



Civil Party: “We Were Living in a Prison without Walls”

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Hearings at the Extraordinary Chambers in the Courts of Cambodia (ECCC) resumed in an eventful manner on Tuesday, December 4, 2012, after a week-long break observing the Cambodian Water Festival. The Trial Chamber commenced the day by ordering accused person Ieng Sary to participate in the proceedings from his holding cells² despite his revocation of a waiver of his presence in the courtroom during certain testimony and strenuous opposition from his counsel Michael Karnavas.

Following this episode, former Khmer literature professor Ting Sokha offered detailed testimony on the fate of evacuees during the first and second phases of evacuation during the period of Democratic Kampuchea (DK). She concluded with a particularly vivid statement of suffering, in which she likened the evacuation of Phnom Penh to a bomb being dropped on the families of the city, “exploding and shattering” them all in “one sudden movement.”

Contentious Debate over Ieng Sary’s Participation

In the audience today were 44 Khmer Rouge survivors, including civil parties, complainants, former Khmer Rouge, and villagers, including some from the Kampuchea Krom ethnic group,

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>.

² For further information on this order, see Anne Heindel, Expert Commentary on Legal Filings: Trial Chamber Decides that Accused Ieng Sary Is Fit and May Be Ordered to Participate by Video-Link (Nov. 30, 2012), at <http://www.cambodiatribunal.org/sites/default/files/commentary-pdfs/CTM%20Heindel%2012-11-30.pdf>.

brought to court by the Documentation Center of Cambodia (DC-Cam) from provinces all over the country, namely Battambang, Pursat, Sihanoukville, Siem Reap, Preah Vihear, and Kampong Cham. They were joined by 167 high school students from the Pour un Sourire d'Enfant Institute in Phnom Penh, together with 100 villagers from Kandal province whom the ECCC had brought to the proceedings, and the French historian and Khmer Rouge expert Henri Locard, a regular audience fixture.

At the outset of hearings, Trial Chamber Greffier Duch Phary noted that accused Ieng Sary was attending the proceedings from the holding cell due to health reasons. This seemingly innocuous and routine beginning would catalyze a hotly-contested debate over fundamental fair trial rights. Adding to Mr. Phary's comment, Trial Chamber President Nil Nonn first noted that the Trial Chamber had issued a decision on November 26, 2012, authorizing Ieng Sary to participate in the proceedings from the holding cell pursuant to Internal Rule 81.5,³ for the benefit of fair trial rights. However, on December 3, 2012, Ieng Sary withdrew his previous waiver of his presence in the courtroom, allowing him to instead follow the proceedings from the holding cell, in particular during the hearing of the testimony of civil parties.

The president advised that before the hearing this morning, the accused's treating doctor at the ECCC detention facility examined Ieng Sary's health and found he was easily fatigued from slight movement, had chest troubles, could not eat much, and was vomiting. The doctor recommended that Ieng Sary not participate in the proceedings directly in the courtroom but follow the proceedings from the holding cell so that the doctor could monitor his health appropriately. Therefore, the Chamber ordered the accused to follow the proceedings from his holding cell through audio-visual means.

At this juncture, International Co-Counsel for Ieng Sary Michael Karnavas noted that there may have been a mistranslation: on December 3, Ieng Sary insisted on being present in court and not participating indirectly downstairs in the holding cell. Along with his withdrawal of waivers, his counsel had also filed notice regarding the relevant international law on this issue. They had further asked the ECCC's treating doctor to testify as to Mr. Sary's state, because when the Ieng Sary defense team asked whether Mr. Sary was in a position to participate in the manner suggested by the Court's medical expert, Professor John Campbell,⁴ the treating doctor had laughed out loud. Mr. Karnavas said that Ieng Sary was not mentally fit because he was unable to concentrate.

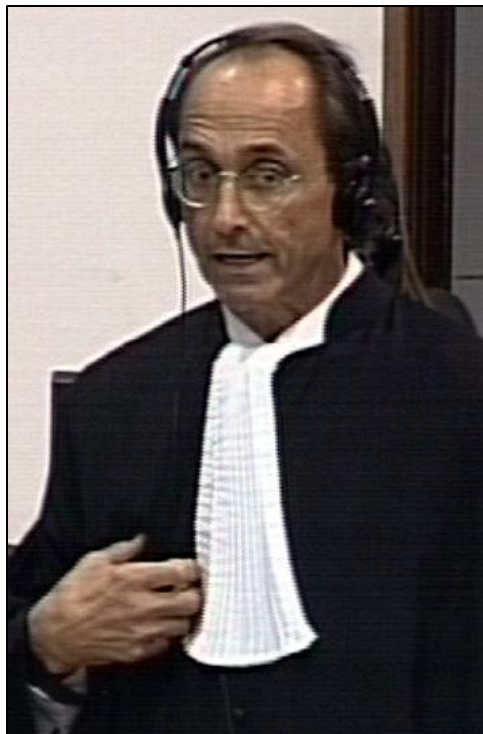
If the Trial Chamber insisted on Mr. Sary being present in the holding cell, Mr. Karnavas said there were a number of options as to the way forward:

- The monitor should always be fixed on Ieng Sary so that everyone, including the public, could see his state;

³ This rule provides, in relevant part, that "Where, due to health reasons or other serious concerns, the Accused cannot attend in person before the Chamber but is otherwise physically and mentally fit to participate, the Chamber may either continue the proceedings in the Accused's absence with his or her consent or, where the Accused's absence reaches a level that causes substantial delay and, where the interests of justice so require, order that the Accused's participation before the Chamber shall be by appropriate audio-visual means."

⁴ Cambodia Tribunal Monitor's past blog post on this testimony is available at <http://www.cambodiatribunal.org/blog/2012/11/ieng-sary-remains-fit-stand-trial-medical-expert-testifies>.

- Mr. Sary could be brought into Court, which was indeed Mr. Sary’s own preference, although on this point, Mr. Karnavas said he could understand why the Trial Chamber would not want Ieng Sary to be present and for there to be a record of his condition; or
- A member of the defense team could always be in the holding cell videotaping Mr. Sary’s condition.



Mr. Karnavas alleged that the Trial Chamber held a secret meeting with the Office of the Co-Prosecutors (OCP), the Defense Support Section (DSS), and the Office of Administration to which the Ieng Sary defense team was never invited, and in which the Trial Chamber discussed the facilities. He wished to hear from Ieng Sary’s treating doctor at the ECCC so that they could make a record. While he said he understood the Trial Chamber’s imperative to finish the trial while Ieng Sary was still alive, he insisted that his duty was to ensure Mr. Sary received a fair trial and avoided a “charade” such as the present one, as the defense did not wish to “substantially contribute to this affair unless [Mr. Sary’s] rights are fully and fairly protected.”

International Deputy Co-Prosecutor William Smith was given the floor, although International Co-Counsel Andrew Ianuzzi sought to speak first. Judge Silvia Cartwright could be heard whispering, “Stop him,” to the president, while Mr. Ianuzzi could be heard making submissions, although, as his microphone was cut off, these comments were not audible. The president said that the floor would first be given to the prosecution and then to Mr. Ianuzzi.

Mr. Smith submitted that the Trial Chamber judges had correctly noted in their November 26, 2012, decision that according to its medical expert Professor Campbell, Mr. Sary would be more comfortable in the holding cell where he would have access to a bed, quicker access to bathroom facilities, and a doctor present to care for him. Bringing Mr. Sary to the courtroom would only make him less comfortable and would not be the right thing to do, he argued. The fundamental issue which Mr. Karnavas rightly discussed, Mr. Smith asserted, was whether Mr. Sary had an ability to follow the proceedings substantially, which was not a question of where the accused followed the proceedings but whether he could substantially follow the proceedings through audio-visual means, as permitted by Internal Rule 81.5.

