



Witnesses' Hindered Memories Make for a Difficult Monday

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The Extraordinary Chambers in the Courts of Cambodia (ECCC) was humming with activity on Monday, June 11, 2012, as the Court resumed evidentiary hearings for Case 002 against accused Nuon Chea, Ieng Sary, and Khieu Samphan. The public gallery was at full occupancy, with more villagers and students present than any other session in the last four weeks. Nearly 400 villagers and students poured out of six busses from Dambae district in Kampong Cham province. A group of high-school kids from Kampon Speu as well as 28 uniform-clad students from Phnom Penh's Royal University were also in attendance, making a motley crew of viewers in the public gallery.

Witness Sao Sarun returned to Court, having postponed his testimony the week before due to illness. However, like the Thursday before, Mr. Sarun took the afternoon off, and the second half of the day's proceedings fell to last week's reserve witness, Khoeum Ngorn.

Although Mr. Ngorn appeared enthusiastic to continue his testimony until the prosecution concluded its examination, the remainder of Mr. Ngorn's testimony consisted of hesitant responses and remarks about his poor memory. By the time the defense teams had their turn, the witness's answers became nearly non-existent.

Witness Sao Sarun Continues to Respond with Vague Answers

After confirming Ieng Sary would once again participate remotely in the day's proceedings due to continuing health concerns, President Nonn handed the floor to International Assistant Prosecutor Dale Lysak, who resumed his examination from the previous week.

Mr. Lysak reminded the witness of testimony he had given concerning a meeting in Phnom Penh a few months after Secretary of Sector 105 Ta Lang's death. The meeting, he continued to explain, was where the witness had testified he "chit-chatted" with Khieu Samphan and requested certain supplies be sent to his sector.

Picking up this topic, Mr. Lysak asked the witness how often he made requests for supplies to top leaders in Phnom Penh. Mr. Sarun replied that the requests were "not made frequently" and that each request reflected the supplies needed for an entire year. When Mr. Lysak inquired how many times Mr. Sarun requested supplies specifically from Khieu Samphan, Khieu Samphan's International Co-Lawyer Arthur Vercken objected, asserting the question to be repetitive. Mr. Lysak argued that his question was not repetitive, as the witness had only stated the number of times he "chit-chatted" with Khieu Samphan.

President Nonn announced that Mr. Vercken's objection was not sustained and authorized Mr. Lysak to proceed.

Losing the objection made little difference, however, as the witness's responded, "I only chit-chatted with him. That is all." Even when Mr. Lysak reminded the witness of his previous testimony where Mr. Sarun stated he personally requested supplies from Khieu Samphan, the witness's response was still, "We only chit-chatted on some economic issues. And that is all."

Mr. Lysak moved on to question the witness on his role as Chair of the Medical Division of Sector 105. Reminding the witness of his testimony on the most common illnesses treated during Democratic Kampuchea (DK), the prosecutor asked Mr. Sarun whether there was sufficient medicine for the treatment of malaria within his sector. Though the witness could not provide any specific details, including what kinds of medicines his sector provided, he continued to assert that there was "sufficient medicine." Pushing further, Mr. Lysak asked if Mr. Sarun recalled requesting medical supplies from top party leaders. "Normally the request for medical supplies would be dealt with by the medical section," the witness stated curtly.

Returning to the meeting in Phnom Penh between the witness and the party leaders, Mr. Lysak inquired about the instructions Mr. Sarun had been given. The witness replied generically, "How to lead the people, how to do farming, and how to be good citizens." He contended that he did not receive instructions regarding Vietnam.

Returning to the favored method from last week, Mr. Lysak proceeded to refresh the witness's memory by reading to him an excerpt from one of Mr. Sarun's interviews with the Office of the Co-Investigating Judges (OCIJ). Receiving permission from President Nonn, Mr. Lysak read the following: "We were instructed to... resist against Vietnam." The witness now remembered this instruction. Encouraged, Mr. Lysak asked the witness what specific instructions he received from the party leaders about Vietnam.

