



### **The Fate of Intellectuals in the Spotlight as Saloth Ban's Testimony Continues**

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On Wednesday, April 25, 2012, the Trial Chamber of the Extraordinary Chambers in the Courts of Cambodia (ECCC) continued trial proceedings in Case 002 against accused Nuon Chea, Ieng Sary, and Khieu Samphan.\* As scheduled, the Prosecution spent the morning continuing its examination of witness Saloth Ban, who was both Pol Pot's nephew and the Secretary General for the Ministry of Foreign Affairs for Democratic Kampuchea. The Civil Parties were then allowed to put questions to him in the afternoon. By the end of the day the Chamber had a clearer picture of the realities facing intellectuals called home during the Khmer Rouge regime.

#### ***Prosecution Loses an Hour in a Failed Attempt to Admit a Document into Evidence***

Senior Assistant Co-Prosecutor Vincent de Wilde d'Estmael began the day by reminding the witness that the President had instructed him to examine a document. However, Saloth Ban exclaimed that he had not seen the document when he was interviewed by the Co-Investigating Judges. Mr. de Wilde urged the President to consider the record of the interview with the Co-Investigating Judges that indicates the witness was shown the document in question. The witness asserted that he only saw a page or two of the document, further noting that he did not put his thumbprint on it. Mr. de Wilde asked the witness to tell them whether the pages shown to him before were in the same format as the ones now before him. Saloth Ban said they were in a different format and reiterated he did not put a thumbprint on the document.

The prosecutor asked the President whether the Chamber was ready to rule or if he should continue to build his argument. Michael Karnavas, co-counsel for Ieng Sary, admitted that there was clear indication in the prior testimony that parts of the document was shown to the witness but noted it was not clear how much of the document was shown. He concluded that the

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\* As this report is completed using the ECCC's English interpretation services, it should be noted that multi-lingual members of the media cautioned that there were many problems with the English translation from Khmer today.

Chamber must determine which pages were physically given to the witness during the prior examination.

Elisabeth Simonneau-Fort, Civil Party lead co-lawyer, asserted that the fact that the witness was asked to identify his handwriting by the Co-Investigating Judges should serve as proof that he had seen the document. She declared that a witness should be able to look at a document and discuss it even if s/he had not seen it before.

Son Arun, co-counsel for Nuon Chea, observed that the witness clearly stated that he did not recognize the document and warned that the Civil Parties and the Prosecution should not compel the witness to admit that he recognized the document. He argued that the document should be withdrawn from the witness.

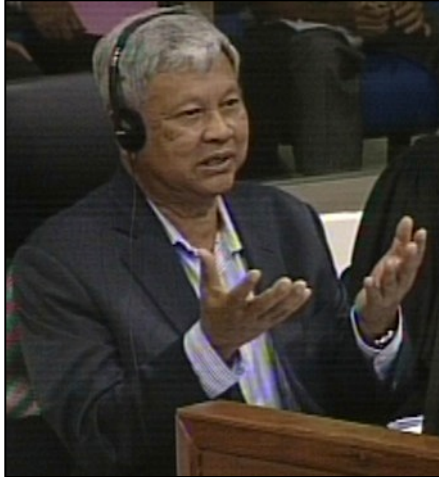
The President clarified that the current issue is “distinct,” because there is a written record from the Co-Investigating Judges that indicates that the witness had seen the document. He noted the question before them was whether the document had been shown in full to the witness during the interview. The President asked the Prosecution to clarify the issue.

Mr. de Wilde then took about ten minutes to refer to several sections of the testimony made before the Co-Investigating Judges that he believed demonstrated that the witness thoroughly examined the document. The President instructed Mr. de Wilde to ask the witness about the sections mentioned, and the witness said he already told him that he had previously seen this document. He further declared that only a few pages were given to him by the investigators and again asserted that he did not affix his thumbprint on the few documents that he was given.

Mr. de Wilde moved on to another question, inquiring whether Saloth Ban had seen a specific section of the document. Mr. Karnavas noted that the investigators did not specify the pages of the document to which they were referring and argued that this demonstrates the poor quality of the investigation. The witness then firmly asserted that he rejected the content of the document.

Mr. de Wilde noted that they were “going around in circles” and asked the President to rule on the issue. The President provided the witness with four documents and asked him to examine them in order. He asked the witness if he had seen these documents during his interview with the Co-Investigating Judges. The witness said that the pages shown to him by the Co-Investigating Judges were different from the ones put before him today.