The Trial Chamber had heard expert testimony on this matter, Mr. Smith went on, and all three experts who had examined Mr. Sary had said he was both mentally and physically fit to participate in the trial and recommended him to do so from the holding cell.⁵ While it was normal to expect someone of Mr. Sary’s age to have a need for extra care, he argued, the Trial Chamber’s November 26, 2012 decision had been based on determining whether Mr. Sary could

⁵ Apart from Professor Campbell, the other two experts to whom Mr. Smith appears to be referring are Court-appointed medical experts Professor Seena Fazel and Dr. Huot Lina.

participate meaningfully and fully, and nothing Mr. Karnavas said was consistent with what had been heard in court.

If Ieng Sary lay still and did not move around, as had been recommended by the Court's medical experts, the prosecutor continued, Mr. Sary would be able to follow the courtroom proceedings. As for Mr. Karnavas stating that the ECCC treating doctor laughed when asked whether Mr. Sary could participate in the manner suggested by Prof. Campbell, Mr. Smith said it was unclear to what this response indicated. The fundamental question under Internal Rule 81.5 is whether the accused was able to follow the proceedings, Mr. Smith asserted, and as such, he asked that the Trial Chamber satisfy themselves in their mind that Mr. Sary be able to follow the proceedings today. While recognizing the fragility of Mr. Sary's health, he insisted that it must be assessed on a day-by-day basis. If the Court could satisfy itself that the accused was able to follow the proceedings, either from the courtroom or in the holding cell through audio-visual means, he concluded, it would be in the interests of justice to continue.

Adding to the prosecution's comments, International Lead Co-Lawyer for the civil parties Elisabeth Simonneau Fort first noted the change in what the Ieng Sary Defense Team had said, stating that Ieng Sary had previously waived his right to be present for the upcoming civil parties and yet now had made a "U-turn" in his position. She wished to know why this was the case. Second, Ms. Simonneau Fort noted that in keeping with Mr. Sary's rights, the Chamber had made decisions regarding Mr. Sary's health and ongoing participation. As it was "always" said that Mr. Sary was able and not "half unconscious" as his team was suggesting, she concluded, it was therefore appropriate to continue proceedings.

Granted the right to respond, Mr. Karnavas said that Mr. Smith misstated and misled the Trial Chamber as to his team's position: his team never said that Mr. Sary was mentally ill and suffering from dementia; they said that because he was physically ill, he was unable to follow the proceedings. It was a day-to-day situation and, indeed, an hour-to-hour or moment-to-moment situation Mr. Karnavas insisted, and the fundamental question was how to monitor Mr. Sary's condition. He asserted that it was insufficient for the court to say Mr. Sary was downstairs and could follow the proceedings on television, as this would be analogous to saying that Mr. Karnavas was present in a living room, on a couch, with the television on but being fast asleep. In response to Ms. Simonneau Fort, Mr. Karnavas countered that whether Mr. Sary took a "U-turn" or not was irrelevant, as his right to exercise his rights was a continuing one and Mr. Sary and his team now insisted that he be present in court to participate.

Based on Internal Rule 81.5, Mr. Karnavas continued, Mr. Sary was not physically and mentally able to participate effectively from the holding cell. The prosecution is only focused on finishing this trial and securing a conviction, he claimed, but to achieve that by having Mr. Sary participate in this manner amounted to a trial *in absentia*. The mere physical presence of Mr. Sary is not enough, he concluded.

The Trial Chamber judges huddled in deliberation for some minutes, after which the president gave the floor to Mr. Ianuzzi. "I'd just like to begin by saying what I tried to say--" Mr. Ianuzzi began but paused, noting that the president and Judge Cartwright had huddled in brief conference. The president then said that Mr. Ianuzzi could make comments regarding Mr. Sary's

health if his comments were within the ambit of Internal Rule 81.5. Mr. Ianuzzi said he had nothing to say regarding Mr. Sary's health as Mr. Sary was not his client, but that he supported the Ieng Sary defense team. "This Court should not in the business of keeping up appearances," he insisted, stating that Mr. Sary had rights and that those rights needed to be defended and protected. He then asked the president whether it would be making a ruling about this issue now, as he had some comments regarding other issues. The president acknowledged that it did indeed have to rule upon this matter immediately and that the bench would retire for 30 minutes to deliberate.



Ieng Sary Ordered to Participate from Holding Cell

After a 15-minute deliberation by the judges, Judge Cartwright delivered the Trial Chamber's decision on the various applications concerning Ieng Sary's fitness to participate in trial made by Mr. Karnavas on his client's behalf. She stated:

The Trial Chamber has as its starting point the decision on the fitness of Ieng Sary to participate in the trial. That decision was based on consideration of all the relevant expert testimony and evidence and after having granted the parties an opportunity to present submissions.

With that as its starting point, however, the expert indicated that Ieng Sary's physical condition may well change from time to time, and the Trial Chamber is conscious of that and of its responsibility to keep his physical condition under constant consideration.

With that in mind, the doctor treating Ieng Sary issued a medical report this morning to the Trial Chamber based on his examination of the accused today. In English, the summary is that Ieng Sary cannot follow the proceedings from the courtroom. The doctor went on to request that he be permitted to follow proceedings from the holding cells, which would enable the doctor to more readily monitor Ieng Sary's physical condition.

In consequence, [regarding] the applications made today by international counsel, the Trial Chamber must make the preliminary point that in assessing Ieng Sary's fitness to stand trial, it can rely only on medical opinion. It has decided that in accordance with the provisions of Rule 81.5, the difficulties caused by having Ieng Sary come to the courtroom would reach a level that might cause substantial delay to the trial. For that reason, it has decided to direct Ieng Sary to participate from the holding cells.

In making this decision, it also takes into account that all technical support to facilitate his participation is available in the holding cells, including a direct telephone line to his counsel. The Trial Chamber also bears in mind that participation from the holding cell was recommended by the expert for that reason, namely that there are the technical facilities to enable him to participate. But as importantly, the physical facilities recommended by the expert make the holding cell more appropriate, given Mr. Ieng Sary's physical circumstances, than the courtroom itself.

As to its ongoing obligation to monitor Ieng Sary's fitness, the Trial Chamber will rely on the treating doctor to alert it to any substantial change to Ieng Sary's physical condition, and it needs to be emphasized that it is medical monitoring that it is required, not monitoring by the judges or defense counsel personally, or by the public. For that reason, the Court decides to rule that Ieng Sary not be videotaped while he is in the holding cells. It will rely on his treating doctor to bring any concerns about his condition while in the holding cell.

The other application by his international counsel is that the doctor be examined in court today. The medical report is sufficiently clear for the Trial Chamber, and it has decided that there is no need for the treating doctor to be called to elaborate on that report in any way.

Ieng Sary Defense Team Requests Permission to Videotape Mr. Sary in Holding Cell

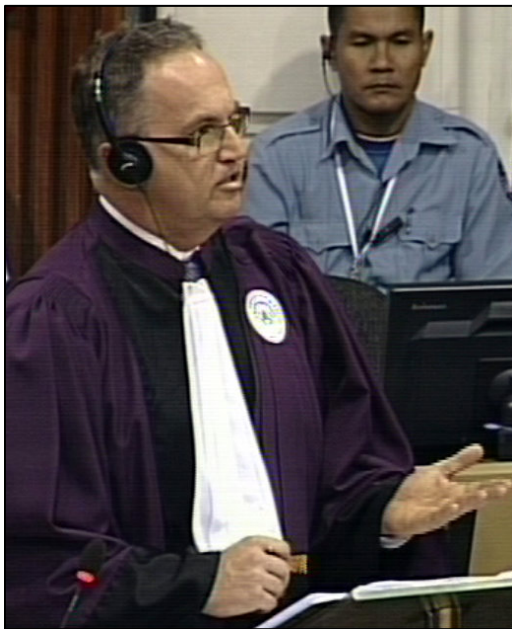
Mr. Karnavas sought a point of clarification before his team made a decision it did not take lightly. He said his understanding was that the Trial Chamber did not want any monitoring of Mr. Sary other than by his treating doctor, so the doctor might, for example, just watch Mr. Sary while he was asleep. This meant, according to Mr. Karnavas, that the Trial Chamber was trying to avoid having a record made of Mr. Sary being asleep while purportedly participating.

