



Civil Party and Witness Testify on Persecution of Lon Nol Officials, Dire Conditions in Khmer Rouge Hospitals, and the Evacuation of Battambang

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In the Case 002/1 trial in the Extraordinary Chambers in the Court of Cambodia (ECCC) on Thursday, December 6, 2012, the Court heard testimony from Dr. Hun Chhunly, who practiced medicine under both the Lon Nol and Khmer Rouge regimes and recently published a book about his experiences. Dr. Chhunly provided detailed insight into a wide range of issues and events, including the mass execution of Lon Nol officials and medical personnel; persecution of monks; dire conditions in Khmer Rouge hospitals; and instances of medical experimentation and burning alive; and the evacuation of Battambang on April 25, 1975.

Before Dr. Chhunly took the stand, civil party Kim Vandy, who first appeared before the court on December 5, 2012, concluded his testimony. Detailing events including the execution of his father and his family's suffering at Khmer Rouge worksites, he finished by offering a tearful statement of suffering and requesting the Trial Chamber judges to "find justice and punish them

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>.

appropriately in proportion to the loss that I incurred as well as the loss of other Cambodian people. Please punish to the harshest degree possible.”

Today’s hearing was also marked by sparring between the Office of the Co-Prosecutors (OCP) and the Nuon Chea and Ieng Sary defense teams over appropriate questioning technique in terms of witness’s sources of knowledge. International Co-Counsel for Ieng Sary Michael Karnavas asserted, most notably, that the Chamber had sub-contracted its responsibility to pose questions to the OCP, making the latter an adversarial party. At the same time, he insisted, defense teams had been hamstrung by being prevented from cross-examining, which was the “greatest legal engine to get as close to the truth as possible in the adversarial system.” In short, he said, in incorporating elements from both civil and adversarial systems, the Court had “adopted the worst of both.”

Recognition of International Civil Party Lawyer

In the public gallery this morning were approximately 200 villagers from Prey Veng province. Beginning the day’s proceedings, Trial Chamber Greffier Duch Phary advised that all parties were present, except for accused person Ieng Sary, who was participating in the proceedings from the courtroom’s holding cell pursuant to a Trial Chamber order.

National Lead Co-Lawyer for the civil parties Pich Ang then sought the Court’s recognition of Isabelle Durand, an international co-lawyer for the civil parties who had not yet been recognized by the Court. Mr. Ang noted that Ms. Durand is a member of the Toulouse bar, had been recognized by the Bar Association of Cambodia on June 27, 2008, and had taken an oath before the Court of Appeals on July 16, 2009, and works with the non-government organization Avocats sans Frontières providing legal representation to some civil parties. The president duly recognized Ms. Durand.

Continued Discussions of Ieng Sary’s Mental Fitness to Participate in the Proceedings

At this juncture, National Co-Counsel for Ieng Sary Ang Udom stated that the Chamber had received the medical report of Ieng Sary stating that Ieng Sary was stable and could sit but felt fatigued easily with even slight movement. Mr. Sary had also complained that he did not sleep much last night and consequently requested to remain in the holding cell.

Mr. Udom said a physician could assess his client’s physical health, but there was no assessment as to Mr. Sary’s ability to participate. The Ieng Sary defense team consequently requested a medical expert be appointed to assess that Mr. Sary was mentally fit to participate in the proceedings. In addition, regarding Judge Silvia Cartwright’s suggestion on December 5, 2012, that the Ieng Sary defense team case manager to wake Mr. Sary up if he falls asleep, Mr. Udom argued that this task was not within the case manager’s scope of work; Mr. Sary might only stay awake for a minute even if woken up; and the team was unclear whether this act might have a medical impact, in light of patients requiring some time to rest. What would happen, Mr. Udom questioned, if the case manager woke Mr. Sary up and he then had a heart attack? Was it the responsibility of the case manager?

International Senior Assistant Co-Prosecutor Tarik Abdulhak responded, noting that the issues Mr. Udom discussed concerned managing Mr. Sary’s participation from the holding cell. There

had been a recent assessment that found that Mr. Sary was capable of following and participating in the proceedings, he argued, and international principles do not require an accused be monitored on an hour-to-hour basis as long as no fitness issue arose to suggest such engagement might be appropriate.

Having said that, Mr. Abdulhak continued, OCP was concerned that the accused should receive proper medical care. In their view, as long as the information the Trial Chamber was receiving was sufficient, however, the matter should end there. Furthermore, he stated, it was “interesting” that the Ieng Sary defense team asserted that the case manager was not required to wake Mr. Sary up although he was expected to monitor the accused on a minute-by-minute basis. There was nothing improper about requiring the case manager to wake Mr. Sary up, he concluded.

International Lead Co-Lawyer for the civil parties Elisabeth Simonneau Fort added that while it was “quite right” to discuss Mr. Sary’s ability, sufficient information had been presented thus far, and it was “shocking” that this discussion had to occur every morning. She entreated, out of respect for the civil parties and the public, for the Chamber to put an end to this practice, which was “both irrelevant and disrespectful.”



Mr. Udom stressed that they did not want to waste the Court’s time but wished for Mr. Sary to fully participate in the proceedings and believed the only solution was to appoint a medical expert who specialized in mental health. If possible, the Ieng Sary defense team would like a daily mental health assessment of Mr. Sary, he said. Noting that the medical report prepared by the Court’s medical expert, Professor John Campbell,² had been prepared on the basis of a two-day assessment and while it might have been accurate when it was prepared, Mr. Sary’s situation is “precarious and changes every day” and therefore report may no longer be accurate, Mr. Udom concluded.

With this, the Trial Chamber judges huddled in conference for a few minutes, after which the Trial Chamber President Nil Nonn gave the floor to Judge Silvia Cartwright to explain the Chamber’s position. She advised:

The Trial Chamber has conferred and rules as follows: the ruling of yesterday stands.³ There is no new medical information that would justify any intervention on the part of the Trial Chamber. The Chamber notes, however, that this is the first time that Ieng Sary has made the claim of some mental impairment. If it wishes to proceed with such an application, it must make the application in

² Cambodia Tribunal Monitor’s daily blog post concerning Prof. Campbell’s testimony is available at <http://www.cambodiatribunal.org/blog/2012/11/ieng-sary-remains-fit-stand-trial-medical-expert-testifies>.

³ Cambodia Tribunal Monitor’s daily blog post, which reports this ruling, is available at <http://www.cambodiatribunal.org/blog/2012/12/civil-parties-offer-detailed-testimony-suffering-during-evacuation-phases>.

writing. The Chamber will not hear oral applications every morning before the trial begins unless there is something exceptional or new. The Chamber has the medical report from the doctor and it observes that nothing has changed since yesterday.

Mr. Udom responded that he respected the ruling but did not agree with it. However, he was cut off by the president, who said that the matter had been ruled upon and Mr. Udom should be seated.

Execution of Civil Party's Father and Suffering Endured at Khmer Rouge Worksites

Civil party Kim Vandy continued his testimony under questioning from national co-lawyer for the civil parties Ty Srinna.⁴ Ms. Srinna began by directing the civil party back to his testimony about witnessing his father being arrested and taken away, seeking further details of this incident. Mr. Vandy stated that his father had been arrested by two men wearing black uniforms and scarves over their faces and carrying guns, but that he did not know their names or rank. He recalled, "They walked my father until I could no longer see him. And then I turned my eyes to tend the cows."

As to what happened to Mr. Vandy's mother and siblings after this incident, the civil party explained that after his father was killed, everyone in the family was sad and his mother cried. The family members gathered quietly at the time but then tried to remain separate and hide their meeting; if found out, he said, "we could be accused of being children of a traitor."

Transfer to a Worksite and Suffering Endured There

Ms. Srinna inquired as to the other activities directed at Mr. Vandy's family. The civil party responded that a meeting was called for all "April 17" people, at which his mother was told to pack their belongings for their transfer to a worksite at Prek Pdav Dam. He continued:

It was a very large dam. My mother, who just delivered a baby recently, was forced to carry soil as an ordinary, healthy person. She protested, but then the "18 April" people and the militiamen said that she had too much personal property and that she would not fit within the criteria of Angkar due to this big ownership of rice. ...

My mother was made to dig some dirt and build a dam. The dam was about 10 meters in width and they used human beings to build the dam. They did not care whether the workers had just delivered a baby recently or not. They treated everyone equally when it came to labor force. ... My younger sibling also could not make it and she died because of overwork.

