that there were people at the lake and people should go check it out. We saw the flashlights flashing here and there. ... My husband managed to hide us in the bush. At that time, upon hearing the fighting, my grandmother was shocked, and unfortunately, she died. We could not leave her in the open. We dragged her to the area near the bank.

My husband [and family] crossed the river. I fainted near the body of my grandmother. I did not know what happened to my father and others who crossed the lake. ... My husband returned and said the rest of the family members had returned and could not cross the lake or would be killed ... So he said we had to go back.

Asked where they went next, Ms. Srey Phal said:

When we left the dead body of my grandmother, we dared walk only during nighttime. We walked for seven nights, and my body was scratched because we

⁹ Lambretta is a historic manufacturer of scooters and micro-cars. The vehicle referred to was likely the latter.

¹⁰ Neak Ta is a spirit for Cambodian people.

walked through the thick forest. Our intended destination was Korng Pisey in Kampong Speu. It was the native village of my father-in-law ... and we hoped we would feel better when we got there. ... We did not have anything to eat but the leaves and dried fruit. ... Even when we arrived in the village, my husband did not want me to go into the open. He asked me to hide myself in the forest and he would go and meet his father. A while later he returned with black clothes and tire sandals. He had a red scarf to cover my face and he took me to meet his father at his house. ...

The village name was Krey Polang. ... I stayed there only for five days ... because Angkar was searching for the “April 17” people. They conducted the search throughout the village and listed all the “April 17” people. My father-in-law hid me in a mosquito net. ... After a while he said he could no longer assist us. So, after five days we showed ourselves to the Khmer Rouge Angkar, we said that we were the evacuees of Phnom Penh ... and that we would go wherever Angkar wished us to go.

After this, the civil party continued, they were made to stay in one place and then transferred to Sngok Mountain in Kampong Speu. They were then told that “to make sure Angkar trusted us, we had to be tempered at that mountain. After we were completely tempered, Angkar would recognize us and allow us to continue working.”

Request for a Doctor to Ascertain Mr. Sary’s Fitness to Participate in the Proceedings

After the mid-morning break, Mr. Udom advised that his team asked the ECCC treating doctor whether Mr. Sary was able to participate in the proceedings, but the doctor advised that he was not in a position to complete this assessment as he was not an expert on the psychological affairs of Mr. Sary. His team requested that another treating doctor be called for further information or that the proceeding be adjourned until such information could be obtained.



The Trial Chamber judges conferred at this point. After several minutes, the president gave the floor to Judge Cartwright to respond to this application. She advised as follows:

The Trial Chamber, as you have noted, has deliberated and reiterates that its starting point for any assessment of Ieng Sary’s ability to participate in the trial is the report supplied by the expert. It is interesting that you raise the topic of Ieng Sary being asleep this morning. There is a simple solution to that. Your case manager could wake him up. It is not an indication of any mental health issue as the expert made very clear. Ieng Sary himself has never claimed any mental health inadequacies. Moreover, falling asleep may simply indicate that Ieng Sary has no direct interest in the

testimony of this civil party. The Trial Chamber is confident that the treating doctor will report to the Chamber if he observes any unusual and extreme fatigue on Ieng Sary's behalf.

Mr. Udom responded that he did not know whether Mr. Sary fell asleep because he wished to or whether this was because he was too fatigued to follow the proceeding. The president advised that the bench had already ruled on this issue and needed to rely on the report of the medical expert, and could not rely on the observations of a layperson. This was not the first time the Chamber had made a ruling on such issue, he noted; it had done so, for instance, with relation to the health issues of former accused person and wife of Mr. Sary, Ieng Thirith. Mr. Udom requested that the Chamber make an urgent assessment of Mr. Sary by a doctor. Should the Chamber continue with the proceedings while Mr. Sary was asleep? he questioned.

The president conferred with Judge Cartwright briefly, and then noted that International Co-Counsel for Nuon Chea Andrew Ianuzzi was on his feet. Mr. Ianuzzi requested clarification since, as his client was also often falling asleep, was Judge Cartwright's opinion that Ieng Sary was falling asleep perhaps because of a lack of interest, was that an expert opinion or a layperson's opinion? "Judge Cartwright is not a doctor. She's not an expert. She's a judge, a lawyer," he concluded. The president cut Mr. Ianuzzi off, advising that all defense counsel had assistants, and if their clients fell asleep, they should try to wake them up. The president denied Mr. Ianuzzi any further time to discuss this issue. The defense counsel nevertheless attempted to speak further, but the president cut him off, advising him emphatically that he was not permitted to speak again, and that if his client was falling asleep, his assistants should wake him up.

Mr. Ianuzzi made several comments but his microphone was switched off so these were not audible. Mr. Ianuzzi pleaded to make these comments on the record, and his microphone was turned on. He could be heard saying, "If you're advising us to wake our clients up, I would like to know how you propose--", but was then cut off again by the president. The latter said that the judges had already ruled on this matter and Mr. Ianuzzi should follow the ruling.

Tempering on Sngok Mountain

The testimony of Ms. Srey Phal continued with a return to her narrative of life during the evacuation. In response to prompting from Ms. Vanly, the civil party described:

The Khmer Rouge gathered all the 50 "April 17" people ... and instructed us to go on top of the mountain to live there. There was no shelter, no food, no water, no medicine; ... we had to try to survive by ourselves. ... We cleared the forest to make shelter. The Khmer Rouge soldiers did not instruct us to do anything. They just abandoned us on top of the mountain without giving us any food. So, all of us on top of the mountain tried to survive individually. There was no water but on top of the mountain, there was plenty of dew. So we used our clothes, our scarves ... to attract the dew. ... We ate leaves from the wild trees. We also hunted small wild boars. For the big [boars], sometimes it attacked us back. Some died. Some of us, fortunately, survived and we could go down the mountain.

Some people who had relatives living in the “base” village could bring them some rice [including the civil party, whose father-in-law lived in the village]. ... [Two months later,] everyone was emaciated. There was then an announcement from Angkar that you comrades had fashioned yourselves and could go elsewhere. So we went down from the mountain. ... Some of us were sick. We were living in such a filthy environment without food. When we came down from the mountain, we were like forest people with long hair.