Mr. Karnavas asked whether his team would be prevented from making a contemporaneous record of Mr. Sary's condition while in the holding cell. Mr. Karnavas noted that Mr. Sary could not reach for the telephone anyway and would be no good to his team if half asleep. If they were not permitted to make such a contemporaneous record, his client would be unable to participate in the proceedings further, Mr. Karnavas stated, as monitoring of Mr. Sary's health by the ECCC treating doctor was not the same as monitoring participation in the proceedings.

At this juncture, the Trial Chamber judges huddled around their translator, again deliberating for some minutes. Upon resuming their seats, Mr. Smith stated that the Office of the Co-Prosecutors (OCP) thought it wise to have Mr. Sary monitored in the holding cells. He added that in the ECCC detention facility, there was a health report book where health status could be recorded and that information as to any deterioration in health should always be recorded. He questioned, however, whether videotaping Mr. Sary's condition could be of much use, noting that Mr. Sary had not complained to Prof. Campbell that he would fall asleep throughout the day. Reminding the judges once again that Prof. Campbell had testified to Mr. Sary's capability to follow the proceedings, Mr. Smith concluded that whether Mr. Sary chose to follow the proceedings was up to him.

Mr. Smith then said the OCP did not get an opportunity to respond to Mr. Karnavas's earlier remarks and took exception to the remarks by the defense that the OCP did not care whether Mr. Sary participated, but just wanted to secure a conviction. These remarks were offensive, he asserted, as the OCP was committed to a fair trial, and the public should not think that that kind of "slandorous and unsubstantiated behavior" was acceptable. He entreated that the Chamber, in future, admonish the defense for such remarks.

"Here they go again," Mr. Karnavas countered, insisting again that Mr. Sary's health could be monitored but his participation could not. He asserted that, if the OCP did have an interest in Mr. Sary's fair trial rights, they would support the Ieng Sary Defense Team's submissions. "Why is the prosecution or anyone else for that matter in this courtroom afraid of making a record? Why not have a little sunshine?" he continued.



The president interrupted at this point, advising Mr. Karnavas not to "reopen this Pandora's box" as he was only permitted to reply to the OCP's submission. Mr. Karnavas responded that the point he wanted to make was that there was a difference between monitoring medical fitness and monitoring fitness to participate.

Mr. Smith responded in turn, and to "correct the record", arguing that the OCP did not state that they objected to the videotaping or that the accused should not be monitored. Rather, he countered, they said that Mr. Sary should be monitored by the doctor or a caregiver and that his condition should be recorded in the record book. Mr. Karnavas seemed to forget the argument presented and then went off "on a tirade of his own," the prosecutor asserted.

After deliberating for several minutes, the president handed the floor again to Judge Cartwright to explain the Chamber's decision on this second application, adding that he hoped it would "ultimately resolve" this issue. Judge Cartwright explained as follows:

The Trial Chamber has already ruled that it will not direct the videotaping of the accused in the holding cells, and it does not intend to amend that ruling in any way. Normally, the Chamber does not allow counsel to seek clarifications or to raise or repeat arguments about a ruling that has been made. On this occasion, exceptionally, it allowed it.

The primary issue for the Trial Chamber is the medical assessment of Ieng Sary's fitness to participate in the trial. Therefore, medical monitoring of his condition is important to keep the Chamber and the parties informed of Ieng Sary's medical condition should it change. That is one of the reasons why it is appropriate for him

to remain in the holding cells where the doctor can keep him under constant review.

The Ieng Sary defense team may, if it chooses, keep a staff member in the holding cells to monitor his condition. That staff member may, if it chooses, draw the attention of the treating doctor to any concerns he or she may have as to [Mr. Sary's] condition. However, no videotaping will be permitted.

Nuon Chea Defense Team Revisits Issues on Civil Parties' Statements of Suffering

After Judge Cartwright had completed the announcement of the bench's ruling, Mr. Ianuzzi informed the court that he had some "unfinished business" concerning the hearing on November 23, 2012, and the testimony of civil party Ua Ry.⁶ Mr. Ianuzzi attempted to take the floor several times before he was finally permitted to offer three points about the civil party's statement of suffering. He stated:

1. The Nuon Chea defense team took no exception to civil parties putting requests to the Chamber to ask questions of an accused, as civil parties are full parties to the proceedings and are allowed to make requests to the Chamber like any other party. But civil parties' rights as civil parties stop there, he insisted; if the accused exercise their right to silence, this right is curtailed if a civil party is allowed to ask questions to them.
2. When the president permitted Mr. Ry to put questions to accused Khieu Samphan through him, Mr. Ianuzzi recalled, International Co-Counsel for Khieu Samphan Anta Guissé stood to state her client's position. The president insisted Ms. Guissé sit down as he was speaking directly to Mr. Samphan, "quite unreasonably" according to Mr. Ianuzzi; at this point, Mr. Samphan stood to stipulate on his own his right to silence. Mr. Ianuzzi said that when the defense counsel stood, they were speaking for their client, and there was no reason to "drive a wedge between counsel and parties." He suggested that the president acquaint himself with the Code of Judicial Ethics of both the ECCC and Cambodia generally.



Before Mr. Ianuzzi could make his third point, however, the president cut him off with a smile, stating that the Court had heard enough from Mr. Ianuzzi. He also noted that Mr. Ianuzzi had made mistakes in his statement and did not even recall the correct name of the civil party whom he was discussing — the civil party in question was not Ua Ry but Chau Ny.

Mr. Ianuzzi conceded that this was indeed an oversight. He sought to make his third point but was again cut off. The president stated that the Trial Chamber took note of Mr. Ianuzzi's remarks and it was a lesson for the Chamber to improve proceedings in future. He then permitted Mr. Ianuzzi to make his third point, which was as follows:

⁶ Cambodia Tribunal Monitor's blog post on this testimony is available at <http://www.cambodiatribunal.org/blog/2012/11/civil-party%E2%80%99s-challenge-khieu-samphan-account-disappeared-creates-drama-and-tension>. As noted in later exchanges, Mr. Ianuzzi intended to refer to the testimony of civil party Chau Ny, not Ua Ry.

3. During this same civil party's testimony, an exchange occurred between Ms. Guissé and Judge Lavergne as to the issue of whether the defense counsel would be allowed to recall a civil party in the event where, for example, a civil party raised a new issue in his or her statement of suffering that perhaps implicated the accused. As Mr. Ianuzzi recalled, Judge Lavergne "seemed quite interested in discussing that with his colleagues." During this deliberation, he continued, Judge Cartwright was overheard saying, "No, no, no," and that objection should not be allowed, at which point the president said no. Mr. Ianuzzi inquired whether they were indeed appearing before the Trial Chamber or a "Nil Nonn-Silvia Cartwright clique."

The president thanked Mr. Ianuzzi for his comments. He clarified that the bench had followed two practices thus far: either following the president's discretion or following a bench decision. Minor procedural matters, such as adjournments, were for the president, he explained; more important matters were for the bench. While he had sought thus far to follow the procedural rules, the president acknowledged, there could be mistakes made in the exercise of certain discretions. He then noted that the court would instead take an early lunch recess.

Permitted to make one final comment, Mr. Ianuzzi stated, "If the seating arrangement were different, I suspect the discretion of this Court would be exercised in a very different manner."

Realizing that the time was not in fact yet appropriate for an adjournment (as it was an hour before the usual lunch hour), President Nonn accordingly invited the waiting civil party into the courtroom to begin her testimony.