International Co-Lawyer for Nuon Chea Jasper Pauw interjected. After informing the Court that the OCIJ interview transcript specifically noted the witness stated that instruction about Vietnam came from Pol Pot alone, Mr. Pauw requested Mr. Lysak rephrase his question.

Amenable to this request, Mr. Lysak rephrased the question, to which the witness replied, “Pol Pot gave me the instructions.” Mr. Sarun did confirm, however, that he was instructed to relay the information he received at the meeting to other officials within his sector once he returned to Mondul Kiri province. Once he returned to Mondul Kiri, the witness continued, he convened a meeting with commune, district, sector, and military committees to disseminate the various policies of the upper echelon.

Mr. Lysak read a statement from an OCIJ interview of one of the witness’s friends, Kham Ansi, now deceased: “Once every month... the sector committee brought the word from the center level... to produce food, protect the border from Vietnam, and track down the embedded enemies and traitors.” Though the witness verified Mr. Ansi’s words, he provided little more. When asked who gave instructions regarding “tracking down embedded enemies and traitors,” Mr. Sarun replied bluntly, “Pol Pot.” Similarly, when he was asked what actions were taken to implement Pol Pot’s orders, the witness responded, “There was nothing else other than that.”

Apparently hoping the dead end was merely temporary, Mr. Lysak told the witness they would come back to the subject later. He moved on to the series of telegrams he presented to the witnesses during last week’s examination. Confirming the witness remembered the three telegrams they had discussed, Mr. Lysak proceeded to place a fourth before the witness.

Witness Tasked with Reporting Directly to Pol Pot after Death of Secretary Lang

The fourth telegram, dated April 24, 1978, and labeled number 55, Mr. Lysak informed the Chamber, was also sent from the witness to “Respected Brother” [Pol Pot]. The prosecutor then read excerpts from the telegram’s three paragraphs. The first paragraph read in part, “About the enemy situation... the Yuon enemy attacked the sector office.... We counterattacked them vigorously and some of them were wounded.” The second paragraph discussed flooding that had impaired rice farming but had not managed to damage a nearby dam, and the third paragraph discussed various parts the sector needed delivered for maintenance purposes.

Once he finished reading various excerpts from telegram, Mr. Lysak asked the witness if he could recall sending such a telegram to Pol Pot. The witness confirmed that he could, explaining defensively, “There was an attack at the sector office and we had to counter attack them severely to defend ourselves.” When asked if the attack occurred near the Vietnam border, he responded that it did not, that the attack occurred “quite far from it.”

Pointing to an annotation upon the telegram stating copies were to be sent to “Uncle Nuon, Uncle Van, Uncle Vorn, Office, and Archive,” Mr. Lysak asked the witness if he had written the note. Appearing increasingly guarded, Mr. Sarun replied succinctly, “The letter was sent to Pol Pot. It was someone else who wrote this.”

Mr. Lysak inquired about the sending of reports in general, asking the witness why he was sending reports



to Pol Pot and other party leaders at all between the months of January and April 1978. Mr. Sarun simply responded that he was required to do so on a monthly basis. Narrowing his inquiry, Mr. Lysak asked the witness if he sent the reports because it was shortly after Secretary Lang had been killed. The witness replied, “Yes. After Lang died, I was appointed to the task – that is – to report to Pol Pot.”

When the witness was unable to recall what types of telegrams he received from Nuon Chea, Mr. Lysak read another of the witness’s OCIJ interview statements to the Court: “I received them from Nuon Chea from time to time. They described about going to study in the educational learning sessions.” Mr. Sarun confirmed this statement.

Witness Struggles with His Memory as Testimony Continues

Mr. Lysak and Mr. Sarun repeated this pattern for much of the morning: Mr. Lysak would ask the witness a question, the witness would say he did not know or he could not remember, Mr. Lysak would read another statement from one of the witness’s OCIJ interviews, and the witness would then remember but be unable to provide further detail. The method, in short, seemed less successful than it had been on the witness’s first day of testimony.