The President told Saloth Ban that in his previous testimony he “clearly indicated” that he did not recognize the author of the document. He also noted that the investigator made reference to the documents that he just presented to the witness. Saloth Ban continued to assert, however, that the documents just presented to him were not the ones given to him by the Co-Investigating Judges. He then revealed that he was concerned about commenting on whether the document was accurate because he was not allowed to read the content during the interview. The President responded that there appeared to be a misunderstanding and reassured the witness that the Chamber would not hold him responsible for the content.



Finally, the President informed the Prosecution that the witness does not remember the documents, but due to the questions made by the investigators, Mr. de Wilde was given permission to ask the witness general questions.

***General Questions Posed to the Witness***

Moving on, Mr. de Wilde asked Saloth Ban if he attended assemblies led by Ieng Sary. The witness confirmed that he did but could not remember all of the people in attendance. He testified that a General Assembly could last up to a week and that he personally attended two of them between April 1975 and January 1979. He recalled that at one Ieng Sary told those in attendance to “be vigilant” and “stay true to their patriotism.”

Saloth Ban was then asked why there were widespread arrests in July of 1976. The witness asserted that he could not remember, even after his memory was refreshed by prior testimony made before the Co-Investigating Judges. He noted, however, that during this time the Vietnamese intensified their attack of Phnom Penh.

He was next asked whether being “ultra-vigilant” in B-1 required discovering the enemies that were “gnawing away.” The witness said that he could not answer. He also could not recall an incident where two young women in the Ministry were allegedly found to be treasonous.

The witness was asked whether notes were taken at the self-criticism meetings. He responded that people were responsible for taking their own notes. Mr. de Wilde said he was confused because the witness had previously stated that there were written records of the meetings. But the witness maintained that his section never took minutes of meetings.

The prosecutor inquired whether cadres ever reported at meetings of the Ministry of Foreign Affairs that “people were hungry” and “famine was raging.” The witness said that people did, including himself. He recalled that it was first reported about a month before the Vietnamese arrival.

Mr. de Wilde noted he might not be able to “get away with this” but proceeded to state that in the document that could not be presented, there was a record of people raising concerns about the lack of food as early as 1976. His statement was allowed, so he asked if Saloth Ban was aware of people commenting about the hunger in the provinces in 1976. The witness reported that starvation existed during the war, admitting that some people were starved because the party’s policy was not implemented in all areas.

The witness was then asked when he went to the countryside between April 1975 and January 1979. He responded that he would “sometimes” go with foreign journalists. He commented that while he was in the countryside people told him they were mistreated and did not have enough to eat. The witness could not recall the exact number of trips he made but thought there were at least two trips per year.

Mr. de Wilde asked the witness about the dates and years of different delegations that he led. The witness was shown a few photographs of foreign delegations to refresh his memory. He noted he was frequently not in the pictures because his job was to prepare the lunch but identified Khieu Samphan, Ieng Sary, Nuon Chea, and Ieng Thirith in the pictures. The witness testified that he could not remember whether Ieng Sary accompanied important delegations visiting Cambodia to the “field” between April 1975 and January 1979.

### ***Court Takes Morning Recess***

At this point, the Chamber adjourned for a twenty-minute morning break. Ang Udom, defense counsel for Ieng Sary, made his usual request that the accused be permitted to waive his right to be present in the courtroom and retire to his holding cell to observe the remainder of the day’s proceedings via audio-visual link due to his health concerns. As usual, the President granted the request but required that a waiver be submitted to the court with the defendant’s signature or thumbprint.

### ***Report of Famine in Democratic Kampuchea***

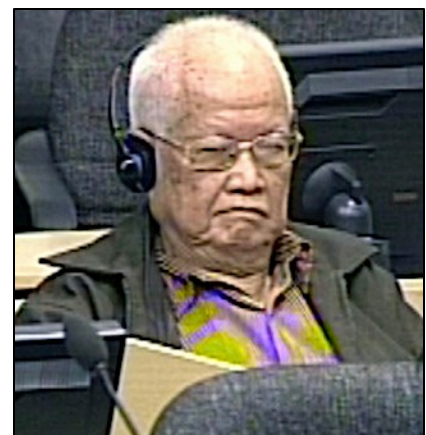
After the break, Mr. de Wilde continued to ask questions regarding the condition of the people, inquiring first whether the information Saloth Ban had reported about people suffering in the countryside prompted a new policy. The witness testified that a circular was issued that instructed leaders to give people proper food.