I could say that death during the regime was very pathetic, because during the previous regime, when people died, there would be some traditional ceremonies where Buddhist monks would be there ... but during the Khmer Rouge regime,

⁴ Mr. Vandy began his testimony on December 6, 2012. Cambodia Tribunal Monitor's daily blog post about this testimony is available at <http://www.cambodiatribunal.org/blog/2012/12/civil-parties-offer-detailed-testimony-suffering-during-evacuation-phases>.

when someone died, he or she would be covered with some leaves. They died like the dead animals.

Asked whether anyone else was monitored like the civil party's family, Mr. Vandy said:

It happened to the workers. During each meeting, there would be an appeal through the commune chief, a person by the name Neou, who would say that everyone who had worked before should come forward and have their names registered so that they could be sent to work with Angkar at a higher level. ... Many people were convinced by the appeal, although I did not remember how many of them exactly had their names registered. People could be heard discussing with each other whether to have their names registered or not.

Regarding whether he witnessed any other deaths, Mr. Vandy described how some people died from malnutrition and "being ill-treated," such as not being given proper medicine. He recalled that others who were found to have stolen food were accused of "betraying Angkar" and were then arrested and executed.

Ms. Srinna asked whether people under surveillance were "April 17" or "new" people. The civil party asserted that, at that time, the "Khmer Rouge militia" had set up a network to search for "April 18" people. Members of this network would follow people and "observe every move we made," Mr. Vandy recounted, explaining, "They would ask to find out what we did in the past. They would trick us into telling them, for example, what our occupation had been. They would exchange this information for food if we wanted to do so." He continued, "I knew something was



wrong, although I was very young. I told my mother not to tell anyone any details because we lost my father already and I did not want to lose her as well."

The civil party lawyer inquired whether Mr. Vandy had ever heard the names of Khmer Rouge senior leaders, such as Pol Pot, Nuon Chea, or Ieng Sary. Mr. Vandy recalled attending a film showing in Kampot, about 12 kilometers from where he was staying. He explained:

I don't remember what the film was about, but ... I remember part of the film, which was about the liberation of the country. I heard from the film that the country was liberated from the yoke of the imperialists and that the country was under construction. I was rather exhausted after a long day of work. I fell asleep while the film was still showing. ...

I heard the names being mentioned but I was too young to take good notice of this. There was a man behind this film who was saying out loud into the loudspeaker, impersonating the actors in the film. I heard these names mentioned. I could not find out where this gentleman was sitting, but I heard from the loudspeaker that was hoisted up above one of the trees in the area.

After being granted permission to question Mr. Vandy on the basis of his civil party application, Ms. Srinna noted that in that application, Mr. Vandy stated that by 1978, his family and his cousin, namely families whose husbands or fathers had been killed, had been sent to a cooperative at Bakan. There, according to the application, the living condition was worse and people were given only a very thin gruel for each meal. Ms. Srinna asked whether the families whose husbands or fathers were executed were all “April 17” people.⁵ Rather than answering the question directly, Mr. Vandy described the trip from Kampot to Pursat, which required his family to walk a long distance, while others took vehicles; his family was eventually offered a lift by a vehicle belonging to “Chinese people.” Eventually returning to the question about the families whose husbands or fathers were executed, Mr. Vandy answered, “These people were the ‘April 17’ people.”

Prosecution Seeks Clarifications on Killing of Lon Nol Soldiers

As the civil party lawyers had completed their examination, Mr. Abdulhak took the floor for the prosecution. He first sought to clarify where the civil party was on April 16 and 17, 1975. He noted that Mr. Vandy said that he lived in Chroy Changva adjacent to Phnom Penh, on the other side of the Chroy Changva Bridge;⁶ that on April 16, his family went to his uncle’s house in San Thormuk in Phnom Penh; and that this is where he was on April 17. Mr. Vandy confirmed that this was correct. Mr. Abdulhak asked whether San Thormuk was close to Russian Boulevard and Tuol Kork. Mr. Vandy responded that it was actually close to Kampuchea Krom Boulevard.

Mr. Abdulhak sought clarification on the killing of the civil party’s uncle. On this point, he asked whether Mr. Vandy’s uncle had been engaged with fighting against the Khmer Rouge soldiers, and whether he had a gun. The civil party said, “What I saw was that was lying dead. I did not know whether he had engaged in any fighting before that.” He did recall, however, overhearing his uncle commenting that he would not be concerned about engaging in fighting “because he would just give an order and his subordinates would do that on his behalf.”

Asked whether he saw any other fighting between Lon Nol and Khmer Rouge soldiers, Mr. Vandy said that he saw Lon Nol soldiers fighting with Khmer Rouge soldiers on April 16, 1975. “It was a fierce fight in the late evening because fighting could be heard from every spearhead,” he said, “After the bombs were dropped, indeed it was very quiet. We had to leave for our uncle’s house. During the morning, there was no fighting like the day before. It was more like sporadic fighting.”

Mr. Abdulhak directed the civil party’s attention to the short time he spent in Uddong while en route during the evacuation. He asked the civil party to describe the state of

⁵ This application has the document number D22/1352, and the relevant ERNs are 00526168 (in Khmer), and 00866008 (in English). No French translation is available.

⁶ This is the bridge colloquially known as the Japanese Bridge.

Uddong city at that time. The civil party said, “I saw people living there but it is difficult for me to say whether they were living a normal life ... I saw them wearing black clothes, wearing hats. I can’t exactly say whether they were civilians or soldiers.”

Moving on, Mr. Abdulhak asked about the rank of Mr. Vandy’s father before his arrest and disappearance. The civil party advised that his father, Kem El, was a navy colonel, had been based near Wat Phnom and had travelled abroad with the navy. Mr. Abdulhak noted that the civil party had stated in his application that his father was taken to Boeung Ang pagoda to be executed. Asked how he knew this, Mr. Vandy replied:

When they arrested my father and later on, killed him, Neou, the village chief, told me, when I asked him where they took my father to ... he told me he was taken to Boeung Ang pagoda. Later on, when I worked in a mobile unit at Prek Pdav ... then I saw the red *ang-kanh* fruit,⁷ I picked the fruit. Then I saw the clothes my father wore. The clothes were tied onto the *ang-kanh* tree. I was pretty sure that the clothes and the hat belonged to my father. Later on, at night, I spoke to my mother quietly and told her that I saw the clothes of my father. She asked me not to talk about that anymore. Maybe the place where they cooked was on top of the pit where they killed the people. I asked the cooks about this. They said it would be okay because they would be helped by the spirits of the people.

Finally, Mr. Abdulhak noted that the civil party had testified that his uncle, Om Hang, had also been killed in Kampot province, and that he found this out from his cousin Nou. Asked how his cousin found this out, Mr. Vandy said:

In 1979, Nou was a soldier of the front, and he went on a mission to Pursat province. Through his contacts with people, and as I did not have rice, I went to ask the soldiers for rice. I asked them whether they knew my uncle ... and they said he was killed. Later on, after money was introduced and circulated, my mother went to search for the truth. We learned that all of my uncle’s property was gone and that he had indeed been killed. ... Om Hang was not a soldier. I don’t know what he was referred to as, but in fact he was the chief of a commune.

International Co-Counsel for the Nuon Chea Defense Team Andrew Ianuzzi, Mr. Udom, and National Co-Counsel for Khieu Samphan Kong Sam Onn advised that none of their teams had questions for the civil party.

Civil Party Entreats Court to “Punish to the Highest Degree Possible”

Tearful and dabbing at his eyes with a tissue, Mr. Vandy gave his statement of suffering:

Mr. President, I would like to read the statement that I had written quite some time ago. ... Thank you, Mr. President, for giving me the opportunity to make my statement of suffering that my family and I encountered and experienced during the Khmer Rouge regime. Your Honors, I express the suffering as follows:

⁷ The name of this fruit was given directly in Khmer in the English translation.

My family and I suffered a lot during the Khmer Rouge regime. Let me first touch upon the physical suffering suffered by my family. We were moved away from our property, our house and from school. My family's situation was like the rest of the people in the country. It was the Khmer Rouge who did that. They inflicted their suffering upon my family and me. We were forced to move away from our house; we were forced to engage in hard labor; we became too exhausted; we were starved; we were deprived of food, as in the case of other Cambodian people at the time. As a result, my younger sister and many of my relatives died of starvation. It was miserable.

They killed my father. They killed my great-uncle and my great-aunt as well as many of my relatives, unjustly. As a result, at present, my mother is a widow and I became a child without a father. Every time I think of what happened, it seems too vivid living in front of my eyes. It makes me so angry and as a result, I joined the army. I wanted to take revenge, but I did not succeed in that, so I had to sell my labor for a nominal fee to survive until the present day and until the day I die.