The defining moment revealing the extent of the witness’s apparent mental fatigue occurred in his response to Mr. Lysak’s question regarding the number of times Mr. Sarun had traveled to meet with top party leaders in Phnom Penh. When the witness responded, “I went there only once in September of 2008, and when the Vietnamese came we fled to the forest,” those listening to the English interpretation, including the prosecutor, assumed there had been an error. Mr. Lysak, seeking clarification, repeated his question, but he received the same response. The witness said firmly once again that the only meeting he attended in Phnom Penh occurred in September 2008.

Apologizing that he must have misheard, Mr. Lysak informed the witness that it sounded like he said he attended a meeting in Phnom Penh in 2008. “Did you mean 1978?” Mr. Lysak asked. The witness, visibly frustrated at this point, responded forcefully, “It was in September 2008! It is clear!” Although some students could be heard chuckling with one another, most people in the public gallery remained silent.

President Nonn interjected to cut through the confusion. “Can the witness clarify the date?” the President requested emphatically. “Do you mean September 2008 or September 1978?”

Realizing his mistake, the witness replied, “My apologies. I have a poor memory. It was in September 1978, not 2008.”

Witness Recalls Nuon Chea, Ieng Sary, and Khieu Samphan Being Recognized as Central Committee Members during the 1978 Party Congress

Having overcome this hurdle, Mr. Lysak proceeded to ask the witness about the content of the 1978 meeting, specifically if he recalled discussion about reopening markets. Mr. Sarun could not. Mr. Lysak, repeating the familiar pattern, attempted to refresh the witness’s memory with another of statement from the witness’s OCIJ interview. He read to the witness, “During the party’s anniversary meeting, probably in 1978... we heard discussion regarding currency printing

and money circulation and allowing people to return to the cities... because Angkar had eliminated all enemies.” Again, the witness confirmed the veracity of his previous statement but was unable to extrapolate on it.

The next question received the same result. When asked what party leaders attended the meeting, Mr. Sarun responded, “I did not know them at that time.” Apparently expecting such a response, Mr. Lysak read from another of the witness’s OCIJ interviews: “The persons who attended included Pol Pot, Nuon Chea, Khieu Samphan, Ieng Sary, Ieng Thirith, and Son Sen, but Nuon Chea gave more presentations than others.” The witness confirmed this statement, adding that Nuon Chea’s presentations concerned “the good management of the people.” Neither Ieng Sary nor Khieu Samphan, he added, made presentations at the meeting.

Mr. Lysak inquired about other attendants at the meeting. The witness explained that representatives from the provinces, sectors, and military divisions were present as well as representatives from the Central Committee. Asked how he knew members of the Central Committee were present, Mr. Sarun responded, “I knew because they were called up onto the stage.”



When the witness was unable to recollect which Central Committee members were called to the stage, Mr. Lysak read another of the witness’s OCIJ interview statements: “In September 1978 at Borei Keila at the Olympic Stadium, Pol Pot, Khieu Samphan, Nuon Chea, Ieng Thirith, and Ieng Sary, as well as representatives from all provinces and representatives from all divisions, participated in the Great Congress.... There were many hundreds of people there.” After the witness confirmed his OCIJ statement, he recalled both Khieu Samphan and Ieng Sary being called to the stage as members of the Central Committee.

Mr. Lysak asked if Ta Lang was a member of the Central Committee before his death. Mr. Sarun replied, “I had heard he was a member of the Central Committee.” He went on to state that his appointment to Lang’s former position as Secretary of Sector 105 was announced at the Party Congress in September of 1978. He added that it was the only appointment announced during the entire 10-day meeting.

Pol Pot Announced No Other Arrests or Killings without Central Committee Approval

Mr. Lysak switched topics and asked the witness to elaborate upon a statement from one of his OCIJ interviews, in which Mr. Sarun discussed a request by Pol Pot to read a confession in which he was implicated. The witness remembered the event and explained, “The person appeared to implicate me arbitrarily, and I did not do anything wrong and I was still implicated.” Although he remembered reading the confession while he was in Phnom Penh, he could not recall further details.