Mr. de Wilde next called the witness’s attention to a prior interview he made before the Co-Investigating Judges where he is recorded as stating that during the trip he realized that people were going through extreme difficulties, that he reported this to Ieng Sary, and that Ieng Sary then reported it to the Central Committee. The Central Committee developed a new policy, he reported, that both a) declared a leader was “traitor” if he only gave people rice gruel to eat and b) established more stringent requirements for determining a person should be executed. The witness stood by his statement but asked to clarify that the policy had not been implemented because of the arrival by the Vietnamese.

### ***Khieu Samphan and the House in Udong***

Saloth Ban was then asked a series of questions about Khieu Samphan. He testified that Khieu Samphan mainly worked inside and Pang usually worked outside. He also recalled that he saw Khieu Samphan both in Office 870 and the Ministry of Foreign Affairs. The witness failed to answer what Khieu Samphan’s role in the revolution was before April 1975.

The witness was not able to recall whether Khieu Samphan ever came to the Ministry of Foreign Affairs to gather information for speeches. This prompted Mr. de Wilde to show him another section of his prior statement to the Co-Investigating Judges where he stated that Khieu Samphan came to the Ministry of Foreign Affairs to gather information he could use for speeches. The witness testified that he recalled the statement and denied the opportunity to comment.



He was then asked whether Ieng Sary was present when Khieu Samphan came to the Ministry, and the witness stated that he was not.

Saloth Ban testified that he saw Khieu Samphan assist Pol Pot make lists of ammunition in Udong. He denied, however, that Khieu Samphan was involved with military affairs, prompting Mr. de Wilde to ask why Khieu Samphan had been tasked with making lists of ammunition. The witness responded that it was because he was literate and helpful. The witness also testified he also saw Nuon Chea and the messenger from Office 870 at the house in Udong.

Mr. de Wilde asked Saloth Ban why he continued to guard the empty house after the leaders went to Phnom Penh. He responded that it was because ammunition was buried there.

### ***The Infiltration of Phnom Penh and Return of Intellectuals Abroad***

Mr. de Wilde reminded Saloth Ban that the witness had previously stated that he heard soldiers remark that thousands of infiltrators had invaded Phnom Penh. The witness made it clear that he was not a spy expert but noted that in the present time he came to learn that the European intelligence is good enough to invent planes without pilots. Mr. de Wilde asked him if he knew the reason for the evacuation, and the witness said it was because Lon Nol's spies had infiltrated into the city. He was further asked if the evacuation had anything to do with promoting egalitarianism, and the witness reminded Counsel that he was touching upon philosophy.

The prosecutor next asked if the Ministry of Foreign Affairs instructed Cambodian intellectuals abroad to return home between April 1975 and January 1979. The witness responded that the intellectuals returned on a voluntary basis. Mr. de Wilde reminded the witness that he had stated that he attended the United Nations General Assembly with Ieng Sary and asked the witness whether they stopped in Paris on the way to meet with Cambodian citizens. The witness said this was correct but did not know what Ieng Sary told them because he was guarding the luggage. The witness could not recall how many Cambodians returned from Paris during this time period, causing Mr. de Wilde to refresh his memory with prior testimony where he stated, "Several hundred students returned [from France]." The witness confirmed he remembered the statement. He testified that the military received the students, Pang was then put in charge of them, and they were brought to the Ministry of Foreign Affairs.

Saloth Ban was again confronted with his prior testimony where he stated Ieng Sary called on Khmer intellectuals and students to return to the country to help with its rebuilding. The witness asked to explain his response, stating that "those people" wanted to come. He recalled Ieng Sary told them to "stay back" because it was "hard," but the people said they "wanted to come no matter how hard it would be."

Mr. de Wilde then asked what happened to people's passports once they returned from abroad, but the witness did not know. He did state, however, that all of their belongings were kept at the Ministry of Foreign Affairs and admitted it was possible that their passports were kept there as well. Saloth Ban did not know why their personal effects needed to be taken from them.

Saloth Ban was requested to clarify where intellectuals went after returning from abroad. He responded that they were not supposed to go to the Ministry of Foreign Affairs. He was asked

whether some of the people Ieng Sary met in France were put to work in the Ministry of Foreign Affairs, and the witness confirmed that at least one person was. He also testified that those who did not go to the Ministry of Foreign Affairs were entrusted to Pang.