Civil Party Ting Sokha Testifies on Events Prior to April 17, 1975

Under questioning from the president, bespectacled, 65-year-old civil party Ting Sokha testified that she was born on February 25, 1947, in Kampong Cham province. She now lives in Phnom Penh and is a retiree. A widow, Ms. Sokha has had three children, although one of them died during the Democratic Kampuchea (DK) regime.

National civil party co-lawyer Sam Sokon commenced questioning of Ms. Sokha, advising her that he would discuss three topics: the events prior to April 17, 1975; the first phase of evacuation; and the second phase of evacuation. Beginning with the first topic, Mr. Sokon asked the civil party where she lived before April 17, 1975. Ms. Sokha responded that she lived on Street 105 along the sewage canal near Tuol Tum Pong pagoda.⁷

Until April 16, 1975, Ms. Sokha testified, the circumstances in Phnom Penh were as follows:

There was fighting, shelling, and bombardment. We heard gunfire near and far. We also heard shelling. Some people and my relatives were fleeing from various locations. I had some relatives fleeing from Tuol Kork and Teuk Laak, and they came to my house to take refuge. There were some other relatives who arrived at my house from Kampong Speu province. Another younger relative came from Tuol Kork. That relative came with the entire family. Due to the confusing

⁷ This is a location in Phnom Penh.

situation and too many relatives, I could not identify which ones were living on which floor and which went into the trench. During the calm time on April 16, my mother went to give an offering to the monks at the pagoda, but most of the time, we stayed in the trench.

First Phase of the Evacuation

Ms. Sokha explained that her family was evacuated on April 17, 1975, elaborating that in the morning, before they evacuated, there was “sporadic shelling” and they were scared. On that day, some relatives returned to their homes in Tuol Kork and Teuk Laak, she recalled, while her parents went with some other relatives to Boeung Keng Kang and her brother and his family went to Teuk Laak. “He was so afraid and his face turned pale and white,” she added. Another relative who fled from Tuol Kork to her house was pregnant and had a child. “At that time, it was rather confusing. I didn’t actually notice who came and who went,” she concluded.

Next, Mr. Sokon asked the civil party to testify on the actual evacuation of her family from Phnom Penh. She explained:

It was in the afternoon. I saw people walking in front of the house, and I saw some Khmer Rouge. They were not armed. I also noticed that my neighbors came into the street, so I went outside and we listened to what was spoken by the Khmer Rouge. They instructed us to leave for three days and there was no need for us to take belongings. So we went back into the house and discussed that, and we decided to leave. We were afraid, and we had been ordered to leave by 5 p.m. We packed some belongings, but they were only light belongings. ... At the time ... there were 14 of us in total. That was at 5 p.m. on that day.

Pressed for the specific details of the Khmer Rouge orders to evacuate, Ms. Sokha added that the Khmer Rouge told the civil party and her neighbors that they had to leave for three days and that they would then be permitted to return. “At that time, there were already people on the street” evacuating, she noted. As to the direction in which Ms. Sokha and her family were evacuated, the civil party explained:

We walked towards the south, and then we turned to Monivong Boulevard. My house was almost at the corner, so we took a turn, passing the Monivong Boulevard, walking past the faculty of law.⁸ By that time, there was already a crowd of people on the street. ... I did not know where to go to, but we were instructed to leave, so we left. Our house was to the south of Phnom Penh, and as people were traveling from the north to the south, I just decided to go with the



⁸ This appears to be a reference to the Royal University of Law and Economics.

flow. We didn't have any destination in mind because we thought we were traveling for three days only.

Mr. Sokon asked Ms. Sokha whether any Khmer Rouge assisted people during the evacuation. The civil party denied this, although she did recall seeing "quite a number" of "pretty young" Khmer Rouge soldiers in front of the law school. While the civil party also denied seeing any killing of Lon Nol soldiers on that day, Ms. Sokha did recall encountering corpses along the riverbank and later in her testimony mentioned seeing a beheaded body, whom she believed to have been a former official or soldier of the Lon Nol regime as he was wearing khaki fabric.

Regarding the treatment of the elderly and sick, Ms. Sokha testified:

During that time, elderly people (70 years old or above) had a very difficult time. One of my uncles had hearing problems. He couldn't hear anything, and he had to walk together with other people. One of my relatives who got injured on April 17, she [had a] seriously injured ... leg, and she had to walk with a lot of other people. ... I also met some people we knew. We knew that an elderly woman wandered around aimlessly, and later on, we never saw her again. She just disappeared.

Regarding whether the belongings the civil party's family brought with them were confiscated, Ms. Sokha explained that her family hid their gold and jewelry in a small bag during the evacuation but later needed to exchange it for food and other items needed for survival. When they reached Takeo province, she recalled, their radio was taken from them to be "offered to Angkar as Angkar needed it and we had no reason to claim the radio back."

The civil party recounted that her initial evacuation from Phnom Penh ended at Knal Dach village, Bati district, Takeo province, where some of her family stayed because they had relatives there. However, her father and some other relatives continued on to Kampong Speu despite hearing that some people had been killed there by aerial bombardments.

Questioned at this point as to whether people took refuge at pagodas, Ms. Sokha could not elaborate on this, noting only that she passed two pagodas along the way.

Returning to the chronology of her family's evacuation, Ms. Sokha said that upon reaching Bati district, Takeo province, she reunited with some of her family members and was allowed to live in their house. Other evacuees had made their way to this location as well, she recalled, though noting that they were later separated. The civil party could not recall whether her biography was taken while she stayed in Bati, but she believed that "people all knew my background. My family all knew that I was a schoolteacher. ... I think there were several occasions that people came to ask me what I did and I said I was a schoolteacher. I did not tell a lie."

Ms. Sokha lived in Bati "for quite a long time, perhaps about five months." She did not record this more precisely, she said, because she had to focus on her work of "collecting leaves or chopping tree branches." She was also separated from her family members. At the beginning in Bati, people were permitted to move about freely, she noted but eventually, they were forced to

live separately. Ms. Sokha concluded, “Later on, we learned that some of our family members were sent to Kraing Ta Chan.”⁹

Second Phase of the Evacuation: “We Were Reduced to Not Being Human but Monkeys”

Describing the second phase of the evacuation, Ms. Sokha explained how she had been transferred on three occasions, including being moved to Trapeang Ang, which was “the place where intellectuals or educated people would be brought together to live” in a long house built to accommodate them. This second wave of evacuation occurred during the rainy season, she recalled, perhaps in July or August. “We were not told where we were going; we were only told that we would be taken to a new village” in Pursat province, Ms. Sokha continued. “We were loaded onto trucks ... None could escape.” The truck had no seats, she said, and the passengers were had to sit on the floor of the truck. She continued, “Our names would be called by people to get on the trucks. We could carry with us some belongings, some buckets, but we were not allowed to bring with us any knives or machetes. They told us we did not need to bring these with us as these would be ready in the place where we were going to.” The driver and “co-driver” wore black clothes, she stated, identifying them as “people from the transport unit”; she did not know whether they were soldiers, however.

Recalling the trip, Ms. Sokha testified, “The road was not good. We had a bumpy ride. When we got on the train before we reached Pursat, I heard gunfire and I was told that people were trying to escape. That’s why they were shot at.”

While she denied seeing any dead people, the civil party confirmed that she did encounter sick people, “people who had diarrhea.” Asked by Mr. Sokon how the Khmer Rouge treated such people, Ms. Sokha replied that the soldiers did not come to check what was happening at the back of the truck. How was the condition of these sick people? Mr. Sokon pressed. The civil party replied:

Every passenger was very sad. People could not say anything. People had to be squeezed together at the back of the truck. We would eat our food. Since our ride was a bumpy one, I could not carry my child. I had to make sure that she could lie down and I could offer her some food.¹⁰ We were not allowed to stop for our meals.