As to the reason for selecting only “April 17” people to be tempered, Ms. Srey Phal said this was because the “new people” were seen as traitors: capitalists, feudalists with tendencies towards Lon Nol, or the CIA. She added, “The surviving 20 people were emaciated. We had stiff, long hair because there was no water for us to bathe. We could hardly find water to drink and our knees were bigger than our heads. We did not have anything to eat.” Regarding what happened after the civil party returned to the base of the mountain, Ms. Srey Phal said:

We were told to board a truck and told we would be taken elsewhere to work in Phnom Penh. ... There were two trucks transporting us from the base of Sngok Mountain to Phnom Penh. ... There were 60 of us altogether. ... They told us only to board the truck and go and work elsewhere.

Second Phase of Evacuation: From Phnom Penh to Kampong Chhnang and Pursat
After arriving in Phnom Penh, the civil party continued:

We were dropped off at the station in Phnom Penh.¹¹ We stayed for two nights at the station. After that, I saw locomotives arriving at the train station with people in the wagon. I did not know where they were transported from. We were instructed to board the train to go to Kampong Chhnang. ... There were empty cargo wagons. We had to board the wagons. Each wagon was packed. They used wooden boards to block us at the door of each wagon. In each wagon, or at least in my wagon, there were three Khmer Rouge soldiers. Each of them was armed.

There were four fully loaded wagons from what I saw but I could not see the other wagons ahead ... but the four wagons I could see were fully loaded with people. There were no “base people” boarding the train. They were all “April 17” people from Phnom Penh ... and other provincial towns. ...

When we were packed on the wagons, the train headed towards Kampong Chhnang province. We got off at Kampong Chhnang province. We stayed at Kampong Chhnang for a short period of time. Then there were vehicles from Pursat province coming to Kampong Chhnang. ... They said that they needed workforce in Pursat province to dig canals and build dams and dykes ... so my group, including myself was required by the Kampong Chhnang people to go to work in Pursat by going onto a vehicle.

As to conditions on the train to Kampong Chhnang, Ms. Srey Phal testified:

¹¹ This is presumably the old Phnom Penh railway station.

While we were on board the train, nothing was given to us: no food or clothes. There, we only had the dried rice crust that we were given by our relatives from our village. We only took a handful ... and ate it.

Nobody could run away because they guarded the door of the wagon and used wooden poles to block the door as well. Some people died in the wagon because they were too exhausted and the wagon was packed. Although they died, the train did not stop for them to be removed and placed outside. When someone died on the wagon, then the soldiers would push the corpse off the wagon because to them, it was just waste.

Ms. Srey Phal continued, “When people got off the train at Kampong Chhnang, we were asked to work the rice fields to transplant seedlings, to build dykes, to pull seedlings.” Ms. Vanly asked the civil party for further details about the train wagon in which she was transported. Ms. Srey Phal testified:

It was meant for animals; ... it was not a passenger wagon. ... While we were on the train, if someone wanted to relieve him or herself, that person needed to tell the militiamen in the wagon. Nobody would be allowed to relieve him or herself in the wagon. If someone did so, they would be shot dead on the spot. ... If someone needed to relieve themselves, the train would not stop immediately, but after a while, the train would stop and the person would get off with a militiaman to relieve themselves.

Mistreatment of Second Phase Evacuees in Pursat

The civil party lawyer redirected Ms. Srey Phal to her time in Pursat. Ms. Srey Phal advised that not everyone went to Pursat; some stayed in Kampong Chhnang. She added, “From what I could see, there was at least 2,000 people traveling to Pursat.” Upon arrival in Pursat, Ms. Srey Phal described:

We were separated. My husband worked at a plow unit while I was assigned to work at Steung village, Wat Luong cooperative. Over there, I was in the transplanting unit. During the rainy season, I was asked to transplant seedlings. They said that we had to increase production, about four or five tons per hectare. Ten of us had to transplant seedlings per hectare. When a militiaman blew a whistle, a rope would be raised and we had to quickly transplant seedlings in a row. If someone could not transplant in time – the rope was a hard plastic rope or metal rope – if we could not get up in time, [the rope] would hit our eyes.

The civil party added that she saw this happen once. That person’s eyes bled, the person fell onto the seedlings, and then a Khmer Rouge militiaman beat that person and blamed them for damaging the seedlings. “We were terrified. Even if we were so tired, we tried to transplant the seedlings and tried to listen to the whistle,” Ms. Srey Phal recounted. She continued:

At Pursat, I only lived with my husband. My parents and other members of the family had to be transported to other locations. As to the food rations, we were offered only a can of rice for 30 people. They didn't care whether we had enough to eat or not. We were asked to eat a very thin gruel. The soup was nothing at all, just a banana tree used as vegetables. ... We never said that we never ate our fill. Every time they asked us what the food was like, we said it was nice, delicious, then we went to do our work.

As to the treatment of the sick, the civil party testified, using herself as an example:

I had blisters all over my legs and I could not go to work. ... I stayed at the place. However, the head of the group came to the kitchen to tell the cook that whoever was sick would not be allowed to eat. Anyone who was sick was deprived of their food, because being sick meant not being able to eat. ... So if we could even walk to get the meal when we were sick, we were accused of pretending to eat: ... why not walk to work? So when I was admitted to hospital or others were admitted, they were brought back to work, they were "smashed."

Pressed on the meaning of the word "smashed," Ms. Srey Phal said:

"Smashed" meant to kill. It was really precisely clear. No doubt. The term "temper" or "refashion", in that sense, some people end up being killed, because they had to be sent to an office to be tempered, tortured, and if they could refashion themselves, they could end up being released, but many disappeared.

Regarding the distinction, if any, between "new people" and "base people," Ms. Srey Phal said:

There were "old people" and the "new people." For the "base people" or the "old people", they were offered some steamed rice. But for the new people, we were offered only thin gruel. ... On one occasion ... I had stolen some rice from the kitchen. Luckily, I did not get found out about this or I could have been killed.