The witness also reported he went to Boeung Trabek with Ieng Sary a few weeks before the Vietnamese came. He was asked whether there were relationships between the Ministry of Foreign Affairs and Boeung Trabek, especially because intellectuals worked at Boeung Trabek. The witness claimed that he did not see a connection.

Mr. de Wilde asked what Ieng Sary did when he went to Boeung Trabek. The witness responded that Ieng Sary helped the people not to be afraid and to be prepared in the event that they could not fight back against the Vietnamese. Saloth Ban said he was put in charge of overseeing the evacuation if the need arose.

Mr. de Wilde asked whether the witness received instructions from Ieng Sary to evacuate the individuals from Boeung Trabek. The witness said that he did not. Mr. de Wilde again refreshed his memory with a prior statement before the Co-Investigating Judges where he said that Ieng Sary told him to rally the intellectuals before the Vietnamese arrived and put them on a westbound train. The witness confirmed the statement. Mr. de Wilde asked him why it was important for the intellectuals to follow the Khmer Rouge while they were fleeing. Saloth Ban replied that they volunteered.

Saloth Ban was confronted with another previous statement made before the Co-Investigating Judges where he testified that some leaders at Boeung Trabek reported to the Ministry of Foreign Affairs. But he was not able to explain why this occurred even though Boeung Trabek was not under the Ministry of Foreign Affairs.

The prosecution announced that it had completed its questioning of the witness.

### ***Court Breaks for Lunch***

At this point, the Chamber adjourned for the lunch break. Michiel Pestman, counsel for Nuon Chea, made his usual request that the accused be permitted to waive his right to be present in the courtroom and retire to his holding cell to observe the remainder of the day's proceedings via audio-visual link. As usual, the President granted the request but required the waiver be submitted immediately.

### ***The Civil Party Lawyers Examine the Witness***

After the lunch recess, Chet Vanly, Civil Party co-lawyer, began the examination of the witness on behalf of the civil parties by asking why the passports and personal belongings of the intellectuals returning from abroad were seized. The witness told her that the military was instructed to do this by Pang, but he did not know the reason. He further noted that he was only responsible for guarding the seized luggage and "did not dare" to open it.

Saloth Ban testified that most of the people returning from abroad came from France and the United States and that some of them were diplomats. He was able to name a few of the diplomats.

The witness was asked where “he” took people once they arrived from abroad. The witness repeated that Pang was responsible for them. When asked where Pang took the people, he responded that after the Vietnamese invaded he learned that the intellectuals were taken to Boeung Trabek. Saloth Ban admitted that he received intellectuals from abroad who were sent to the Ministry of Foreign Affairs.

Saloth Ban was asked whether he and Ieng Sary “strengthened the spirit of” or “educated” intellectuals who returned from abroad. He responded that he never saw Ieng Sary do “this” outside the Ministry. He further testified that Ieng Sary educated people within the framework of “the front.” He recalled Ieng Sary told them people sometimes had to “sacrifice themselves.”

Ms. Vanly requested the witness to explain the work regime and protocol. Saloth Ban explained that he was the Secretary General of the Ministry of Foreign Affairs during the regime and that the title existed in name only. He noted that it would not be possible for him to hold that title today because he does not know any foreign languages. He made clear that he was only a coordinating cadre between the peasants and the intellectuals.

The witness was next asked what sections existed in B-1. He responded that after the liberation the administration at the Ministry was not smooth. He said that he would work “a bit here and bit there” and his main task was cleaning.

Ms. Vanly asked the witness about the people arrested in the 1976 mass-arrest. Saloth Ban reminded her that the mass-arrest was nationwide, explaining that most people were from the rural areas. He noted that during this period several people were sent temporarily to the Ministry of Foreign Affairs and then take away. The witness recalled the name of a person who was taken from the Ministry. Ms. Vanly questioned whether some of the people arrested in 1976 had been called home by Ieng Sary, but the witness could not remember. The witness asserted that Pang was responsible for the arrests but could not confirm whether the upper echelon made this plan.



Moving on, Ms. Vanly asked Saloth Ban to explain what he meant by “major meetings” when he said that Ieng Sary attended all major meetings. He answered that it was the General Assembly and other important events. He was not able to specify how frequently the meetings were held but estimated that there were about two a year.