The civil party clarified that there were no Khmer Rouge soldiers sitting at the back of the truck.

Mr. Sokon asked Ms. Sokha to clarify whether one of her children died during the DK period. The civil party confirmed this, explaining that her second daughter died when they reached Battambang during the second phase of evacuation. She recalled, “She died because of lack of food. Her body became swollen. She had experienced severe diarrhea. Without proper medical service, she died by early 1976.”

⁹ Kraing Ta Chan is alleged to have been one of the largest Khmer Rouge security centers in operation during the DK period.

¹⁰ In the English translation, the gender of this child was said to be male, but this is presumably an error, as in other parts of the civil party’s testimony, the civil party testifies that the two children she had during the DK period were both female.

Next, Mr. Sokon asked the civil party what difficulties she had encountered. Ms. Sokha replied:

I have suffered greatly already, mentally and physically, from the day we left Phnom Penh. I lost my parents, friends and relatives. By the time we reached Thnal Dach, we reunited with family members. I was very happy to see them but then we separated again. I was demoralized. But the time we reached Battambang, the situation was so serious. I was alone in the jungle. I was helpless. There was no shelter, no food, no medicine. We had to collect bamboo and wood to build our homes. We started from scratch. I did not know any person there I had known before. We had to start a new life. A lot of people got seriously sick and died every now and then.

The memory of Battambang still lives with me. I ... I did not have anything to eat; ... I had to eat worms that were not edible. We were reduced to not being humans but monkeys. We had to eat every kind of leaf we could put our hands on. ... Freedom was also limited.

The president then reminded to Mr. Sokon that Ms. Sokha would have an opportunity to express her suffering at the end of her testimony and that Mr. Sokon should cease this line of questioning. With this, the civil party lawyer indicated that he had no further questions, and Ms. Simonneau Fort rose to continue questioning on the part of the civil parties.

Further Clarifications from the Civil Party

Redirecting the civil party back to her time in Phnom Penh, Ms. Simmoneau Fort asked Ms. Sokha to indicate the ages of her children just before the evacuation. Ms. Sokha advised that they were 6 and 3, respectively. Asked what her profession was before the evacuation, the civil party replied, "I was a schoolteacher before 1973. By 1974 or 1975, I was a teacher trainee."¹¹

Ms. Sokha denied hearing the Khmer Rouge soldiers mention the word "Angkar" when they ordered Phnom Penh residents to evacuate. She described the soldiers as "carrying short guns and wearing caps." As to whether the Khmer Rouge offered any additional reasons for people to evacuate, Ms. Sokha said the people were told only that they "were not supposed to mingle with the enemies. She explained that the soldiers told them to evacuate "jokingly." "I could see that they were not very serious with their tone," she concluded.

Since the people were not aware of what would happen if they remained in Phnom Penh, Ms. Sokha explained, they held "some level of belief" in the reasons offered by the Khmer Rouge for the evacuation. "We were at that time convinced that we would be able to come back. That is why we walked rather slowly, because we wanted to buy time," she testified. "No one could explain to us the reason for the evacuation for these three days."

The president then explained that as the DVD had run out of space, the Chamber would adjourn for the lunch break. However, before doing so, the president gave the floor to International Co-Counsel for Nuon Chea Jasper Pauw. The defense counsel noted that his client was suffering a

¹¹ There appeared to be some confusion in the English translation on this point.

headache, back pain, and lack of concentration and therefore wished to follow the afternoon's proceedings from his holding cell. He added that they had already prepared a waiver. The president granted this request and adjourned the hearing.

Hearings resumed in the afternoon before the same audience of Khmer Rouge survivors brought to the Court by DC-Cam, together with approximately 100 villagers from Kandal Steung district in Phnom Penh. Continuing her examination of the civil party, Ms. Simonneau Fort asked whether Ms. Sokha "somehow trusted the Khmer Rouge" at the time when they were first ordered to evacuate. The civil party responded:

Yes, I thought that the war was over, that we would live in happiness, and that I would return as soon as possible to Phnom Penh. ... A few days after we were evacuated, we were kind of hesitant. We were wondering whether after peace, after the war was over ... whether we would be returned, or after they cleaned the enemy, that we would be allowed to return. Of course I trusted them at the time.

As to the method by which her family was evacuated, Ms. Sokha testified that her family walked and pushed along a motorbike. The civil party lawyer queried whether Ms. Sokha and her family were given food, water, or healthcare by the Khmer Rouge during that trip, which the civil party denied.

Ms. Sokha clarified that the first location where she and her family stopped was at Thnal Dach village in Bati district. Initially, she lived with cousins of her husband at that village, recalling:

We were quite happy to meet with our cousins and another family; that is, the family of my father-in-law ... [who later] separated from us ... but for them, they knew where they were headed, but we did not know, so we stayed in that village while we tried to find others who we knew.

As to whether villagers and townspeople were given any particular names, Ms. Sokha said, "They referred to people by titles or relationships in the family: younger brother, younger sister. It was pretty close back then." Ms. Simonneau Fort clarified that her question referred to the groups, not the individual people. Ms. Sokha confirmed that "we were referred to as the 'April 17 people' or the 'new people.' ... Those existing villagers were known as the 'base people.'"

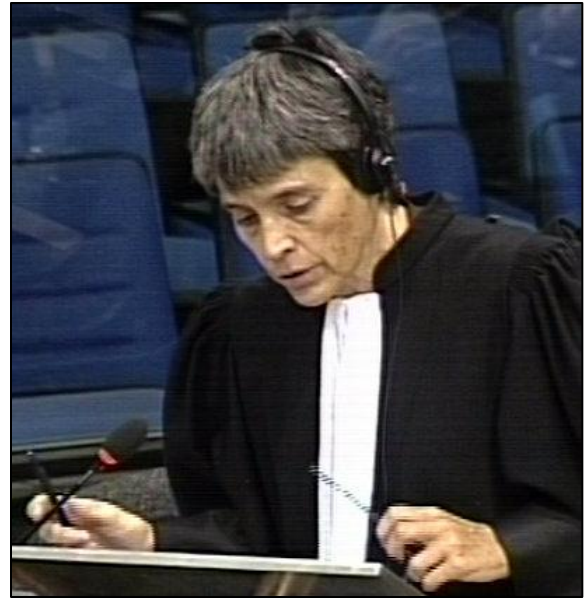
Ms. Sokha elaborated that at that time, the "base people" still had their own belongings and gave her duck eggs. "Later on, we were advised to get rice rations from Angkar," she said. "When we were separated from the 'base people', we were given rice."

The civil party clarified, when questioned by the civil party lawyer, that the last village where she stayed before being evacuated to Battambang was near Trapeang Ang village. They did not live in the village itself but in a field approximately 50 meters away, she added, as "the intellectuals were gathered to live in that location."

Why were they asked to go there? Ms. Simonneau Fort asked. Ms. Sokha said she did not know, but they were initially asked for their names, occupations, and where they were from. “Later on,” she added, “we were separated into groups, and the intellectuals were sent to that village.”

Regarding being compelled to work and food conditions, the civil party explained that she was assigned various tasks, including making fertilizer and finding *tuntrean khaet* trees,¹² while her children stayed in a shed. She also spent time trying to find fruit for her children to eat, as they had not been given fruit.

After the first stage of the evacuation, Ms. Sokha recalled, the people who had come from Phnom Penh were brought together for a meeting at a village approximately about one and a half to two hours from where she was staying. “The meeting was about policies,” she said. A second meeting was then held at Thnal Dach village, she continued; this meeting “was about congratulating the victory and that they were pleased to receive the people from Phnom Penh.” The leaders of the meeting discussed “the defeat of the imperialists and the Lon Nol group and that the revolution was strong, even if they did not have many things to eat,” Ms. Sokha said. “But on that day, I could not recall every part of the event. I was very concerned about my children, especially the young one,” she recounted. “There was a female soldier asking me my name and whether I knew the person by that name who was a teacher. I was so scared, upon hearing that question from her, that I did not pay attention to what was happening on the platform during that [dance] performance.”