The president cautioned Ms. Vanly at this time to restrict her questioning to the evacuations. Ms. Vanly continued her questioning, asking Ms. Srey Phal what she saw and heard when living in Pursat. The civil party replied:

At Pursat, I was mistreated by the Khmer Rouge militia. I was tortured by way of carrying dirt 200 times because I stole rice. Then I was later on asked to shred rice. I couldn't take it. I fell unconscious because I felt very fatigued. I was woken by a splash of water. Later on, they walked me to be executed at Tuol Thmar, but I met an old man who asked the militia where they took me to. The man [escorting me] said I betrayed Angkar and was subject to be executed. The old man who worked for Commerce asked that I be kept there for a while before being executed. Later on, the man came back with a militia and said that the matter had been resolved and I should be left with that old man. So I was saved. ...

People from the east, in particular those who wore blue-checkered scarves, were tied and walked to a dam. The cook told me that these women were the wives of men who had been killed already. These women were also walked to be executed. The cook told me to disassociate myself from these women otherwise I could also be executed. ...

On another occasion, there was a young woman looking for her mother at the kitchen, but finally she was taken away to be killed. ...

I saw a militiaman slit open the stomach of Comrade Som. A woman was raped and killed. It was really painful to me. My family member worked at the special unit and the head of the cooperative put people in one worksite and fired on them. Many people died. Among the 75 people, many couldn't make it. Some could escape. Many got injured.

I saw another person who had been working in several places where I went to so I could say that person, named Phuon, was a senior person in the Khmer Rouge.

Ms. Vanly asked whether the civil party knew any other senior leaders. She said she had heard of Ta Mok, Ieng Sary, Khieu Samphan, and Nuon Chea. She never met them but “heard the head of the militia of the cooperative talking about where [Ta] Mok would be going and talking.”

According to Ms. Srey Phal, the leaders of the cooperative were Ta¹² Sein, Yeay¹³ Kok, Yeay Yan, Ta Mien, and Ta Phuon. Ms. Vanly asked the civil party how Ta Poun treated people at the worksite, particularly women. However, the president interrupted at this juncture to remind the civil party lawyer to be more specific to the timeline in question, at which point Ms. Vanly advised that she had no more questions.

Prosecution Elicits Clarifications from the Civil Party



Picking up the examination for the prosecution Mr. Raynor advised Ms. Srey Phal that he had some questions regarding timing, namely what happened in what year. Mr. Raynor asked Ms. Srey Phal whether it was correct that she lived in Prey Trop village after April 1975. The civil party confirmed this. He then queried whether the period when she said she was on Sngok Mountain was around late 1975 or early 1976. The civil party confirmed it to be late 1975. The prosecutor noted that Ms. Srey Phal's birthday was in October, and asked whether she could remember where she was on her birthday in 1975. The civil party said that she never celebrated her birthday.

Mr. Raynor said that in her statement, she said she had gone to Kampong Chhnang around 1976. The civil party confirmed this was correct but could not “remember the exact year” of her

¹² Ta is an honorific traditionally meaning grandfather.

¹³ Yeay is an honorific traditionally meaning grandmother.

move to Pursat province. However, she confirmed, when queried by Mr. Raynor, that she did indeed stay in Kampong Chhnang for approximately one year.

Mr. Raynor asked the civil party about her testimony that at a checkpoint, people told the Khmer Rouge soldiers that they were Lon Nol soldiers and officials, teachers, and so on. He asked how many people did this, but Ms. Srey Phal said she did not know. The prosecutor asked what the civil party's father was doing, as he was Lon Nol spy. Ms. Srey Phal said he "did not go there because he was sick" and clarified that the registrations happened a kilometer further than Chamkar Dong. Ms. Srey Phal reiterated, when pressed by Mr. Raynor, that her father did not appear at the meeting where the "April 17" people were convened "because he had a radio and he listened to the radio very often and he knew the condition of the country very well. At the same time, he was sick." As to where her husband was, Ms. Srey Phal said:

During the meeting, my husband did not attend, but as a "new person" and as a businesswoman, I attended the meeting. None of my family members was there. I was there alone. ... The contents of the meeting were broadcast on a loudspeaker.

After people's names were collected and they were asked to come back to Phnom Penh, my father and husband ... concealed their identity ... because first, we did not want to live separately. We learned that only the husbands who had their names registered would be brought back to Phnom Penh. Their children, spouses would not be allowed to come with them. And as I told you, my father ... was well informed ... through listening to radio broadcasts. So he was aware of the risk ... the risk of what we saw when we left Phnom Penh. We saw the Khmer Rouge soldiers in black clothes who mistreated the people all along already. People were beaten, shot at. There was no tolerance or patience towards the evacuees. People who fell ill had to be left unattended. ... When walking, we knew that we would never be returned to Phnom Penh after three days. We knew that people were telling us a lie, so we were walking aimlessly towards a direction we knew as nowhere. So we knew from the beginning that the Khmer Rouge did not honor their promise. ...

To put it simply, [my father and husband] were politicians, or people who were interested in politics. They knew that Lon Nol was on the run and that simple people like them would never be at peace ... My husband was a military medic. He did not hold a senior position. He was looking after the drug stocks. ... Most importantly at that time, we were trying to reach my father-in-law's hometown.

Mr. Raynor asked the civil party whether she ever again saw the uncle and his godson who did tell the Khmer Rouge that they were soldiers. Ms. Srey Phal said that she saw them on the trucks while she was in the Lambretta and it ran out of gasoline, noting that "they even talked to us and told us that they were going ahead first." The civil party added, when asked, "After 1979, my uncle, cousin and other members [of my family] were nowhere to be found. They were all killed, except some of my relatives who reunited in Phnom Penh. They told me that all these members of the family died."

Returning to the man on the ox-cart who told the civil party that people were not taken to Phnom Penh but were killed, Mr. Raynor asked whether the man said either where or how these people had been killed. Ms. Srey Phal denied this.

Next, Mr. Raynor noted that when the civil party went to Pursat, her parents had to be transferred to another location, and asked whether they were alive after 1979. Ms. Srey Phal said that only her mother survived.