Mr. President, Your Honors: please find justice and punish them appropriately in proportion to the loss that I incurred as well as the loss of other Cambodian people. Please punish to the harshest degree possible. Finally, I wish to express my gratitude and thanks to Your Honors and to everyone else inside and outside the courtroom. I wish you all the best.

Author of Book on Treatment of Medical Personnel during the Khmer Rouge Regime Takes the Stand

After the mid-morning adjournment, a new witness took the stand. Under questioning from the president, the witness advised that his name is Hun Chhunly, he is 74 years old, and he was born in Kampong Cham province. He currently lives in Phnom Penh and has been retired since 2004. His wife passed away in 2007, and he has a daughter and son.

The floor was given to the OCP to begin questioning. National Senior Assistant Co-Prosecutor Veng Huot advised that he would address Dr. Chhunly as *lork krou*.⁸ After seeking the president's leave to examine the witness concerning a book he had written about the life of a doctor during the Khmer Rouge, Mr. Huot asked Dr. Chhunly when he first wrote the book. Dr. Chhunly responded that it was published twice; a first edition on January 19, 2006 and a second edition in 2010 with some wording adjustments.

Mr. Huot asked whether Dr. Chhunly wrote the book on his own initiative. The witness agreed: "I wrote in this book what I saw, what I heard. I did not add things beyond the facts or the truth I had encountered during the Khmer Rouge regime. Almost all of my colleagues died except me." As to when he wrote the book, Dr. Chhunly explained that he started taking notes during the Khmer Rouge regime but eventually he had to burn them as the Khmer Rouge searched his house on several occasions. After that, "I had to do my best to find ways to recollect the events during that time," he said.

⁸ This word was spoken directly in Khmer in the English translation, and is an honorific for professor, lecturer, or teacher.

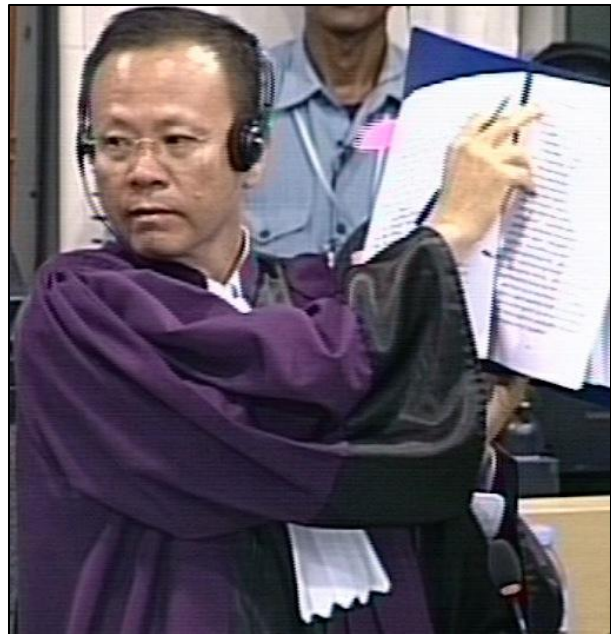
Execution of Lon Nol Soldiers and Officials in Battambang

Under questioning from Mr. Huot, Dr. Chhunly testified that, before April 1975, he joined the army and worked as a military physician at Battambang Hospital. Under the Lon Nol regime, he explained, each official had to join the army, including physicians. The witness was in the army for at least two years and rose to the rank of lieutenant. Turning to the military hospital at Battambang, which Dr. Chhunly said was also known as hospital 403, he explained that there were about 30 medical personnel working there and that the only patients were soldiers of the Lon Nol regime who were wounded.

As to the events that unfolded on April 17, 1975, Dr. Chhunly said:

At 7 a.m. on April 17, 1975, [a] Phnom Penh radio broadcast [from] General Mey Sichon and Lon Non, the brother of Lon Nol announced that all Lon Nol soldiers across the country should lay down their weapons. Then I heard a very frightening sound: that a cadre of the Khmer Rouge said that Kampuchean Revolutionary Army won the victory through armed struggle, not through negotiations.

At this point, the president advised the prosecutor that it was sufficient to refer to the witness as “Mr.” Moving on, the prosecutor noted that in Dr. Chhunly’s book, he wrote that on April 17, 1975, all Vietnamese had to return to their country; all soldiers with the rank major-lieutenant and above had to gather at a Chinese school in the middle of Battambang city; and soldiers with lower ranks had to gather at a primary school in the city, where they stayed overnight.⁹ How did they make these orders from the “upper echelon”? Mr. Huot queried. Dr. Chhunly responded that the announcement was not made in an “official” way as done currently, but rather the announcement was passed through the people and it was “indeed effective.” “Based on such announcement, the Vietnamese people boarded boats back to their country under escort from Khmer Rouge soldiers,” he concluded.



Mr. Huot asked how long Lon Nol soldiers stayed at the gathering points. Dr. Chhunly said:

On April 23, 1979,¹⁰ at 5 a.m., there was a truck coming to pick up all those military officers and all the public servants, all the heads of all departments from

⁹ The relevant ERNs are 00678788 (in Khmer), and 00369682 (in English). There is no French translation available.

¹⁰ This is believed to be a misstatement by the witness or by the translator as it is clear from the context that this event was alleged to have occurred in 1975.

Battambang, heading towards National Road 5. As for the lower-ranked soldiers below major-lieutenant, they were transported by truck towards Pailin. It was near the vicinity of O’Pongmon on the way towards the Kamping Puoy Reservoir.

Regarding the purpose, Dr. Chhunly testified, “They said that the soldiers ranging from major-lieutenant up would be gathered to go to Phnom Penh in order to receive Prince Sihanouk and they did not have to bring much food as food would be provided en route.” He continued:

I learned about their fate about one month later as I learned it through one of the drivers. He said the soldiers were transferred to Tepdey¹¹ Mountain and they were executed there. As for the lower-ranking soldiers ... they were ordered to farm the land near O’Pongmon. ... I cannot say for sure the exact number [of dead]; however, there were five truck loads [of people taken away for execution].

Execution of Lon Nol Medical Personnel

Mr. Huot directed the witness to a passage in his book describing the killing of 13 medical personnel at hospital 403, where he had worked.¹² Mr. Huot asked the witness to describe the event to the Chamber again. However, International Co-Counsel for Nuon Chea Jasper Pauw intervened before Dr. Chhunly could answer. He said his objection related to the alleged taking away of Lon Nol soldiers from Battambang, insisting that the prosecutor had not asked the most important question, which was whether the witness was asked if he saw this event himself or if he merely heard this. He invited the OCP to question the witness on his sources of knowledge. Mr. Huot advised that when the time came for Mr. Pauw to question Dr. Chhunly, he could of course ask this question, and the OCP could decide itself on what they wished to question the witness.

Given the floor again, the witness recounted the killing of the 13 medical personnel as follows:

On April 20, 1975, at 8:30 a.m., the chief of the hospital, that is Colonel Dr. Tan Pok, convened all medical personnel. He said that he just came from a meeting at the provincial town hall and there was a requirement for all medical staff to take roster duty day and night and eat in the hospital in order to provide better care to the patients. After that, the meeting ended and we went to our respective duties.

At 5 p.m., I do not know what happened, but I had a strange and unsettled feeling. I was thinking of my two children, my two nephews, and my parents. As for my wife, she was still in Phnom Penh. So I requested leave from the colonel doctor to return to my house. The next morning, that is April 21, 1975, the Khmer Rouge called all the medical staff with the rank of major-lieutenant, totaling 13, to board a vehicle in order to receive a group of revolutionary medics. However, about 11 kilometers from the hospital at a location called Omal, the vehicle took a turn to a side road and the medical personnel were ordered to get off the vehicle and shot dead.

¹¹ There were alternate translations used in the English translation, under which an alternative spelling of the site would be Ta Pde.

¹² The relevant ERNs are 00678761 to 62 (in Khmer), and 00369683 to 84 (in English).

I learned of this event later, because at nighttime on that day, I could not sleep until morning. In the early morning, I walked to a civilian hospital where I used to work. I entered a building and lay on a bed until I fell asleep. At 2 p.m. I heard a voice calling me, and I woke up and saw a medical staffer there. The person said, “I survived because the Khmer Rouge shot dead 13 medical staff at my rice field,” and the person said the person only knew Tan Pok and not the rest [of the dead].

Asked if he knew the reason for the execution of the medical personnel, Dr. Chhunly replied, “It is my understanding that it was the health policy of the Khmer Rouge. They would eliminate all medical staff ranking from major lieutenant and above. Later on, it would be the turn of the civilian personnel.”