Ms. Simonneau Fort pressed Ms. Sokha to explain why she was scared speaking to the female soldier. Obliging, Ms. Sokha explained:

Initially [at the meeting], they said they were pleased. Later on, they talked about the defeat of the enemy. They said they would cleanse the infiltrated enemies. As for us, we were the Phnom Penh residents. When they talked about trying to find the enemies, we were concerned. ... I tried to find a way not to make any mistakes when I answered the questions.

Asked what reason was given for the trip to Battambang, Ms. Sokha explained that during a meeting one afternoon, they were told that they needed to be relocated to another village “where there would be plenty of rice,” as it was difficult to transport food to the village where they were staying at the time. “So we trusted them once again,” she stated. “That was the second

¹² The name of this tree species was relayed directly in the Khmer language in the English translation. It is understood to be a tree used to make fertilizer.

evacuation. During the initial evacuation,¹³ my relatives tried to convince us not to go. ... They wanted us to hide ourselves in the forest.” The vehicles then left without her and others, Ms. Sokha said, recalling, “We were questioned why we did not follow the instructions from Angkar. Each of us was questioned. I was told to respond appropriately and to say Angkar was everywhere and wherever we were was with Angkar. So I just repeated that phrase.”

Ms. Sokha, her family, and about 20 to 30 other families returned from the forest to Trapeang Ang village, the civil party said. A month later, they were called again for relocation. “At that time, our relatives staying in the village did not convince us to hide ourselves in the forest. Because we did not want to get them in trouble, we had to leave, and also we were hoping we would have better rice and food in that location,” she concluded.

After 1979, the civil party added, she met some of the people who had evaded evacuation a second time and they explained that some survived, while others did not. Going into further detail about her own successful evasion of the evacuation, Ms. Sokha described:

At the beginning, when the truck was coming to pick us up, I was helped by some villagers. They were trying to hide me. They snatched my luggage and tried to find me a hiding place. ... But at 11 or 12 p.m., another group of trucks came and asked us why we did not really go during the first trip. We were told by villagers to use the same language telling them we did not want to go because it was the same Angkar and so on and so forth. So we were not loaded onto the truck. After a while, we were evacuated to a place where we had no food.

Asked at this point to describe her eventual evacuation to Battambang, the civil party said:

It took us the whole day. It did not start from early in the morning. We were gathered at about 8 or 9 a.m. and then we were loaded into the trucks. Later on, we were transported to the location and we arrived by about late afternoon. It took a long time because the road was in bad condition. The Khmer Rouge could go to the jungle to relieve themselves, but we were not allowed to get off the truck. We were allowed to get off the truck only when we reached Pursat.

As to what happened next, Ms. Sokha testified that “We were packed in an empty cargo wagon. ... The train went to Koh Trom station.” There, it stopped. She did not see any village nearby or villagers waiting to receive them. She elaborated:

We were helpless. The station was surrounded by bushes and water. We were afraid to move about elsewhere. We were sitting, staying in one place, when the other people, for example those who were transporting us, could be seen walking nearby. A little while later, these people left us. Later on, we heard that the train was moving to another station, leaving us behind. We had no information about where we should go and we remained in that location.

¹³ This does not appear to be a reference to the civil party’s first evacuation to Bati district but the first round of evacuation of people to Battambang.

I could not recall how long it took us for the entire trip. We were overwhelmed with many events, and we were very afraid. Indeed, a moment before we got off the train, we were dragged from the train to leave the train before it went in another direction; ... [it was] just before nightfall. ... We were not told anything. We were just asked to get off the train and stay there. ... We were frustrated because I was there with my elderly mother and sick family members. So we stayed there.

What was the civil party's view about why she was left there? Ms. Simonneau Fort asked. Ms. Sokha replied, "I think we were destined to be dropped at that location. I think we had nothing but to listen to their instructions."

Looking alternately at the president and the civil party lawyer and gesturing animatedly, Ms. Sokha then described life at this second evacuation destination:

We did not have any big concerns regarding water, because we could have a small kettle where we could boil some water fetched from the rice paddy or ponds nearby. A few nights later, there were some rains. We had a lot of problems being in the rain because we didn't have proper shelter. We got wet, soaked with rainwater. Life was not easy at all. We were frustrated and stranded. In the morning, people would go and find some leaves to make a wall of a thatched house. We also had problems looking for fish because we did not have things to cook or prepare the fish. We were somewhat unprepared.

A person came and asked us to go to a village called Sophy village to have our rice husked and milled. We came back in the rain. The husked rice was all wet. We had to put all this rice together in a kind of collective rice collection. We would then cook some porridge. We could make use of the leaves to make our home temporarily. We also had to cook some of the worms. Normally people did not eat them but we had to cook them. We collected some other roots and put some salt so that we could eat them. The worms had to be thrown away because they were not for eating.

At a later date, I met another sad uncle who appeared to be very sad in his facial expression. He was so sad. His face was pale, like a sick person. He said he was looking for his relatives. He told us that indeed, if we moved further, we would reach a village. Listening to him, we then gathered all the family members to go and take refuge in that village.

During that time, we lost some of our relatives. By way of knowing someone who could take us to another village, we would follow him or her, hoping we would find our lost, missing relatives. We finally reached Koh Trom location. It was not really a village. ... It was not really a pleasant place for people to live. It was only a place where people could bring their harvest for rice to be shredded there. We took refuge at that location. It was not good, but we had no choice.

After a few months, we ran out of food. We ran to the old village to be met by a black, strange man who told us we could follow him to find some bitter gourds. We then walked in the east direction along the railway tracks. I saw a lot of people die. I saw them die in a small hut. These bodies were a gory image because people could have died after a long day without food. I had to move forward to look for some vegetables. I walked a further distance. Later on, there were no vegetables to be found. Some people gave up, because it was getting closer to night already.

But that person, the strange man, kept picking some leaves from the roadside to eat. Finally, we got to Koh Cha [to be] greeted by a family of three or four people. One of the elderly people there offered me some food. One person died on the same day. The corpse had to be buried. In the morning, I could see that a lot of people had died and were buried in a nearby location. I felt that a lot of people were dying each day. I was terrified.

Ms. Simonneau Fort asked the civil party to confirm the last location to which she was eventually evacuated, which Ms. Sokha said was Srae Au village in Mong Russei district, Battambang province. At that time, Ms. Sokha said with her hands clasped in prayer, “we were on the run. ... We believed that we were left there to die. A lot of people were dying because there was no medicine ... so I had to run all the way to ... Srae Au.”

Civil Party Vividly Describes Her Daughter’s Death and Her Husband’s Suicide

Ms. Sokha continued to recount the situation for her family after they fled to Srae Au. She stated that many of her family members died, including her husband’s parents; her husband also contracted an infection and fell ill. “We were thinking that when we reached a new village, life would be better, but we learned, when we reached this new village, that everything was in the form of collective,” she said. “We were not allowed to go freely. If we did that, we would be arrested.”

Turning back to the issues with her family, the civil party explained that her daughter had been ill for a while and Ms. Sokha tried, and failed, to take her to Mong Russei district. Explaining that her daughter had been “properly cured” of the same illness by a doctor before 1976, she stated that, due to the lack of proper care, her daughter died at Srae Au. Two of Ms. Sokha’s younger siblings also died around the same time. Her family’s problems did not end there, however, as she explained:

By 1977, I had another big problem. My husband was very exhausted. His eyesight became problematic. He could not see anything. In the late afternoon, people could see him walking into the jungle, into the bush. He did not see where he was going. It was a very difficult situation. By 1978, he could not take it anymore. He committed suicide.