Although it was the customary time for lunch at this point, the president granted Mr. Raynor five more minutes for some questions. Mr. Raynor asked Ms. Srey Phal whether it was correct that when people came down from Sngok Mountain, they were shot dead. The civil party confirmed this but qualified that “this does not mean that all people who were at the foot of the mountain were shot, but they were shot when they came down to search for food.” Asked to elaborate further, Ms. Srey Phal said:

After a few days living there, and when the food had run out, we had to go down to search for food. We did not know that we would be shot at, but having noted that some people had been killed, we did not go down again. However, because of starvation or lack of food, some people risked their lives to go down and search for food. But those who had bad luck would end up being executed.

Moving on to the civil party’s time in Pursat province, Mr. Raynor noted that Ms. Srey Phal had on one occasion been taken to be executed. He asked how long after arriving in Pursat did this take place. Ms. Srey Phal said, “The Khmer Rouge wanted to take me to be killed during the harvest season. It was in late 1977.” Finally, and qualifying that it might be a difficult question, Mr. Raynor asked how many months after Pursat did this incident took place. Ms. Srey Phal said, “It was not after some months. We were made to transplant rice and build dykes. It was in late 1977 or early 1978 that the incident happened. I was accused of running--.” Mr. Raynor interrupted, however, stating he did not mean to be disrespectful but could only ask her about things that arrived soon after she arrived in Pursat. Ms. Srey Phal responded that this incident occurred after she “had been working at Pursat for a year and a half already.”

For his final question, Mr. Raynor changed the subject to tempering and torture, stating the civil party had mentioned some people being taken for tempering and were killed. Asked whether this happened soon after she arrived in Pursat, Ms. Srey Phal denied this.

Before the lunch adjournment, Mr. Ianuzzi advised the court that Nuon Chea was suffering from a headache, lack of concentration and backache and requested that his client be permitted to retire to the holding cell for the afternoon. The president conferred briefly with Judges Cartwright and You Ottara before granting the request, provided that a waiver from Mr. Chea was submitted in due course.

Nuon Chea Defense Team Seeks Clarification on Various Issues

The day’s hearing resumed in the afternoon before a new audience of approximately 100 villagers from Kampong Cham province, many of whom appeared to have been born before the Democratic Kampuchea (DK) period. They joined the 44 Khmer Rouge survivors who had been



in the public gallery since morning. National Co-Counsel for Nuon Chea Son Arun then put his team's questions to Ms. Srey Phal. He first directed the civil party to her OCIJ interview, noting she had stated she could read and write, and asked the civil party about her level of education. Ms. Srey Phal advised that she completed grade 1 — that is, she completed her baccalaureate in 1974.

Mr. Arun asked Ms. Srey Phal for more details regarding her father's occupation, noting she had suggested he had been both a Lon Nol spy and CIA agent. She responded, "My father was a spy in the Lon Nol regime. He was not a CIA agent. He had a minor role in the spy department."

The defense counsel queried whether Ms. Srey Phal knew the number of people who fled to Phnom Penh in early 1975. She said, "Before the liberation of the city by

the Khmer Rouge soldiers, I noticed the increase of the city dwellers," but could not give an exact figure. Mr. Arun asked whether it may have doubled. Ms. Srey Phal declined to respond as she was not sure.

Turning again to the subject of Ms. Srey Phal's father being a Lon Nol spy, Mr. Arun recalled that in her testimony earlier today, the civil party said that she received information from him. He asked whether Ms. Srey Phal's father might have told her the number of casualties of civilians and soldiers on both the Lon Nol and Khmer Rouge sides? The civil party said she "could not grasp" this and her father did not tell her this either. Asked whether she read this in the newspaper, Ms. Srey Phal denied this as her family was "too poor" at that time to afford newspapers and she preferred reading novels in any case.

Next, Mr. Arun noted that in her OCIJ interview, Ms. Srey Phal had testified that she witnessed people being beaten by Khmer Rouge soldiers at Klang Rumsev market. Did she witness it there only or elsewhere? he asked. Ms. Srey Phal said that she witnessed only one family, who were her neighbors, being beaten this way at Klang Rumsev market. She also explained that "when a family member was sick and [their families] wanted to accompany them, they were forced, threatened by the Khmer Rouge soldiers, and they also fired in the air to threaten them to leave."

Mr. Arun noted that in the civil party's OCIJ interview, she had testified hearing from her elder sister that every night people were transported from a village in ox-carts to be executed, and her sister saw the execution site. Mr. Arun asked the civil party to clarify whether she personally witnessed this or her sister did. The civil party confirmed it to be the latter.

Next, the defense counsel noted that the civil party had testified to the OCIJ that a woman named Comrade Ny had been alleged to have committed a moral offense with a person named Comrade Som, and that in punishment, Comrade Som was killed and Comrade Ny was made to strip, with a militiaman gently pushing a tobacco-cutting knife into her neck and asking her if she liked it,

and continuing in this fashion until she died. Mr. Arun asked whether Ms. Srey Phal personally witnessed this event. The civil party confirmed this, but clarified that she did not know whether Comrade Ny was also raped. She then added:

It happened in the afternoon. ... It was after our lunch break and actually, I was asked to go and pick the *khneong* leaves.¹⁴ ... At that time, I heard shouting, so I quietly tried to pick out the source of the scream. I was actually scared and I wanted to go back, but I couldn't move my feet. I was stuck in that situation. After that woman died and I heard laughing, I gained consciousness and I remained in that position until all the militiamen had left.

At this juncture, Mr. Udom posed a single question to the civil party on behalf of the Ieng Sary team. Noting that Ms. Srey Phal testified that evacuees on the train who relieved themselves without informing the militiamen would be shot and killed, he asked how she knew this. Ms. Srey Phal clarified that one person was shot dead in this manner, and "after that, no one dared relieve himself or herself."