Dr. Chhunly denied knowing what level the execution was ordered from, saying, “They only talked about the ‘upper Angkar,’ but we didn’t know who that was.” As for the fate of the patients at hospital 403, Dr. Chhunly testified:

When I was told that those medical personnel who were my colleagues were executed, I felt compelled to walk to that hospital, that is, the military hospital. I was about to enter through the side entrance. There was a soldier who grabbed hold of my hand and said don’t go in there, because they killed all of us. Then I went to the front entrance ... but another soldier there grabbed my hand and asked me not to go in. I tried to see if there were any other remaining med personnel, but I did not. I saw patients who were walking out of the hospital. Some were accompanied by their relatives, and some were put onto a peddle cart.

The prosecutor enquired as to the fate of other hospitals in the area. Dr. Chhunly responded that nothing had happened to these hospitals yet. However, he said, no new patients came in, and starting in 1977, the civilian personnel at the civilian hospitals were also executed.

Mr. Huot noted Dr. Chhunly had written that although Phnom Penh radio stopped broadcasting, news spread among the people that Prince Norodom Sihanouk was coming back soon from Beijing, and the Khmer Rouge also disseminated orders to all senior government civil servants and officers from the grade of first lieutenant asking them to prepare to travel to Phnom Penh to greet him at 5 a.m. on April 23, 1975. The prosecutor asked how the Khmer Rouge disseminated such information.¹³ Before the witness could answer, however, Mr. Udom interrupted to request that the OCP project the document onscreen. Mr. Huot said they did not have the luxury of time for this, and the president instructed him to continue. Responding to Mr. Huot’s question, the witness said:

I still wondered how, despite the lack of modern equipment, the information they disseminated seemed to be very effective and went through very well. Therefore, on the 23rd of that month, the senior public servants and officials boarded the

¹³ The relevant ERNs are 00678763 (in Khmer), and 00369685 (in English).

vehicle to greet Samdech Eav.¹⁴ Later on, I learned that they were taken to be killed or executed by gunshots at Tepdey Mountain.

Evacuation of Battambang Residents on April 25, 1975

Mr. Huot moved on to a new passage in Dr. Chhunly's book. In this passage, the witness had written that although residents of Battambang knew the situation, they were fearful and in shock on April 25, 1975, when "black-clad soldiers fired guns everywhere inside the provincial town."¹⁵ The prosecutor asked Dr. Chhunly how he learned of the evacuation. The witness responded, "As I stated earlier, with the Khmer Rouge, no announcement was made officially. Nonetheless, it was effective." As to who issued the orders for the "black-clad" soldiers to fire guns and shout at people to evacuate, the witness said, "Nobody knew about that. They only talked about the 'upper Angkar'"; nobody came to claim responsibility for the situation either.

Continuing on, the witness described how:

In the Battambang provincial town, the evacuation was in multi-directions. On my side, I saw elderly people being evacuated as well but I did not see anyone die. ... I did not know but I believed all of them left. Let me say that in Battambang, the evacuation was one week after the Lon Nol government was defeated. It was not an immediate evacuation like in Phnom Penh.

Disappearance of Monks

Mr. Huot asked whether Dr. Chhunly saw monks leaving pagodas during the evacuation "From what I saw, it was in 1976 when the monks were asked to leave the pagodas. However, the number of monks was limited and by 1976, all monks had been asked to leave the pagodas," the witness responded.

Returning to Dr. Chhunly's book, the prosecutor noted that the witness had written of the head monk of the pagoda, Acha San, who was pro-Lon Nol, being taken away.¹⁶ Mr. Huot asked who led this monk away and for what reason. The witness responded:

Prior to the evacuation of the population, the Khmer Rouge had taken Abbot Acha San and other abbots as well. Mr. Siv Heng, who was Nuon Chea's uncle, was also taken away. Mr. Siv Heng was paralyzed on one side of his body. Later on, Abbot Acha San was also taken. I have no idea who ordered the removal of these people though I learned that it was the order of the "upper echelon." ... They were all killed. ... The Khmer Rouge brought a vehicle to carry them out to be executed. Both Mr. Siv Heng and Abbot Ach Sang were executed.

Samdech Pon Sam Peach, who was the abbot of Poh Veal pagoda, was also discussed in the witness's book, Mr. Huot noted. He asked the witness whether this monk was also evacuated.¹⁷ However, Mr. Pauw interjected before the witness could respond.

¹⁴ This is a reference to Prince Norodom Sihanouk.

¹⁵ The relevant ERNs are 00678769 (in Khmer), and 00369689 (in English).

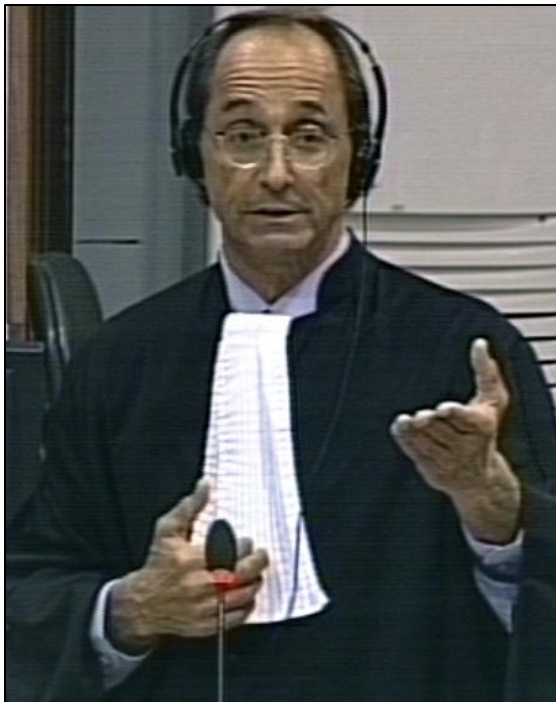
¹⁶ The relevant ERNs are 00678759 (in Khmer), and 00369682 (in English).

¹⁷ The relevant ERNs are 00678762 (in Khmer), and 00369685 (in English).

Debate over Witness's Sources of Knowledge and Appropriate Questioning

Mr. Pauw objected that this was a similar issue as the one he raised earlier, in particular about the sources of knowledge of the witness. He said the OCP had an obligation to verify the witness's sources of knowledge and to ask the witness whether he saw or heard about this execution and if the latter, when he heard about this. Witnesses were only able to testify about what they saw or heard at the time, he argued; otherwise, the Trial Chamber would not be able to verify the information. The defense could verify this under cross-examination, but it was OCP's obligation to verify this, he concluded.

International Co-Counsel for Ieng Sary Michael Karnavas expressed his support for the Nuon Chea defense team. He also sought to supplement these arguments. He first noted Dr. Chhunly had frequently testified that "they said" and the OCP never sought to verify who "they" are. Mr. Karnavas's objection was that under the "quote-unquote-civil law-French" system, the Chamber was to exhaustively question the witness. However, the Chamber seemed to have turned over its obligation to the OCP and it seemed that the OCP should be exhaustively asking the questions the Chamber would have asked, he asserted.



Noting that Judge Jean-Marc Lavergne seemed amused, Mr. Karnavas continued to explain that what he found problematic was that the defense was not permitted to cross-examine:

In other words, what we've adopted is the worst of both systems! You've subcontracted your obligations to the prosecution who's supposed to ask the questions to get as close to the truth as possible. Then you've tied our hands behind our backs because now you have turned them into a party, an adversarial party, and now you say you cannot cross-examine, so in other words, you take away the greatest legal engine to get as close to the truth as possible in the adversarial system, which is cross-examination, the ability to ask questions that are leading in nature. Then we have the time constraints. ... I don't

understand whether it is a clash of civilizations of different legal traditions ... but we've adopted the worst of both.

Mr. Karnavas continued to explain that it would only assist the Trial Chamber to have the OCP question who "they" were. Even if hearsay evidence were admissible in the civil law system, it would arguably have little value unless tied in to other indicia. Mr. Karnavas did not think it would take the prosecution too much time to verify this information. This was fair trial management, he argued, and would reduce the time for the defense to go back and verify each

reference to “they.” “I’m trying to help” the OCP, Mr. Karnavas explained, before being cut off by the president.

The president said that this matter should have been mentioned at the Trial Management Meeting and that Internal Rule 91 *bis* clearly stated the order of questioning at trial.¹⁸ He said that if Mr. Karnavas wished to lodge an application, he needed to make it precisely clear so that the Chamber would have grounds for its ruling; if Mr. Karnavas wished to have the Internal Rules changed, he needed to express this clearly.