Going into her husband’s suicide in more detail, Ms. Sokha said:

When I left my work, a few days later I was sent to work at Roluos, which was far from where he was. ... I had to move on with my work, but I was very concerned about his health. I noticed twice that he wanted to commit suicide. One time, I saw him coming from the forest and I asked him what happened ... and he said that he saw young militia coming around the house and saw them arrest some people. He was tired and scared, and he was very skinny. He had a fruit with him known as *pek kuok* in Khmer. He said that if he took that fruit, he would die quickly. I noticed, so I threw it away. ... He was a deep thinker. He did not express himself outwardly.

Visibly fighting back tears, Ms. Sokha then added, while reaching for a tissue:

One day when I had to work at Roluos, he disappeared. I was looking for him, so I went to look for him at the kitchen hall. He was not there. I went to the bathroom. He was not there. Then I went to our house and I saw him. He had already hung himself but the bamboo broke. His feet were near the sink. I tried to resuscitate him but to no avail. ... It took about one hour, but I could not revive him. I cried until there were no tears. ... I actually jumped on his chest, and then there was a burp. I tried to revive him. Then there was another burp, but he was motionless.¹⁴

The Fate of Lon Nol Soldiers and a Visit from Senior Khmer Rouge Leader Ta Mok

With the examination by civil party's lawyers completed, International Assistant Co-Prosecutor Dale Lysak took over the questioning of Ms. Sokha. His first question for the civil party was whether she observed what happened to evacuees who were identified as being soldiers, policemen, or officials from the Lon Nol government. Ms. Sokha responded that when they reached Bati, the people evacuated from Phnom Penh were required to live in the houses of "base people." "The base people knew very immediately that these people were former soldiers or officials," she said. "A few days later ... I heard that these people were brought together to live with another group of villagers in Krang Leav."

Mr. Lysak asked whether she ever heard or saw such be people being taken away. At this point, Mr. Pauw objected that there was a distinction between whether Ms. Sokha saw or heard people being taken away and suggested that the question consequently be separated into two parts. Mr. Lysak assured the president there would not be any confusion and he would clarify with counsel if her answer was unclear. Mr. Pauw responded that his objection stood and requested a



¹⁴ In the English translation, the civil party is quoted as continuing to explain that she washed her husband's body and then was somehow able to revive him, but this appears to be a mistranslation, as the civil party testifies before and after this point that her husband indeed successfully committed suicide.

ruling on it. The president asked Mr. Lysak whether he wanted to respond to this objection as he was meant to indicate his position on it. Mr. Lysak duly offered that the civil party was entitled to testify as to what she saw or heard. After conferring shortly with his colleagues, the president advised that Mr. Pauw's question was not sustained. Directed to respond, Ms. Sokha said:

I saw another group of people staying together and I was told by my elder siblings that they were former soldiers. These former soldiers were not yet terrified because they did not know what would happen to them as yet. Later on, I heard that these former soldiers were relocated to a new location and they were never [seen] again. They were relocated to another side of the lake ... another village, although I had no knowledge whether these people were executed or not.

The prosecutor queried whether any senior leaders of the Khmer Rouge came to visit Ms. Sokha's location around the time when people were relocated from Bati to Pursat. To this, the civil party responded:

On the day, when we worked at the dam or worksite, I saw a jeep coming from National Road 4 onto the dam. I was told by other people who worked with me that it was Ta Mok in the jeep with some messengers. Later on, he left and I never saw him again. ... I'm not sure that I have this correct, however, after we placed fertilizer onto the paddy fields, a moment later we saw him. At a later date, we were relocated. I saw him before we were relocated. ... I didn't see him or his face clearly, although people told me he was the secretary of the zone. I think about one month and a half after I saw him, I was relocated.

The final area which Mr. Lysak sought to discuss was the period in which Ms. Sokha was living in Phnom Penh, asking first how long that period had been. Ms. Sokha responded that she had lived in the city since 1959, first arriving to attend school. Asked to describe the living conditions and food when she was living in Phnom Penh and compare that to the situation after she was evacuated, the civil party responded:

Prior to the evacuation, we had enough food. We could go to school. We could live happily with our family members and friends and relatives. In 1965, after passing the ninth grade, I was trained as a teacher at Kampong Kantuot. In 1974 or '75 I became a lecturer teaching Khmer literature. So, life was good. I lived a decent life. I was happy. I had children. I could care for them. We were financially secure. No problem.

It was indeed different from the time when we were evacuated. By 1975, when we were evacuated, we had to leave behind all the property we had acquired along the way all those years.

Condition of Refugees in Phnom Penh Prior to the Evacuation

Picking up questioning on behalf of the defense, Mr. Pauw continued on the topic of conditions in Phnom Penh prior to 1975. The civil party first confirmed, when questioned by Mr. Pauw, that she had relatives from Kampong Speu come to live with her in her house. First, by 1974, a young

man came to live with the civil party's family to study as his hometown was a conflict zone, she recalled. "Later on, we learned that bombs were dropped from the air on his house, and four members of his family died," she added; about one and a half months later, this man's parents and three other children "came running" to stay with her. "They could not go back to their home village as the house was destroyed by the aerial bombardment," Ms. Sokha said. "These people were too traumatized to go back to their former home."

Mr. Pauw asked when other people came to stay with the civil party at her home from Tuol Kork. She said that this was on April 16, and these people spent the night with the civil party's family before they all departed. In Ms. Sokha's neighborhood, the defense counsel inquired, were there also other people housing refugees from outside Phnom Penh? Ms. Sokha confirmed this, elaborating that other newcomers came to Phnom Penh "because they couldn't do anything in the conflict."

Describing these people in further detail, the civil party said:

They came to find work as cyclo drivers. I learned that one of the newcomers who stayed near my home had to ride the cyclo for some money. They came with the whole family. They could not bring anything at all from their home village. I saw this. When we were moving during the evacuation, I had to share with them some of the rice I had bought in stock during this difficult time. ...

I do not know what happened to those who stayed far from my home, but I could tell what happened to those who moved in closer to my location. I provided some mosquito nets and other items to people who were coming in, but I did not know how much they needed things. But I knew they didn't have much with them. ... They could only bring a very small sack of rice with them to Phnom Penh. This stock of rice could run out easily after a few weeks, so I, at that time, could manage to buy some good stock of rice some of which I could share. I could not share with everyone, but people who I felt needed it the most. ...

Not only was the price of rice skyrocketing, other items' or goods' prices also increased. But at that time there was a ... block where American assistance would be poured in at that place where we would buy some rice and other goods. I can assure you that the price of goods was very expensive at that time because it was during the war. ... The rice was sold at different blocks in Phnom Penh. For example, if we lived in the surrounding area where rice was sold, we were allowed to buy rice from that block only. I, at that time, could also buy some rice from school and ... Ilo.¹⁵ ... The gas or kerosene would also be expensive. People would be queuing to buy these heating items.

¹⁵ The civil party explains that this was a location created by the Americans for selling rice. The name was unclear in the English translation.



Mr. Pauw sought to clarify whether these points were set up by the Americans, or whether American rice was sold at those locations. Ms. Sokha said as far as she knew, the rice was brought “from outside” and was part of “aid and assistance outside Cambodia,” although she could not confirm whether it was from the Americans.

Mr. Pauw asked whether the civil party thought it was fair to assume that, based on what she witnessed, the refugees from outside Phnom Penh did not have the financial means to buy rice. Mr. Lysak objected to the use of the words “fair to assume.” Mr. Pauw rephrased, noting the civil party had provided in-kind assistance to some individuals. Ms. Sokha clarified that she gave away mosquito nets, a shirt to a pregnant woman, and a limited amount of rice. “I did not have the knowledge as to who would buy what, who would share what with the others, where people would stay. I only had

knowledge about my family’s vicinity,” she concluded.