Civil Party Pech Srey Phal Delivers Her Statement of Suffering

As the Khieu Samphan defense team indicated it had no questions for the civil party, Ms. Srey Phal was given the floor to deliver her statement of suffering. She said as follows:

Mr. President, Your Honors: good afternoon everyone in and around the courtroom. I would like to take this opportunity to express my suffering that I suffered during the three years, eight months, 20-day period. I am privileged to make such a suffering before this Chamber today.

During the regime ... I lost everything. Instead, I was terrified emotionally and physically and it still remains with me today. The crimes devastated me, my family and my entire nation and people. During the regime, my younger brother who was 14 years old, and out of hunger stole a pumpkin, was "smashed." That was an agony that I had to live with. My father, my elder siblings, although they were not executed, died as a result of hard work and lack of medicine.

What I cannot forget is that the female youth who lived at Prohoas Kbal cooperative, the 19 of them, they were raped each night. Those women were raped each night. 19 of them were raped each night. On the 20th night, which was the turn of my best friend, she told me what happened, and as a woman who was raped by the chief of the cooperative or the chief of the sector, that was a real agony. In this regime, that person would be prosecuted and convicted.

Your Honors, this suffering, the agony, could not go away. It remained with me. It could not go away. However, I urge the ECCC to give collective reparations. Of course, we want collective reparation as we are civil parties. However, we want it to be realized. There could be a stupa, or there could be a medical center to support the victims, the civil parties, and the stupa where we could celebrate the

¹⁴ These are sour-tasting leaves traditionally used in Cambodian soups.

religious ceremonies during the Water Festival or during the new year so we could find peace within ourselves.

Another important point is that whoever commits a crime should be punished. For that reason, I urge Mr. President to find justice, and not just for myself but for all the victims. ... Please try to find, and to force those senior leaders and those most responsible to acknowledge the crimes that they committed ... and their plans to devastate the country, to engage in the mass killing of the people. I urge Your Honors to punish them severely so that it can be used as an example to the younger generation that no one can be spared when they commit a crime.

As she departed the courtroom, the civil party could be seen clasping her hands in prayer and bowing¹⁵ in the direction of the Trial Chamber judges and members of the Office of the Co-Prosecutors. Noting there were no comments regarding Ms. Srey Phal's statement of suffering, the president reported that the civil party lawyers had advised that civil party TCCW213, who had been scheduled to speak, would no longer do so because this civil party's testimony was no longer relevant. He then invited a new civil party to take the stand.

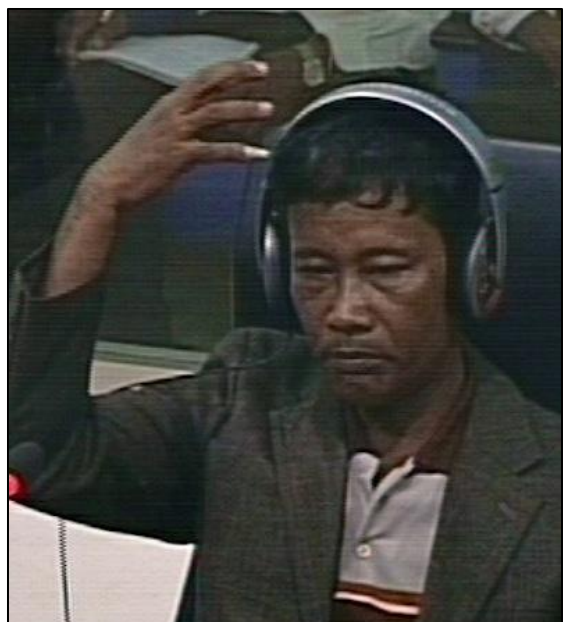
Persecution of Lon Nol Soldiers and Other Events during the Evacuation of Phnom Penh

Under questions from the president, 50-year-old civil party Kim Vandy testified that he was born on June 5, 1962, in Kampot province. He currently lives in Kampong Speu province, where he works as a laborer. He has five brothers and sisters, and is married to Choeun Sreymom. They have six children.

National co-lawyer for the civil parties Ty Srinna began her questioning of Mr. Vandy. She first asked him some questions concerning his residence during the Lon Nol regime. Mr. Vandy stated that his family lived "in Chroy Changva ... perhaps in Mouk Kandou district, Kandal province." At the time, Mr. Vandy could not remember precisely how many family members he lived with, although he noted that two of his brothers were dead and he lived with two of his sisters. "During Lon Nol times," he continued, "my mother was a housewife, while my father was in the navy." The civil party himself was still at school.

Asked whether he could still remember what happened in his neighborhood prior to the liberation of Phnom Penh, Mr. Vandy responded:

I don't remember this exactly, but I saw Lon Nol soldiers were engaged in fighting with the Khmer Rouge soldiers. There were some helicopters, and automatic guns were also seen firing some rounds from the helicopters. The fighting was during both the day and



¹⁵ This is a common gesture of thanks in Cambodian culture.

night. The Khmer Rouge soldiers were based at Vihea Sour and near my home, Lon Nol was there. That's what I can recollect.

As to whether his family members or neighbors were wounded, Mr. Vandy said that none of his family was wounded, but members of the neighboring family were, but he did not see what happened for sure "because we had to take refuge in the bunker of trenches to be safe."

Asked which party controlled his family's location, Mr. Vandy said, "At that time, the Khmer Rouge did not take control of the area. The vicinity was under the occupation of the Lon Nol soldiers." However, after the fighting broke out, "we had to relocate. We had to move to [live with] my uncle. My uncle ... said that at his house, bombs would not be dropped there. So after some consultation with the family members, we decided to relocate there. ... It was at Son Thomok."

The civil party said that they lived there for some time before the fall of Phnom Penh. They first moved there because of the fighting, but after this, they returned home. When the fighting broke out again, they would move again, "back and forth."

Ms. Srinna asked the civil party to identify the final time he stayed at his uncle's house before Phnom Penh was captured. Mr. Vandy said he could recall that "during the last day of fighting, after there were no more bombs at midnight, we traveled to our uncle's house." When pressed about Ms. Srinna's initial question, Mr. Vandy said he only spent the night at his uncle's house, and that around 6 a.m. the next day, he saw many Khmer Rouge soldiers entering Phnom Penh. He continued:

I saw my uncle driving a jeep of the American soldiers and he parked in front of my house when the Khmer Rouge soldiers were still marching on the road. And he collapsed. And the soldiers went back into their group of soldiers and continued their journey. ...