Mr. Karnavas said that his remarks went towards the objection Mr. Pauw made and therefore he asked the Chamber to sustain it. Responding on behalf of the prosecution Mr. Abdulhak said that none of this amounted to a valid evidentiary objection and that the defense could take issues up in their own examinations and could make submissions as to the probative value of the evidence. It was inappropriate for the defense to interject and lecture now, he concluded.

After conferring with his Trial Chamber colleagues for a few minutes, the president advised that “for the time being, the Chamber will not examine the probative value of the evidence before us.” He also advised that the OCP was to frame its questions precisely to ensure they were conducive to ascertaining the truth so that the Chamber could consider their probative value “at the end.”

Further Testimony on Persecution on Religious Grounds

Picking up the witness examination, Mr. Huot refreshed the witness as to his question about Samdech Pon Sam Peach. Dr. Chhunly explained that Samdech Pon Sam Peach had been evacuated to his native village. He then recalled, “Later on, I met a former Buddhist monk who told me that Khmer Rouge had taken the monk when he was in his robe, and he disappeared ever since.”

The prosecutor noted that in Dr. Chhunly’s book, he had referenced Khieu Samphan reading the Constitution of Kampuchea, containing 25 articles, one article of which said that Cambodian people of both genders had the right to follow any gender of their choice, and another which said that they had access to job opportunities equally.¹⁹ Mr. Huot asked whether the witness was sure that it was Khieu Samphan who read out the constitution. Dr. Chhunly said:

I knew Khieu Samphan when he worked in Phnom Penh in his capacity as the head of the *L’Observateur* newspaper. To the point that you mentioned, it was relevant to Prince Norodom Sihanouk as well. ... The Khmer Rouge hospital where I had been asked to work, the Khmer Rouge tuned in to the radio and the broadcast was out loud. First Prince Norodom Sihanouk said he would be resigning from his position as the head of state ... Then Khieu Samphan was heard appointed as the head of the State Presidium. Khieu Samphan was then reading the Constitution and the two articles that you stated.

¹⁸ This rule provides, “The President of the Trial Chamber shall determine the order in which the judges, the Co-Prosecutors and all the other parties and their lawyers shall have the right to question the Accused, the witnesses, experts and Civil Parties.”

¹⁹ The relevant ERNs are 00678813 (in Khmer), and 00369721 to 22 (in English).

As to what in fact happened to religious observers, Dr. Chhunly said:

I already stated earlier that from Battambang, from the new year of 1976, all Buddhist monks were expelled from the pagodas. [As for Christians,] at Battambang city, there was a big church which was destroyed by the Khmer Rouge. ... With regard to the bishop, Samdech Tep Pol Im, I did not see this personally, however, he was killed. I knew that they built a church or a school at the place where this bishop was shot dead in Mongkol Borei district.

Mr. Abdulhak took over questioning on the part of the OCP. He first directed the witness to his discussion in his book of a meeting held on April 21, 1975, at the civilian Battambang hospital. At this meeting, Khek Pen *alias* Mit Sou, who chaired it, said that Angkar announced the dismissal of the hospital director, Dr. Khem Kimsan, and requested election of a new director from among the janitors.²⁰ Mr. Abdulhak asked the witness to discuss his understanding of the reason for the dismissal of Dr. Khem Kimsan. Dr. Chhunly said:

Comrade Sou was also known as Khek Pen. He was a former professor who had been teaching at some high schools in provinces, so he was an intellectual. During the meeting, which he attended when he convened other medical personnel to attend, everyone took it as a surprise. He said that revolution derives from the peasant class and the peasant class could lead all fields, including the health sector. That's why the head of the hospital was expelled and another person was installed without proper medical profession [qualifications]. A lot of medical personnel were not happy with this decision, and the next morning, a lot of them were evacuated to work in the paddy field.

At this juncture, the president indicated that it was an appropriate moment for the lunch adjournment. Before the adjournment, Mr. Pauw said that Mr. Chea was suffering from a headache, backache, and lack of concentration and therefore sought to follow the proceedings from the holding cell, having prepared a waiver. The president granted this request and adjourned the hearing for lunch.

After the lunch break, Mr. Abdulhak asked Dr. Chhunly what position Khek Pen *alias* Mit Sou had held. Dr. Chhunly said he was the chairman of Sector 4.

Conditions and Events in Battambang between April 17 and 25, 1975

Next, Mr. Abdulhak returned to the witness's testimony about the disappearance of 13 medical personnel from Battambang military hospital. To clarify the witness's sources of knowledge, Mr. Abdulhak noted that in his book, Dr. Chhunly had described a conversation with his mother in which she spoke to the mother of one of the 13 people who had allegedly been executed and who had gone to see her son's dead body.²¹ After a short pause, Dr. Chhunly responded, appearing to read from his book:

²⁰ The relevant ERNs are 00678765 (in Khmer), and 00369686 (in English).

²¹ The relevant ERNs are 00678768 (in Khmer), and 00369688 (in English).

On April 21, 1975, at 5 a.m., the Khmer Rouge made an announcement to gather all the 13 senior military health personnel. They were put onto a vehicle, they were taken out, and later on, they were shot dead. As for my mother, she kept reminding me so often, because she usually went to the pagoda on the religious holiday every week. Usually she would meet with old ladies who came from the Khmer Rouge controlled zone. They said that the Khmer Rouge forced their children to join their armed forces, took away their rice and would kill anyone who they considered to be traitors. They advised us to leave the country if we could ... Of course, sometimes I felt a bit shameful because of course, my mother was more intelligent to me and I should have listened to her ...

As for the woman who went to see the body of her son, she tried to be strong ... according to what my mother told me, she then went to the body of her son, lit incense and prayed for the soul of her son, and then she returned.

Dr. Chhunly also confirmed that all 13 of those people were his colleagues, and that “they were all shot dead in a rice field. It was in Omal commune opposite the Department of Agriculture. I met some of the wives of those who survived.” That is, he said, when pressed, he did not ever see any of those 13 individuals again. “They are gone,” he concluded.

The prosecutor noted that in the witness’s testimony, he had discussed the disappearance of Siv Heng, Khieu Samphan’s relative, and that he had been collected and driven away on the national road to Pailin. Dr. Chhunly had also described how Siv Heng had been a leader of the resistance against the French and had been a colonel in the Royal Army before 1975.²² Mr. Abdulhak asked how Dr. Chhunly knew this. He replied:

As an intellectual, I knew of the event. Mr. Siv Heng was an old hand resistor. After the Geneva conference, he lobbied Prince Sihanouk, and he was promoted to become a colonel. I knew his wife as well. In fact, Siv Heng’s wife was the younger sister of Nuon Chea’s wife.

Mr. Abdulhak sought to discuss a passage from Dr. Chhunly’s book in which he discussed how government officials were cheated by Socialist propaganda and had hoped to contribute to the cleansing of the country under progressive intellectuals.²³ He queried why the witness had felt cheated preceding, during and following the evacuation. Dr. Chhunly explained, “At that time, some Cambodian people, particularly the youth, had a strong belief in Khieu Samphan, Hu Nim and Hu Yun as they were considered clean people. I did not believe whatever truth that my mother told me. Later on, I became so disappointed with what happened.”

Moving back to the witness’s testimony about the morning in which residents of Battambang were evacuated,²⁴ Mr. Abdulhak first asked if this was something Dr. Chhunly himself witnessed. The witness responded:

²² The relevant ERNs are 00678758 to 59 (in Khmer), and 00369682 (in English).

²³ The relevant ERNs are 00678768 (in Khmer), and 00369688 (in English).

²⁴ The relevant ERNs are 00678769 (in Khmer), and 00369689 (in English).

In Battambang, the evacuation took place one week after the Khmer Rouge took control and defeated Lon Nol soldiers. What happened during the evacuation, I witnessed it personally. The soldiers threatened us by all means, including yelling, shooting into the air, and announcements over loudspeakers to chase people to get out of their houses.

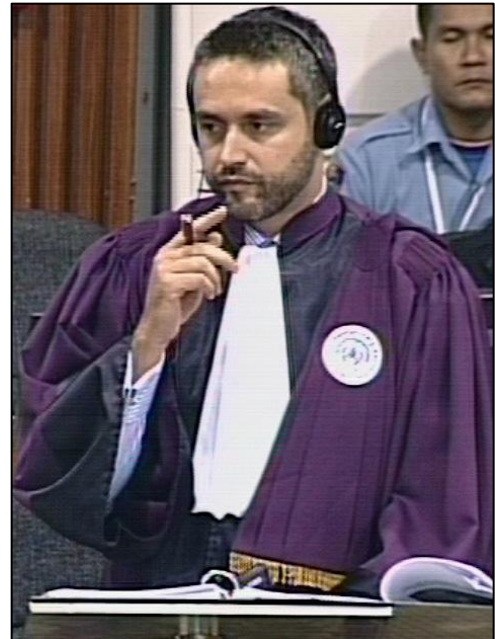
This prompted Mr. Abdulhak to press the witness as to why his mother had suggested that the witness should perhaps fear the arrival of the Khmer Rouge. Dr. Chhunly explained, “At that time, the Lon Nol soldiers had been defeated successfully. Some people actually moved to Pailin in order to cross to Thailand.” He continued, “Another group moved to Poipet in order to cross to Thailand as well, but I refused to do so. I wanted to work and to serve the country with the progressive and clean people.”