Saloth Ban was then asked if he knew the prisoners who were detained at S-21, and he responded that he did not. When asked if Ieng Sary knew them, he responded that he was not aware of what Ieng Sary knew. Ms. Vanly inquired whether either Saloth Ban or Ieng Sary kept in contact with the countries whose citizens were being detained at S-21. He reminded her that he had already answered this question, maintaining that he did not know whether there were foreign prisoners detained at S-21.

Ms. Vanly asked Saloth Ban to specify where Boeung Trabek was located. The witness responded that he did not know but admitted that when the “situation was looming” he and Ieng Sary went there to apprise people of the situation. He said he later learned that it was near the Soviet hospital. The witness said he thought Ieng Sary only went to Boeung Trabek once.

The witness again testified that Boeung Trabek was where Pang kept the intellectuals. He recalled that during his visit he learned that the intellectuals included renowned professors and diplomats, almost all of who were educated overseas. He admitted that he had thought to himself that “keeping them there” was not an “appropriate” action. Saloth Ban noted that he went to Boeung Trabek four times, twice with Ieng Sary and twice by himself. He testified that the people living there welcomed them and seemed “happy.”

Saloth Ban recalled that he told his uncle about one man at Boeung Trabek who “was the professor of the professors.” He went on to say that Pol Pot told him to check the man’s credentials to see if he could be put to use by the regime. The witness then put on a cheeky smile and mentioned that he was able to enter K-1 when he brought good things to eat, like fish.

Ms. Vanly asked whether the “professor of the professors” ever worked for Pol Pot, and the witness explained that he told Pang to pay attention to that person. After being asked again, Saloth Ban stated that the man never worked for Pol Pot. Ms. Vanly queried whether the witness ever saw that person again at Boeung Trabek, and the witness responded that he did not. The witness was asked whether he thought the person had been taken away by Pang, but he asserted that he had no idea.

He was next asked if he was aware of Office 21. The witness said he had not heard about it until the Vietnamese troops took control of Cambodia. He asserted that Office 21 was not under the Ministry of Foreign Affairs and he did not know who supervised that office. He admitted that he was “totally blank” about that office.

Ms. Vanly then asked about Ieng Sary’s “elder brother-in-law.”<sup>†</sup> The witness testified that he was responsible for his cremation, noting that there were signs of strangulation on the corpse. He also stated that Ieng Sary’s children were there at the time of the cremation, but he did not know whether Ieng Sary knew about the event. He was invited to comment further but refused because he did not have anything else to say.

When asked about the location of Chrang Chamres, the witness said that it was to the north of Phnom Penh, near the national road. He testified that he did not know when it was established, but the Ministry of Foreign Affairs took charge of it in late 1977. He noted that Ieng Sary appointed him supervisor, and he recalled that it was part of a crop-growing, rice-farming, and fish-raising group comprised of about seventy “base” people from Zone 304. He also took a moment to explain to the court that he did not distinguish between “base people” and “new people.”

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<sup>†</sup> There were significant translation problems at this point making it impossible to surmise whether the questions related to Ieng Sary’s brother-in-law or sister-in-law.



Upon returning from the twenty-minute afternoon break, Ms. Vanly continued on the subject of Chrang Chamres. In response to her questions, the witness said that people could not move around freely and that people had to be “self-reliant” for food. He clarified that people who lacked “necessary” items were provided them by the leadership. He also shared that people ate collectively and had regular self-criticism meetings. Saloth Ban also testified that he reportedly regularly to Ieng Sary, but Ieng Sary rarely came to visit Chrang Chamres.

The witness was then asked what it meant to do something “out of the ordinary.” The witness said that he did not understand what it meant, noting that sometimes he was accused of doing things out of the ordinary.

The floor was then passed to Civil Party Co-Lawyer Elisabeth-Joelle Rabensandratana. She began by asking the witness whether any disciplinary action was taken against Pang after the death by strangulation of Ieng Sary’s relative. The witness said that no action was taken at the time, but he later heard that Pang had disappeared. Ms. Rabensandratana asked the witness whether he thought there was a link between Pang’s disappearance and this death.

Mr. Karnavas objected to the form of the question, arguing it required the witness to speculate. Ms. Rabensandratana responded that she was not asking the witness to speculate – she was simply bringing together two statements. The President sustained the objection by Mr. Karnavas.

Moving on, Ms. Rabensandratana asked the witness to explain how he had the authority to go to Boeung Trabek to talk about the “professor of the professors” when it was under Pang’s leadership. The witness clarified that the meeting was not at Boeung Trabek.