I remember briefly because I was in the house and the door was closed. I heard the jeep coming and stop and indeed my uncle was driving it. I did not pay attention to the conversation but I heard the gunshot. I opened the door and I saw my uncle fall down, covered with blood. He was wearing his military uniform with some of his ranks still displayed on his shoulder. ... I don't remember what rank he was at that time but I remember that my father said that my uncle was a colonel. ... I did not see when he was shot, but I heard the gunshot, and upon hearing this gunshot, I opened the door to see that he was already falling to the ground. ...

I knew that the guy [who shot him] was a Khmer Rouge soldier, although I don't know his name. ... I saw a Khmer Rouge soldier who left the group. He was there saying, "That's what happens to a traitor. All traitors have to be smashed." Then I left to the backyard of my house, escaping.

Asked whether the wife of the civil party's uncle came out to see him, Mr. Vandy said, "First, we heard the cries of people. Everyone had to get out of their home. My uncle's wife cried sadly ...

on the dead body of her husband. ... She felt very bad that her husband died. He was a very gentle person.” How soon after the death of her uncle the evacuation was announced? Ms. Srinna asked. Mr. Vandy said he did not notice anything at first, as his family was trying to organize for Buddhist monks to come and conduct a traditional religious ceremony, but could not locate any monks. However, he went on to describe:

At about 9 a.m. of the same day, we heard people were shouting on motorbikes on Kampuchea Krom Boulevard. We heard that people in the city had to leave the capital city because the Americans would drop bombs on us very soon. That’s what we heard. ... The soldier was dressed in a black uniform, wearing a scarf with a barrette on his cap. He was actually accompanied by a person riding an SL motorbike, and another person who made an announcement. He was holding a mobile loudspeaker. The announcement was for the city dwellers to leave the city immediately, for three days only, to avoid the aerial bombardment by the Americans.

The situation back then was rather confusing. There were shootings. People died, so we rushed to pack our little belongings to leave our house, in the hope that we would be able to return in three days. At that time, we hesitated to leave. We were waiting for other people, [to see] whether they would leave or not. Then there was another group of soldiers. They shouted about why we were still waiting, why we did not go. They asked us to go to avoid the aerial bombardment. So after this announcement, we rushed ourselves to leave. ...

At the location where I lived, I did not see any threatening with arms, but a bit further, about 10 to 20 meters away from where I was, there was a group of people who were gathering, and then shots were fired into the air to disperse them, and then they were forced to move. I heard faint shouting from that distance.

As to whether Mr. Vandy’s family left immediately, and where they headed, Mr. Vandy said, “My family and my uncle’s family ... left separately. I was heading towards Chroy Changva Bridge,¹⁶ towards National Road 6, but I cannot recall the details as to which road we took as I was not familiar with all the roads in Phnom Penh back then.” He added, “While I was travelling along National Road 6, the road was congested with people. It was difficult to move.”

At this juncture, a power failure in the Court appeared to shut off some of the equipment momentarily, though the microphones were unaffected. The civil party continued unfazed, testifying:

I saw wounded people. I could not say for sure whether they were civilians or soldiers. I saw people with bandages, I saw people with IV injections, but I did not pay much attention to them as I was worried that I would be separated from my family. We tried to rush along with other people.

¹⁶ This is the bridge colloquially known as the Japanese Bridge.

Were there any soldiers patrolling the road? What was the general situation? Ms. Srinna asked next. Mr. Vandy replied:

When we left our uncle's house, I noticed signs being displayed. I saw the Khmer Rouge soldiers in black uniforms and scarves around the neck and a barrette. They carried AK47 rifles or M16s. They were along the road. The distance between each soldier was about 10 meters. They carried their guns pointed to the ground.

Ms. Srinna noted that the civil party saw some people with bandages, and asked whether the Khmer Rouge paid attention to the wounded people. The civil party responded:

I did not see the soldiers take care of the wounded. They were standing still on the road, and where it was congested, they would shout to the people to move quicker so that the ones from behind could follow. But as I observed, they did not pay attention to the sick.

Was the crowd headed in a single direction out of the city? Ms. Srinna inquired. Mr. Vandy responded that the majority were headed out, but that a "small number was headed back in. ... I did not ask them so I did not know the actual reason for them returning to the city."

The civil party added that he "did not seem to see people refuse to leave because they were afraid to lose their property, but I heard people talking en route that they did not take much of their property as they were rushing to leave for a short period of time." As to whether he saw anyone beaten by Khmer Rouge soldiers, he testified:

I saw one man but I did not know him or his name. He was walking in the opposite direction and shouting that he lost his children. When he approached the Khmer Rouge soldiers, he asked permission to find his children, but the Khmer Rouge soldiers shouted at him to move ahead or he would be dead. That man was on his knees begging the Khmer Rouge soldiers. The Khmer Rouge soldiers hit his back with a rifle. Then the man fell to his face on the ground. Later on, that man walked away in a state of disappointment.

At that time, my hand was held by other family members. We walked past and I turned to see what happened. Actually we were walking quite slowly. My father urged me not to look back and rush to go along. So I turned back and rushed along with my family.

The court then adjourned for the mid-afternoon break. After a 10-minute delay, the court reconvened, with Ms. Srinna seeking to clarify with the witness certain information stated in Mr. Vandy's civil party application. She first noted that in Mr. Vandy's application, he stated that, on April 17, 1975, the Khmer Rouge shot into the air to scare his family and others to leave their homes to a rural area, at which time his uncle Yon was shot inside his home.¹⁷ Ms. Srinna said that Mr. Vandy testified seeing his uncle shot and asking whether he saw this or heard it from his father. Mr. Vandy said, "It was not my father who saw this. At that time, my father was at his workplace: a military base, I did not know where." The witness reiterated that he opened the door to see what happened. His father did learn about it later, but the civil party saw what happened to his uncle personally.