As to whether any reason was given for the evacuation, the witness replied “We heard about the reason two or three days earlier. We heard that people had to be evacuated so that they could engage in the rice production in the countryside.”

Was there a food or medicine shortage? Mr. Abdulhak queried. Dr. Chhunly initially replied, “We all brought along food, rice, sugar, and fish paste. It was one week after the Khmer Rouge took control when the evacuation started,” and, when the prosecutor clarified his initial question, he replied that he “personally did not experience the food shortage.”

The prosecutor asked the witness to describe what happened to hospitals and their patients in Battambang when the city was evacuated. Dr. Chhunly replied, “When people were evacuated from Battambang, all the patients left the hospital and the hospital itself was empty. There was also no health staff there.” He explained that no exceptions were made to allow any patients to stay as the hospital staff also left.

Once again, Mr. Abdulhak returned to the theme of reasons for the evacuation and asked whether the soldiers who were forcing people to leave gave him any reason as to why he had to leave. Dr. Chhunly reiterated, “We heard from other people before the evacuations that we had to leave to work in the fields to contribute to production.” He then confirmed that “during the evacuation, they did not make any announcement” as to the reasons for the evacuation. What was the population of Battambang city in April 1975? The prosecutor queried. The witness denied any knowledge of this.



Witness's Relocation after the Evacuation

Moving on to the witness's relocation to Damrei Slap village in the Northwest Zone,²⁵ Mr. Abdulhak asked Dr. Chhunly to describe the new authority structure established there. The witness obliged, explaining:

The Khmer Rouge structure was categorized into communes and first and second chiefs of communes. But there was no office yet. They made use of the houses of villagers as the commune office ... the district was far from my location. I never saw it. After district level ... it was sector, and then followed by the zone. During the Khmer Rouge, there was no term such as "province," and for the districts, they would number the districts. Zones, for example, [would be described as] the Northwest Zone.

The prosecutor continued, noting that in the witness's book, he described the establishment of security forces or *chhlop*. Asked to describe them, Dr. Chhunly said:

The village chief also had militias. These militia or *chhlop* were recruited from the very poor peasants who were very determined and brave, those who could kill people without hesitation. There were also some undercover militiamen, for example teenagers who would be asked to work in these positions. At night, they would sneak under our beds to spy on us.

In Dr. Chhunly's book, Mr. Abdulhak went on, the witness described that each village committee was comprised of "old" or "base" people. The witness confirmed, when asked, that this was a correct description of what he witnessed. This prompted the prosecutor to ask the witness about new classifications the witness encountered, including "new" and "old" or "base" people. Asked to discuss the purpose of such classification, the witness said:

In my own opinion, I believed that the class was a kind of intention of discrimination by the Khmer Rouge, not by the Cambodian people in general. Even in the village, people were classified into the poor peasants, the very poor peasants and the poorest peasants. The new people were classified into new people and another sub-category. For these categories of people, the Khmer Rouge did not like them, for example people who had fair complexions. The Khmer Rouge believed that these people were those that had never been exposed to sunlight.

Mr. Abdulhak directed the witness to another passage in his book, in which he discussed how people tried to wear old clothes or age their clothes; that people walked barefoot; that women had their hair cut short; and that no one dared wear eyeglasses in order to avoid being accused as an intellectual.²⁶ Asked if this was a fair summary of what the witness witnessed immediately after the evacuation, Dr. Chhunly said:

²⁵ The relevant ERNs are 00678774 (in Khmer), and 00369693 (in English).

²⁶ The relevant ERNs are 00678777 (in Khmer), and 00369695 (in English).

This is correct. People who had run out of the old clothes had to make use of their new clothes [and] have them dipped into mud and dried under the sun so that they looked old. For those who had new shoes, they would not dare wear them. Young women did not put on their makeup to look pretty at all.

Queried as to the reasons for this, the witness said, “My understanding is that whatever the Khmer Rouge had done was very negative. They did everything to destroy the country, to destroy or wipe out the country of its population. It was contradictory to what I anticipated or expected.”

Focusing particularly on the eyeglasses example, the prosecutor asked why people would have wanted to hide their intellectual background. Dr. Chhunly said:

The Khmer Rouge didn't like educated people, first and foremost. For those who were wearing glasses, [they] were only intellectuals, those who were not very much liked by the Khmer Rouge. They referred to intellectuals with their own terms. They mocked intellectuals as those who had little intelligence, paradoxically. People did not dare wear glasses. Even I ... abandoned my eyeglasses.

Debate over Potentially Speculative Questions

Mr. Abdulhak then referred to another passage in the witness's book in which he described the collection of biographies three days after the relocation, in which the name, sex, age and profession was noted and people were entreated to be honest.²⁷ Once again, the prosecutor queried whether the witness understood the purpose of these acts. Before Dr. Chhunly could reply, however, Mr. Pauw interjected that there had now been “a whole string of questions” in which the witness was being asked to speculate, and in which he had no particular knowledge other than his own experience. The witness should be asked what he knew and experienced, and asking him about the motives of “undefined Khmer Rouge individuals” was improper.

Mr. Udom added in support of Mr. Pauw that on May 20, 2012, the Trial Chamber ruled that only experts were entitled to speculate, and witnesses were not. Mr. Abdulhak said he was not asking Dr. Chhunly to speculate but to describe what he witnessed; it was proper to ask him what he understood and was not asking him to opine on policies. He added that “one of the distinctions between a human being and a robot” was a human's ability to comment on what they had seen, and Mr. Pauw was entreating the Court to limit the witness's testimony to a “robotic recitation” of what he had seen. Mr. Udom sought to respond, but the president cut him off, stating that he was not permitted to reply and the rule was precisely clear on that.

The president turned to confer briefly with his colleagues. After this, he advised that Mr. Pauw's objection was not sustained. He added that Mr. Abdulhak's questions were relevant to the witness's experience. He also advised Mr. Udom that he may have misunderstood the ruling of the Trial Chamber, and that experts also were not permitted to speculate. No one was permitted to speculate and the Court was “not a venue for speculation. Witnesses are allowed to make their own conclusions but not speculate,” President Nonn concluded.

²⁷ The relevant ERNs are 00678779 (in Khmer), and 00369696 (in English).

Taking of Biographies and Rescinding of Individual Property Rights

Returning to the prosecutor's question concerning biographies, Dr. Chhunly said:

My response will not be based on any speculation. It will rely heavily on the truth. I lived through the Khmer Rouge regime for almost four years. ... The biographies were taken when the Khmer Rouge would select leaders of the group to take biographies of people at every village. Our names, occupations, ages, would be some of the key items to be included in each of the biographies. For me, I did not say I used to be a military medic. I said I used to be a physician at Battambang hospital because everyone then knew me as a civilian doctor. ... I had been working as a civilian physician for a long time before I was assigned as a military medic. ... I have no idea where these biographies could have been sent to or analyzed. ... [My family] submitted [our biographies] to the head of the group.

Mr. Abdulhak noted that in the witness's book, he discussed a meeting in early May 1975 at which a long speech had been given by Khek Pen *alias* Mit Sou, the Sector 4 Secretary. He noted that in witness's account of the speech, it was said that the sector secretary had said that under the guide of "clairvoyant Angkar," the Revolutionary Army of Kampuchea had destroyed feudalism. The witness also described how in the speech, a plan was discussed asking people to "sacrifice private material property and private mental property" in order to truly revolutionize.²⁸ Mr. Abdulhak asked how this final instruction was implemented. Dr. Chhunly replied:

During the meeting at Kh dang Ngea pagoda, Comrade Sou said Angkar had a plan to convert the country into a checkerboard so that it could be seen from the air that each paddy field would be formed into this kind of checkerboard. Secondly, he said that we were asked to sacrifice our personal ownership rights. At the same time, Sou said Angkar did not need to waste seven years for training doctors. Angkar trained doctors for one week, which was enough already, and that all doctors who were trained for seven days would be able to appear at work all across the country immediately.