Asked whether she had heard at the time about refugees staying at the Cambodiana Hotel, the civil party confirmed this but said that she did not have many things that she could distribute there, although she distributed some clothes as a gesture of her generosity. At this juncture, the defense counsel sought to make clear that he was not suggesting that she did not do enough to help people, acknowledging that that she had done was “noble.” He explained that he was simply trying to ascertain the situation of the refugees in Phnom Penh. The civil party responded that she did not personally go the Cambodiana Hotel site as she was busy studying and looking after her family, but her mother did go to give refugees assistance and urged the civil party to assist in whatever way she could. As to whether aid agencies gave assistance, Ms. Sokha said:

I am not really sure what was organized back then, whether it was organized by the Ministry of Health or whether it was organized by the Red Cross Committee, but I heard on the radio that people should donate blood. Some people who were healthy did in fact donate blood.

Ms. Sokha was asked whether she knew of other locations in Phnom Penh where refugees were staying. The civil party denied this but added, “Of course I knew that people were displaced because of war. Sometimes they returned back to their native village. Those who could afford it bought a piece of land elsewhere. But I don’t know how many [refugee] camps were set up in Phnom Penh.” Mr. Pauw then asked the civil party whether she knew anyone who could provide information on this point. She denied this, explaining, “I only knew that in 1970, there was a training session, a first aid training session, conducted at various schools. But there was no circulation or training regarding the relief effort to assist the evacuees. What we did was individual, based on our own kindness and understanding of the situation.”

Was it therefore fair to say, Mr. Pauw questioned, that the civil party had some personal interactions with refugees who came to Phnom Penh but not of the larger picture concerning such refugees? Ms. Sokha confirmed this but qualified that she only knew the situation of the relatives who came to her house and “did not know much about the well-being of other people. Of course, the situation was difficult. The price of food and vegetables was high, and people could not afford them. But I did not have the opportunity to find out more about that.”

Finally, Mr. Pauw asked the civil party to clarify that upon first arriving at the “base,” the “base people” gave her some rice and food. Ms. Sokha confirmed that the defense counsel heard this correctly. However, she added that those people were her relatives and “at that time, cooperatives were not yet established”; the sharing was “based on our blood relations with them.”

Both National Co-Counsel for Ieng Sary Ang Udom and National Co-Counsel for Khieu Samphan Kong Sam Onn indicated that they did not have any questions for the civil party.

Civil Party’s Statement of Suffering

Ms. Sokha therefore concluded her testimony by taking the opportunity to put forward the following statement outlining her suffering during the DK period:

I am grateful that the president of this Chamber allows me the opportunity to make a statement regarding the harms I suffered between 1975 and 1979 which was the cost of the Khmer rouge regime.

Mr. President, all the words expressed in my statement are true and correct. I in fact tried to forget all those events. If not, it would be too long and too heavy and too vicious for me. It is the greatest tragedy that we all should be sorry for, and it is difficult to find the words to describe all those events that we experienced. It is a story beyond imagination and we cannot accept it.

We tried to survive after 1979, and we reunited with some family members. However, we also received news about the loss of some of our family members who were tortured, killed, stabbed to death at various locations where they were evacuated to both in the first and the second phase of evacuation.

During the evacuation on April 17, 1975, it could be compared to a bomb exploding and shattering all families in Phnom Penh. We separated from one another in a sudden movement. We separated from family members, from friends. We suddenly lost all that we earned, all our property. We didn’t get news from [some people], some of them even until today.

In around September 1975, I was by myself, far away from my native village, from my family members and from my close friends. We were forced to live in a flooded forest and an unknown location without any food, without housing, without shelter. We did not know any of the “base people.” Initially, we lived along the railway track at Koh Trom. We did not have equipment to clear the

forest. It was monsoon. It was heavily raining at the time. We were restricted in our movements and we could only live among the evacuees who did not have anything.

Some of us died of starvation, died of lack of medicine. I could clearly see that that was a method of killing, in particular the killing of people evacuated from Phnom Penh: we were abandoned from Phnom Penh to die. We died without shedding any blood. We were skinny. We lived like animals. We did not have anything to eat but the millipedes. Sometimes we even dared eat geckos, or the *brohsva* trees, or the roots of various watery plants. In short, we could compare our existence to a situation in which we could eat anything. ...

Our physical appearance was like a dead body. We did not have any strength to speak. It seemed like we were living in a prison without walls, which was worse than the animals living in the animal sanctuary in Tamo Mountain. It was barbarous. In 1976, I lost my daughter, my father-in-law, my two in-laws, and my husband committed suicide. One of my other daughters lost her voice. She became mute.

The second phase of movement was the most difficult for us. It was more difficult than the first phase. It was the greatest sorrow forced upon us. We were so down physically and mentally. It was the greatest sorrow inflicted upon us. When I lost my daughter, it was the saddest time in my life. I could hardly survive, and became mad and crazy. She called me twice before she died. When I saw her body picked up, I was speechless. I did not know what to say to anyone. I couldn't tell anyone about my depressed sorrow. She was put in a hammock together with seven other corpses.

I was so shocked when my husband committed suicide. I saw him hanging in the air inside the house. I cried. I cried without tears. I wanted to cry to reduce my sorrow, but I was afraid that if they knew that I cried, then I would be killed. I was terrified, more terrified than any other time. I became almost mad. That feeling remained with me until such time that I myself wanted to commit suicide.

I was so angry against myself that I didn't have the ability to save my family members. I became hopeless. Previously, I told myself that I must try myself to look after myself and my family members and my children, but in the end, my children died, in my hands, before my eyes. I even asked and begged my husband to kill me. I did not want to live in such a terrible situation. My husband embraced me. He said that my body only had bones. He meant that I would die soon. These are just a summary of what happened, Mr. President, as I cannot describe in detail at this time.

In summary, my mind was heavily impacted by the events, and I did not want to relive the sorrow and the suffering. However, such suffering cannot disappear. We cannot compare it to the erasing of a voice on a tape. I still sleep with tears

coming from my eyes when I recall that I was separated from my family and my children were separated from me. Sometimes I cried wherever I was. I tried to turn to Buddhist disciplines to reduce the sadness in me.

When it comes to material loss, I lost everything, including my house. I lost all the value of my property. In gold, it could have amounted to up to 925 *damloeng* in gold value.¹⁶

Some of my family died. Six of my closest friends died. At the fall of the Khmer Rouge regime, I almost lost the capacity towards living. I couldn't develop myself any further. I had nightmares. I had tremors in my chest and I found it difficult to breathe. I had insomnia and I could not sleep without sleeping tablets.

I want the prosecution and the trial to proceed so that the next generation will understand and remember what happened. In the end, I appeal and urge Mr. President to provide justice to me, to my family members, and to all the victims, including those who survived and those who died during the regime, so they would be satisfied with the justice and would find peace in their mind. I am grateful, Mr. President.

No parties expressed any comments regarding the statement of suffering, and the civil party was excused.

Query from Judge Lavergne Regarding Relevance of Upcoming Civil Party's Testimony

Before the day's adjournment, Judge Jean-Marc Lavergne noted that in preparing for the testimony of an upcoming civil party scheduled (TCCP213, who was also referred to TCW217), a question arose regarding the utility of that civil party's testimony. Ms. Simonneau Fort said that she was not the person who would question that civil party but they hoped that they could provide such clarification at the very latest by tomorrow morning. Judge Lavergne stated it was possible that this information be provided by at least tomorrow afternoon so they could take the necessary measures and avoid a potential waste of time. The president then adjourned the hearings for the day.

Hearings will resume at 9 a.m. on Wednesday, December 5, 2012, with the testimony of a new civil party. According to the president, Mr. Sary will be taken to the holding cell for that hearing so as to follow the proceedings through audio-visual means.

¹⁶ It is alleged that one *damloeng* is presently worth between US\$2,000 to \$3,000; therefore this sum could amount to up to \$2.77 million.