Ms. Srinna also noted that in Mr. Vandy's application, he stated that the Khmer Rouge threatened him at gunpoint to leave his home village. Ms. Srinna asked the civil party for confirmation as to whether this happened in his home village or at his uncle's house, and, more specifically, where the civil party was on April 17, 1975. He responded:

It was on April 16, 1975, not 17. I did not say exactly that the solders belonged to the Khmer Rouge, but they were wearing black clothes and they shouted to us, they asked us why we were reluctant to leave our homes. I did not pay attention to them but our family members said we could not move, we could only leave our homes when there was no more fighting. By midnight ... perhaps the early hours of April 17, 1975, we left the home. In the morning, we woke up to the sounds of some people shouting out loud. I joined them, because I was excited to hear people on the street. I was very young at that time. I heard that the soldiers liberated Phnom Penh completely. Is aw people waving white flags ... I made use of my shirt ... hoisted it into the air, waving, as a sign of cheering the group. ...

Later on, my father, who had fled from his military base to San Thormuk was stopped by me. I asked him what kinds of soldiers were wearing black clothes. My father said that they were special forces of the government.

When the civil party said he was leaving his home in the early hours of April 17, where were they going? Ms. Srinna asked. Mr. Vandy said they were leaving their home in Chroy Changva for his uncle's home in San Thormuk. He elaborated:

¹⁷ This application has the number D22/1352 and the relevant ERNs are 00526165 (in Khmer), and 00866007 (in English). No French translation is available.

It took us about half a morning to leave from San Thormuk to Chroy Changva Bridge. We had to walk. ... We wanted to walk faster, but there were a lot of people on the road. We were trying to make sure that we could go as far as possible when time passed by. I didn't ask people a lot of questions. When I asked my parents where we were, they said that we were at the west side of the ferry crossing.

Ms. Srinna queried whether the civil party knew where these people were from. Mr. Vandy replied, "At that time, I didn't pay great attention [to this] but I believe that they were all from Phnom Penh." Asked whether he knew where he was headed, the civil party said:

My family had no intention to leave Phnom Penh. We wanted to remain in the city, because we thought that if we had to leave, it would not be easy. However, we were convinced by the other groups of people who were walking out of the city. They said that we were told that we would be leaving the city for three days only when the city would be cleaned of its enemies. ...

I think at that time we were at one place on the road which is next to the Chroy Changva Bridge. There were some soldiers, four soldiers in total, on both sides of the road, and they would allow people to go past them. We would listen to them. They pointed to the direction where they would want us to go, and when people did not notice where they should go, the soldiers warned them, "Were you blind? Didn't you see where the barrel of the gun pointed to?" ... I was saying something about this, but we were told not to say anything, so we continued walking.

Next, the civil party lawyer asked Mr. Vandy how life was like during the course of the journey, especially when the whole family had to move. He replied:

My parents told us that we had to do our best to go as far as possible from the capital city because we would like to make sure we would not be influenced by the high price of food in Phnom Penh. The further we traveled, the better. We didn't bring along with us a lot of money, but we were convinced that we had enough money to buy some rice. We also believed that we could find some food along the road, for example we could fish for some fish in the ponds and paddy fields. When we went further I asked my father where we got to already, and he told me that we were at the ferry crossing. ... We spent some time at the ferry crossing. We did not have with us any mosquito nets or blankets because we believed that in three days, we would be back home, so we did not bring much belongings with us. ...

Then we reached a place where there was a big tall tree, and we stopped there, and we picked some leaves to use as an improvised mattress to spend the night there. I didn't think I could sleep at all, because at home we would sleep under a mosquito net ... but there we did not enjoy this luxury. My mother told us to be patient because it wouldn't be long. We would be allowed to return home to enjoy our comfortable life as before.

Asked what the food was like under the tree, how long he stayed there, and whether the Khmer Rouge distributed any food to the civil party, he replied:

The Khmer Rouge soldiers did not give us anything. My mother went around borrowing cooking pots from the villagers so that we could boil water for our instant noodles. ... My family did not live at that ferry crossing for long. At dawn, our family actually crossed to the east side of the river in the hope that we would be able to find a better place to stay another night. Actually, we found a site of villagers' homes and we asked to stay there for a night, and we were told that there was no need for us to ask permission as they were also evacuees. We chatted a while to those people. ... I was listening to the elder people talking to one another. ...

Of course, in my mind, I was hoping that after three days, I would be able to return to my school. ... We stayed another night at the east side of the riverbank, and then we waited another night. That was the third night. We did not see any people traveling back into Phnom Penh and I started to wonder as to what happened. My mother went to ask a person. I was not sure whether that person was a militiaman or a soldier but that person was carrying a gun. ... The person asked my mother where her native village was. She told him that. He said that she should return to her native village and that we should pack our belongings to go there. So my mother and father seemed to understand the situation little bit more. Then we asked for permission to return back to the west side of the river but we were not allowed. We were asked to proceed further.

So we went along to a village called Toul ... in Kampong Cham province. We stayed there for a week or ... up to two weeks. Then the people there, they were known as the "base people," they gave us some rice in exchange for the clothes we had with us ... rice and a cooking pot. My mother went to talk to the "base people" and that we wanted to stay in that Toul village. So my mother went along with the "base people" ... and a while later she returned and said we were not allowed to stay in that village, as we were the "April 17" people and those people were the "April 18" people.

Some of the base people were kind to us and they assisted us by lending us two buffalo carts to tow our things up to the road. Then we were on our own, returning to the ferry crossing. Then we crossed the river, however our movement was rather slow. Then we actually reached the vicinity of Uddong in our hope to reach Phnom Penh, but we were stopped there in Prek Kdam. So we headed towards the Uddong market. We stayed there for a day or two because we were so exhausted. ... Our feet were so tired as we could barely walk.