The counsel reminded the witness that he stated he went to Boeung Trabek before the Vietnamese arrived to evacuate the soldiers and asked what authority he had over the soldiers. Mr. Karnavas again objected because he did not recall any testimony where the witness said he went there to vacate soldiers. Mr. de Wilde interjected that the statement appeared twice in his notes. Mr. Kong then added that Saloth Ban went to Boeung Trabek to evacuate the intellectuals, not the soldiers. Ending the argument, the President sustained the objection. But Ms. Rabensandratana noted that it appeared that the French translation did not correspond to the Khmer and English version.



Ms. Rabensandratana next asked the witness if he often saw Pang in Office 870. The witness responded that he did. He was asked what Pang’s duties were, and he responded that Pang had the right to travel everywhere and enter every office, but he clarified that Pang only had freedom of movement within Phnom Penh.

Saloth Ban was asked who chaired the 870 committee after Pang was arrested. The witness explained that Pol Pot and Nuon Chea were also in the leadership role. Ms. Rabensandratana repeated that her question was actually who replaced Pang after his disappearance, and the witness

testified that he did not know about it “at the time.” She asked about his knowledge on this issue “today,” and the witness responded, “Even today I still do not know.” He noted, however, that things were “chaotic” after Pang left.

Ms. Rabensandratana asked Saloth Ban if they could say he was a “*de facto*” replacement in that office. The witness looked surprised and exclaimed, “Me?!” Mr. Karnavas noted that there might be a problem with the translation, because the witness never testified to the facts to which that Counsel was alluding. Anta Guisse, co-lawyer for Khieu Samphan, added that she was listening in French and thought the problem was with the translation. The President advised Ms. Rabensandratana to rephrase, but she refused to do so because she thought it had been answered satisfactorily.

### ***Memories of the Deceased Intellectuals?***

Ms. Rabensandratana next showed the witness a photograph to see if he could offer any insight into what happened to the person, who she reported had been living in France before being sent to Boeung Trabek and then S-21. The witness could not recall any part of this person’s story. He was also asked whether he thought Ieng Sary might have been aware of the story, but the witness responded that he could not comment for Ieng Sary. Ms. Rabensandratana questioned whether people commonly left the Ministry of Foreign Affairs without Ieng Sary being informed. Saloth Ban said that sometimes it did happen without Ieng Sary’s knowledge.

Ms. Rabensandratana inquired whether issues of people disappearing were discussed in the Ministry, and Saloth Ban told her that people remained silent. She informed him that the person they were discussing was well-known, asking if he still stood by statement that no one in the Ministry spoke about his disappearance. Mr. Karnavas objected because a foundation had not been laid, and the objection was sustained.

Ms. Rabensandratana turned to a photograph of a man who was an associate professor of law. She noted that it was important that the Cambodian elites appear on Cambodian television. After she put his picture on the screen, she started to recite his life story. Mr. Karnavas objected because she was testifying rather than asking a question. He noted that the Civil Parties had to “behave” like the rest of them and not “make speeches and testify.”

Ms. Rabensandratana said that she could not hear the comments made by Mr. Karnavas because her headset was not working, but she continued to another question, asking the witness who issued instructions for people’s biographies to be obtained at B-1. Saloth Ban said that he did not know. She attempted to get a document into evidence, apparently on the grounds that it is hard for the Civil Parties to establish the truth.

Mr. Karnavas took the floor and contended that this line of questioning was “not terribly helpful” because this witness did not have the capacity to answer the questions. Ms. Rabensandratana responded that it was clear that the witness knew about obtaining biographies and pleaded with the President to understand that the Civil Parties were shedding a “human light” on the subject. The President asked her to be mindful of the time and asked her how much additional time was needed. She asked to talk about “one more photograph.”

She was allowed to proceed and asked the witness about a couple who had perished during the regime. The witness again told her that he had not heard of them.

The President asked Pich Ang, national Civil Party lead co-lawyer, to read the names of the people in the photograph in case the issue was how their names were being pronounced. After the names were read in Khmer, the witness still insisted that he did not know the couple. After several failed attempts to question the witness about a couple he did not know, the President interrupted the Civil Party lawyer, thanked the witness for his testimony, and adjourned court. He noted that the proceedings on Thursday, April 26, will begin with questions by the Bench, followed by the witness examination by Ieng Sary's defense team.