For the implementation, as you already learned, any kind of ownership right, the right of owning property had been abandoned, but people did not wish to ... sacrifice easily. We were human beings. We could not live without all these rights entirely. [Also] it was impossible for the whole country's paddy fields to be divided into checkerboard-like squares. I couldn't see that it applied across the country. It was also impossible for doctors to be trained for only one week because the former doctors were killed



²⁸ The relevant ERNs are 00678778 to 79 (in Khmer), and 00369696 (in English).

when new doctors were recruited. ... This was the policy that the Khmer Rouge implemented to execute every Cambodian citizen.

National Co-Counsel for Nuon Chea Son Arun interjected at this point that the witness should not be permitted to make any personal conclusions. The president duly advised the witness not to provide any of his subjective conclusions to questions.

Witness's Transfer to Prek Loung Hospital in May 1975

The prosecutor noted that in the witness's book, he described receiving a letter from Mit Sou and stamped by the sector committee requiring him to work at Prek Loung Hospital.²⁹ Dr. Chhunly replied, "At that time, I was plowing the rice fields and I did that work for one month, and then I received a letter from Mit Sou inviting me to work at Prek Loung Hospital. It was actually a former college and was converted into a hospital."

Next, Mr. Abdulhak asked who was in charge of that hospital. Dr. Chhunly replied that "she was a female; she was about 25 years old but I cannot recall her name. ... I did not know her past history so I cannot tell you [whether she was a doctor]."

Moving on to a new topic, Mr. Abdulhak asked whether a former teacher at the Faculty of Fine Arts named Chan who the witness had mentioned in his book was the person who had driven a truck carrying former Lon Nol officials to their execution.³⁰ The witness explained:

At the time, while was working at Prek Loung Hospital, one day, myself and a few other medical staff were instructed to go to Mong Russei in order to follow up on the arts group whose chief of group was the child of Comrade Sou. It was at Chrey village in Mong Russei. As for the person by the name of Chan, Chan was a teacher of fine arts. She used to live in Battambang and was one of the people in the arts group.

Our vehicle stopped at Chrey pagoda. Chan ... and I walked to Mong Russei together. We met a driver who was sitting on a large piece of rock. At that time, we could smell the stink of corpses. As he kind of understood our feeling, he told us that there were corpses around and they were not properly buried. He continued to say that he was one of the people that took senior Lon Nol officials to be killed at Tepdey Mountain.

Next, Mr. Abdulhak noted that in his book, the witness described corpses floating along the Sangke River.³¹ Asked if he personally saw those floating corpses, Dr. Chhunly agreed and described the scene for the Court as follows:

In June 1975, the villagers and I witnessed this event. Flowing along the river were mattresses, pillows and dead male and female corpses. ... The corpses were flowing in the Tonle Sap direction. Nobody dared ask what happened or why

²⁹ The relevant ERNs are 00678782 (in Khmer), and 00369699 (in English).

³⁰ The relevant ERNs are 00678789 (in Khmer), and 00369705 (in English).

³¹ The relevant ERNs are 00678793 (in Khmer), and 00369707 (in English).

there were corpses flowing along the river. Everyone at that time only minded their own business.

Witness's Return to the Battambang Military Hospital

The prosecutor moved on, noting that the witness had testified in his book to being assigned to work at the Battambang military hospital by Mit Hour. Dr. Chhunly explained:

After I had worked at Prek Loung Hospital for two months, I received a letter from someone by the name of Comrade Hoeun asking me to work at the military hospital, which was known as P-2 Hospital. Comrade Hoeun, who made that request, was the younger in-law of Ros Nhim *alias* Kao *alias* Ros Sambath. ...

P-2 hospital had a chairman and two deputies ... [it] was a military hospital. As for the civilian hospital, it was known as P-1 Hospital. ... Both hospitals were under the control of Comrade Hoeun, who was the secretary of the sector committee.

The Court then adjourned for the mid-afternoon break. Following the break, Mr. Abdulhak asked whether it was correct that the patients treated at P-2 were Khmer Rouge military soldiers. The witness confirmed this. Next, Mr. Abdulhak asked whether the medical care provided to them was adequate. Dr. Chhunly said, “At the beginning, we could make use of the leftover medicine at the hospital. By 1976, we had some [anti] malaria and antibiotics medicine from China.”

Khmer Rouge Hospitals as an “Antechamber of Death”

The prosecutor noted that another passage of the witness’s book described an event in which Phon, the hospital director, was walking in and out of an operating room. The witness then described in his book seeing a girl taken away and said he understood that Phon was performing medical experiments on the girl.³² The prosecutor asked the witness to describe what precisely he learned on this occasion, but before Dr. Chhunly could respond, Mr. Pauw objected that this



question was outside the scope of what was being discussed; it did not relate to population movements or administrative or communication structures. Mr. Abdulhak submitted that it was “highly relevant” as it described the functioning of a hospital under the Khmer Rouge authority structure and some of the policies and practices that were introduced.

Turning to Judge Cartwright, the president was joined by all Trial Chamber judges in a brief conference. The president then advised that the objection was not sustained. However, he added that the question had “little relevance” and advised Mr. Abdulhak to ensure that his next line of questioning was more relevant.

³² The relevant ERNs are 00678815 (in Khmer), and 00369723 (in English).

Accordingly, Mr. Abdulhak sought to ask Dr. Chhunly to describe “very, very briefly” what happened. Mr. Pauw sought to object again, although the president asked him if he would be “kind enough to wait” until this question had been answered. Mr. Pauw said that while he did not mean to be impolite, the new question was still irrelevant, noting that the president had just said that the line of questioning was not relevant. Mr. Abdulhak said the objection had been overruled; this was a simple repetition of the initial objection; and Mr. Pauw was “really wasting time now.”

Dr. Chhunly described the incident as follows:

On one occasion, I saw a young woman come to the hospital. She was in her late teens and she was wearing black clothes. I asked her why she came here and she said she was asked to come help arrange the medicine at the hospital because she could speak French. Then she said she was nervous. She didn’t know why. ... A female medic of the Khmer Rouge assured her that she should not be afraid. ... She was led away, but later on, I saw a doctor come with some anesthetic and a [piece of equipment]³³ walking in an opposite direction. I could see that Pon, the head of the hospital, went into a room.

A while later, I saw four Khmer Rouge soldiers carrying that motionless poor little girl in a stretcher and load her onto a waiting vehicle parked in front of the hospital. Then the car drove off. I noted immediately that the woman had undergone experimental surgery.

Fifteen minutes later I saw these people come back to the hospital. They asked me for help. They cried in pain. They said that the car overturned in front of Domrei Sor pagoda. I took the head of the hospital to be treated. He was injured on his left hand. ... When I was preparing to stitch up the injury of Phon, a Khmer Rouge soldier came in and asked what to do with that “enemy bitch.” Phon said to just get rid of her. ... Later on in the afternoon, a medical staffer said that the young woman, still under the influence of anesthetic, was taken to a location near Monivong Lycée and was then placed into a crematorium alive.

Next, Mr. Abdulhak asked the witness how he knew, as described in a book, of a staff member at the hospital being tasked to spy on enemies.³⁴ Dr. Chhunly said:

I had worked at the military hospital for 16 months. Then I worked at the civilian hospital for two months. I left the hospital on the 31st when the Chinese delegation visited the hospital on January 31, 1977. Ron did not have a regular work schedule. He was in charge of the laboratory. Ron was a cheerful person. We could see a smile on his face all the time, even when he was angry. The angrier he was, the more we could see him smile. He said that by evening, there

³³ There was what appeared to be a piece of equipment mentioned here but this was inaudible in the English translation.

³⁴ The relevant ERNs are 00678842 (in Khmer), and 00369741 (in English).

would be some vehicles coming to collect some patients from the hospital and he would be in charge of helping with this. ...

The vehicles came to the hospital. During the Khmer Rouge regime, it was rare to see vehicles. ... During the time, when I was on standby, I saw a vehicle come in and leave, and then I did not see the patient who would have been there a moment ago.

The witness also described in his book, according to the prosecutor, that when Ron identified enemies, he reported his findings to the upper level. Asked whether this was an accurate summary of what happened, Dr. Chhunly responded, "A report was made to the 'upper echelon.' I don't know where the 'upper echelon' could have been located, but I saw vehicles coming to the hospital."

At this juncture, Mr. Abdulhak asked the witness about being removed from a position at the hospital. The witness explained:

I had nothing to be in charge of at the hospital during the Khmer Rouge. I was an ordinary medical staff, or in other words, I was a prisoner of the Khmer Rouge at the hospital. I did not hold any higher position. However, when soldiers got injured, I would be called to treat them. But for civilians, if anyone got sick, they would not ask me to treat them. So I did not have actual position.