The civil party then advised:

When we were on the east side, the situation was miserable. We lacked everything: food and even a cooking pot. ... My mother thought us that a sack of instant noodles would last us for three days, when we should be allowed to return to Phnom Penh. So we tried to survive from day to day, as we hoped that the situation would not last long. The situation was difficult and while I was eating, I spoke to my mom that it was a pity for us to eat in such a situation. There was no meat for us to eat. My cousin got a fever and there was no medicine for his treatment. No care was given to us by the “base people.” So then we tried to manage the situation by ourselves.

Ms. Srinna asked whether the civil party ever encountered any checkpoints while traveling. Mr. Vandy denied this, adding that he only saw them “mobile; they were mobile, they were on foot, and sometimes they rode bicycles.” However, he could not recall whether these people were soldiers or militiamen.

The civil party did not see any Lon Nol soldiers while en route, but added:

I did see the corpses of Lon Nol soldiers along the road. Those dead bodies could be the casualties of fighting because the bodies were already swollen and there were flies ... From what I could estimate, [the location] was a little bit further than Prek Kdam. I saw three bodies on the side of the road.

As to dead civilians, Mr. Vandy said:

I saw one person under a tree. That person was abandoned there. However, it was a far distance from where I was and I could not see whether that person was dead or alive. There was a bandage on the chest and on the other side of the shoulder.

Ms. Srinna pressed further, querying whether the civil party saw any dead bodies floating on the river near the ferry crossing. The civil party denied this.

Next, the civil party lawyer asked whether after three days, there was any announcement for people to be permitted to return to Phnom Penh. “There was only an announcement for people to go out or to go to respective native villages,” Mr. Vandy responded.

Moving on, Ms. Srinna asked the civil party how long it took for him to go to Kampot. The civil party said he did not know:

We kept walking and walking. When night fell, we stopped and rested, and when we could not walk anymore, we stopped in that location for a day or two. But I could not tell you how long it took for us to get there. The journey took quite a long time, to my knowledge. ... My parents asked us to be patient and that we would be in a better position when we reached their native village. There was no transportation. We were on foot all the time. There was no assistance offered by the “base people.”

What happened when Mr. Vandy's family reached their native village? The civil party lawyer asked next. Mr. Vandy responded:

When I arrived at the native village, it was not really our destination. Actually the native village was at Angkor Chey, but we were sent to Pa Le Lai district ... I did not know the distance between these two districts. We were asked to settle in Pa Le Lai district. The "base people" there or the "April 18" people there were not friendly to us at all. We had a few belongings with us and we wanted to exchange it for food with them but they refused.

My family, like any other family, was asked to live in that Pa Le Lai district. We were instructed to live in a group and not to mix with the "April 18" people. At that time, the chief of the village, his name was Neou ... he was in charge of the "April 17" group. The whole "April 17" group was asked to work the rice fields without being given any tools or cows. They asked us to clear the land ... I had to clear 10 square meters in exchange for a can of rice. But my family could not finish it, because in my family ... my father and my mother had to clear 20 square meters of land already.

Then the chief of the village ... tried a new idea. So then they asked us to work in a family group. For my family, we had to clear 12 square meters of land in exchange for a can of rice. I felt so much pity for my parents. They tried their best to reach the quota. The rest of the families were in the same situation. The rice they gave us was insufficient so we had to supplement it with fruit and other edible trees. We also had ... *skun*¹⁸ ... we actually ate that as well.

The civil party lawyer asked what the food ration of the "base people" was. Mr. Vandy responded, "The 'base people' did not work with us. They worked within their group. Their rice ration was sufficient. Each of them who worked would receive a can of rice. Those "April 18" people had sufficient food and they dressed in black."

Mr. Vandy was asked whether his family had to register. "There was no registration from any level. However, only the village chief, Neou, came to register our family members. He also did the same to other families," he said. As to the motive for such registration, Mr. Vandy said, "I did not know for sure; ... however, as I was curious, I asked my parents, and I was told probably they wanted to know the actual numbers of the people so that it would be easier for them to manage."

Arrest of the Civil Party's Father, a Former Lon Nol Sailor

Asked whether anything happened to his family there, Mr. Vandy confirmed this and said:

Angkar — that was the first time I heard of the word and I didn't know who Angkar was — we were told that Angkar already made an arrangement that we should not have any personal belongings or property and we were instructed to abandon all our personal belongings for communal use and that we would eat

¹⁸ This is believed to be a kind of plant.

communally as well. But even so, the “April 17” group would eat in its own group communally, and the “April 18” people would eat in their own group, although we ate in the same kitchen hall. ...

We were put into various mobile units. Later, my father was arrested. He had his hands tied behind his back. I witnessed that event with my own eyes ... I had an axe in my hand and I held onto the cow with my other hand but I could not do anything. At that time my father said to me, “Please look after yourself, son.” He also said that he would go to the “upper level.” I was speechless. My tears fell. The Khmer Rouge soldier hit my father’s head and he bled. They even laughed that “now you are bleeding and in the old regime you would have had a bandage to patch it, but now you can patch it with sand.” My tears flowed when I saw that. ...

I could remember that there was a meeting one day, I believe ... after dinner. They announced that tomorrow, they would conduct a search in all the houses. I did not pay much attention, and then I went to tend cows in a nearby field. They started searching the houses of the “April 17” people first, and then they found a photo of my father. In the photo, he was dressed in a navy uniform ... on a ship. At that time, he was sent on a mission to Damdam village in Koh Kong province. ...

Prior to that, the village chief asked me what my father did in Phnom Penh. He said that I should tell the truth and he would give me some rice and pork to eat. He put some rice and pork on a scarf. But I lied. I said that my father was a rickshaw driver. Whatever he asked, I lied. Then he gave me the rice and I ran home. ... But then they found the photo. Then my father was arrested.

Then at that time some of them made a joke out of me. They said that I was the son of a traitor and that I lied. They said that the regime was a clean and pure regime and that their regime would not accept any capitalists. They spoke a lot about that but I cannot recall it all. At night, because they accused me of being the son of a traitor, they shackled my feet and they actually beat me. After one night, they took the shackles away.

At the end of the civil party’s statement, the president adjourned the hearings for the day. Hearings will resume at 9 a.m. on Thursday, December 6, 2012, with the continued testimony of Mr. Vandy.