But on the 30th, the head of the hospital ordered all medical personnel to clean both in and outside the hospital. In the evening of the 29th, at 2 a.m., medical personnel would be cleaning the hospital complex ... by 8 a.m., the hospital was clean and there was another order to close all the hospital windows and that no patients or medical personnel were allowed to leave the hospital. At 10 a.m., I could see from the office where I worked, the vehicle loaded with the Chinese delegation come to the hospital. I saw Chinese people wearing white short-sleeved shirts. The car was there for about an hour before it left. It was on January 30, 1977.

By late afternoon, I was called and told that Angkar would like us to go back to the cooperative, so by January 31, 1977, I returned to the cooperative and became a farmer. ... When I left the hospital, I returned to the cooperative.

Mr. Abdulhak noted that in his book, the witness said that most patients at P-1 Hospital ended their lives there and had their property pillaged, and some became prey for Khmer Rouge criminal activity and experimentation, and that in sum, the hospital was an "antechamber of death for Cambodian people."³⁵ He asked if this was an accurate summary. Dr. Chhunly agreed and elaborated:

That is my personal conclusion. At the military hospital, patients who were rather healthy and did not have diseases like diarrhea or malnutrition, they would be

³⁵ The relevant ERNs are 00678846 (in Khmer), and 00369744 (in English).

there at the military hospital. During mealtimes, they would be asked to eat around a table. Although the food was not that adequate, it was almost enough for all the patients. On the contrary, at the civilian hospital, patients mostly had these kinds of hygiene diseases, including diarrhea, dysentery, malnutrition, edema. They were kind of emaciated and had two meals a day, whereas at the military hospital they had three meals a day. ...

Patients at that civilian hospital [would have] their entire property ... confiscated by the Khmer Rouge [when they died]. I knew a teacher who had seven [units]³⁶ of gold. He actually asked to give it to me but I did not take it. On that day, two patients died. Their dead bodies were not moved until a peddle cart came to take them away. Their property ... was taken by the Khmer Rouge. Even the medicine given by the Chinese was not given sufficiently to the patients. The Khmer Rouge would steal some of the medicine. Also, the Khmer Rouge hated any patient with a light complexion.

Also for surgery, and this applies to both P-1 and P-2, from my personal experience, there was a woman who was mentally retarded. She sang and then she walked away from the hospital. She was whipped and brought back to the hospital. After the chief of the hospital said that the patient would be brought back to the village, but as I observed, that patient was put on a stretcher, put under anesthetic, put into a vehicle and left. It was my conclusion that she was put under experimental surgery although I did not witness that personally ...

The civilian hospital was also a dangerous place. It was a place where they searched out enemies, including public officials, and then the enemies would be taken out.

Transfer of People by Train to Battambang

In August 1975, the prosecutor went on, as the witness described in his book, Dr. Chhunly was being permitted to visit Damrei Slap village. There, the witness described, he encountered two doctors, one also named Chhunly and another named Long Naren. These doctors said that the Khmer Rouge loaded people onto the train on Phnom Penh and dropped them for example in Pursat and Battambang, on the way to Sisophon.³⁷ Pressed for details about this, Dr. Chhunly described:

That was when the Khmer Rouge transferred people from Phnom Penh to Battambang by train. Some of them were settled in my village. ... Those evacuees had to find food by themselves. However, as for the “base people,” when they had a free piece of land, those evacuees were allowed to settle on that piece of land, or sometimes they even shared their houses with the evacuees. But most of the time they built their own shelter or houses on their own plot of land.

³⁶ The precise name of this unit was inaudible in the English translation.

³⁷ The relevant ERNs are 00678804 (in Khmer), and 00369716 (in English).

Next, the prosecutor noted that in the witness's book, it went on to say that there was a starvation and that from among approximately 100 Islamic Khmer families, only half survived.³⁸ Asked to describe what his family had told him about this starvation, Dr. Chhunly said:

Starvation did not exist in 1975, but it was in late 1976 if I am not mistaken, because in 1975, we still had some reserve food. When those people came from Phnom Penh to settle in our village, I and my mother went looking around in the hope that we would find some relatives. ...

At that time, we could manage to have sufficient food, however by the end of 1976, a lot of people died. As for the Islam population who settled there, half of them died. As for the sick Cham people³⁹ who could not go to work, their rations would be cut and they were also forced to eat pork.

This prompted the prosecutor to move to another passage in the book in which the witness discussed the Khmer new year immediately preceding the famine, and describing how although the Khmer Rouge pretended rice was going to run out, trucks transported rice out of the warehouses.⁴⁰ Asked how he knew this, Dr. Chhunly responded:

The Khmer Rouge gathered the people to dismantle wooden houses in Battambang in order to build a commune warehouses to store rice. The villagers and I saw trucks come to transport trucks from the warehouse to outside, although we did not know where the rice was taken to. ... Later on, they said that the warehouse was running out of rice.

Allegation of Special Treatment of Nuon Chea's Family

Mr. Abdulhak moved to the witness's discussion of Wat Kor commune in his book, in which he first stated that he knew Nuon Chea's family very well, and that under the Khmer Rouge regime, the commune was treated exceptionally well. The people were not displaced, and received sufficient food. Moreover, Mr. Chea's mother was treated very well and given bags of food supplies.⁴¹ Pressed for details, the witness explained:

I knew Wat Kor village [ever] since I worked in Battambang province in 1967. The Wat Kor villagers were kind of a wealthy class, and a number of intellectuals actually came from [there]. Some government officials also came from [there]. I also knew Nuon Chea's family, but in fact the family of Nuon Chea was a good family like the rest of the families in that village. I used to provide treatment to him and to his family members at Wat Kor village. Some medical staff also came from Wat Kor village.

Under the Khmer Rouge regime, one of Nuon Chea's younger siblings who was a customs officer was not taken anywhere. He became a driver under the regime

³⁸ The relevant ERNs are 00678836 (in Khmer), and 00369736 (in English).

³⁹ The Cham are a Cambodian ethnic group who are adherents of Islam.

⁴⁰ The relevant ERNs are 00678822 (in Khmer), and 00369727 (in English).

⁴¹ The relevant ERNs are 00678828 (in Khmer), and 00369731 (in English).

which contrasted with treatment of other former regime officials. Secondly, [village] residents, regardless of whether the person was a young person or adult, received the same ration ... the food ration in Wat Kor village did not change. I also knew the person who supplied food to Nuon Chea's mother because he was the same person who gave food supplies to the hospitals where I worked, that is P-1 and P-2 hospitals.

Changes to Authority Structure of the Northwest Zone

At this juncture, Mr. Abdulhak turned to the witness's description in his book of changes to the Northwest Zone's authority structure in late 1977 or early 1978, the witness discussed meetings of the Khmer Rouge cadre and a discussion of enemies inside and outside the country and particularly discussed "the internal enemies burrowing from inside."⁴² The prosecutor asked the witness if he heard this speech personally. Dr. Chhunly replied:

Yes, I heard the phrase with my own ears. At night, after an exhausting day, all workers were asked to attend a meeting. I personally did not like the meeting, but the same phrase kept repeating itself, that is, the situation of the enemies inside the country and the enemies outside the country. That's why it stuck in my mind. ... I did not see the disappearance of the cadres of the Northwest, but I saw them being replaced by the cadres from the West, and I witnessed one incident where a cadre was arrested and taken by boat.

Asked if he knew the fate of Khek Pen, a sector secretary in the Northwest Zone, Dr. Chhunly replied "I did not know because at that time, it was a period of screening or purging, so I did not know what happened" to him. At this juncture, Mr. Abdulhak was granted permission from the president to show the witness an S-21 prisoner list, which he suggested may have listed this individual in question.⁴³ Mr. Abdulhak noted that on the page being shown to the witness, there was a person listed by the name of Khek Pin *alias* Sou *alias* Secretary. Asked if this was the same person, Dr. Chhunly said he could not say for sure, because the person he knew was Khek Pen *alias* Sou and this document listed a person named Khek Pin *alias* Sou.

The hearings were then adjourned for the day. Hearings will resume at 9 a.m. on Friday, December 7, 2012, with the continued testimony of Dr. Chhunly.

⁴² The relevant ERNs are 00678865 (in Khmer), and 00369758 (in English).

⁴³ This list has the document number D108/26.104, and the relevant ERNs are 00086931 (in Khmer), 00837610 (in English), and 00864730 to 31 (in French).