Moving to the topic of later party purges, Mr. Lysak began asking the witness about his relationship with Ta Sopheha. Ta Sopheha, the witness explained, was the military chief of Division 920. He was also the witness's brother-in-law, who had married Mr. Sarun's sister Lat during the Samdech Ouv regime before the Khmer Rouge took power.

Having established the witness's connection with Ta Sopheha, Mr. Lysak read another statement from Kham Ansi's OCIJ interview: "Ta Sopheha let me read confessions from the Center from soldiers of division 920 who had implicated people they knew.... I remember one person they implicated was the chairman of a company in Keo Sima district." The witness, however, denied any knowledge that Ta Sopheha was receiving confessions sent to him from the Center.

Regarding official party policy on purges and arrests in 1978, Mr. Sarun confirmed that Pol Pot had announced that there were to be no more killings or arrests without prior approval from the Committee itself. He also confirmed that a document, dated June 20, 1978, and entitled "Guidance of the Central Committee of the Communist Party of Kampuchea on the Party's Policies of Mised People" was given to all Congress attendants for dissemination among the lower levels of their respective divisions. The witness confirmed that he returned to Mondul Kiri to disseminate the new party policy after the Congress concluded.

Mr. Lysak asked the witness if the party reopened markets and started recirculating currency in the last three months of 1978 subsequent to Pol Pot's speech at the Party Congress. Although the witness could recall Pol Pot saying this would happen, he did not know if the policy was actually implemented in Phnom Penh, reiterating that he returned to Mondul Kiri province as soon as the Congress concluded.

Mr. Lysak Searches for Direct Link between Central Committee and Late-1978 Party Purges

Mr. Lysak read another statement from the document distributed at the party Congress:

Fourthly, for those who joined with the CIA, Yuan, or KGB from 1975 to 1978, regarding those who joined after the liberation, the party will divide them into two groups as follows: First category – the person who is recalcitrant, who still continues to carry out activities... Such persons shall be punished because he or she is carrying out traitorous activity intentionally.... This sort of person has made the clear marks of their own boundaries, thus the CPK must eliminate them....

The witness again confirmed that the document was read out at the 1978 Congress and distributed among the attendants to disseminate to the lower levels in their respective units.

"Towards the end of 1978 did you make another trip to Phnom Penh?" Mr. Lysak asked. The witness could not recall doing so. Mr. Lysak proceeded to read the witness a statement from his first OCIJ interview: "About one or two weeks before the Vietnamese fighting and occupying Phnom Penh, I received one telegraph from Pol Pot... calling me, Ta Sopheha, Ta Lan and Ta Lork to a meeting in Phnom Penh." The witness recalled attending a meeting in Phnom Penh at the end of 1978 as well as the telegram from Pol Pot. At the meeting itself, the witness remembered meeting with Pol Pot but could not recall meeting with any other party leaders.

Continuing with the same OCIJ interview statement, Mr. Lysak read: “The four of us flew to meet with Pol Pot, Son Sen, and Nuon Chea at the same Pol Pot’s office behind the Royal Palace.” Again, Mr. Sarun stated, “I stand by my statement before the co-investigating judges.”

Asked what Ta Lan’s position was at the end of 1978, the witness recalled Ta Lan being the commander of a Sector 105 battalion, though he could not remember the battalion’s code number. Mr. Lysak asked President Nonn for permission to read a statement from a document authored by Ta Lan in order to refresh the witness’s memory. Receiving permission to do so, Mr. Lysak read: “One day in 1978 I was asked by Ta Sophea and Ta Sarun to board an airplane to Phnom Penh. Accompanying them were Ta Kim, Ta Lork, and Ta Vieng. When we arrived at the airport, they detained Ta Kim. One night later... they detained Ta Sophea.... He’s disappeared since.”

Mr. Sarun recalled these events, remembering Ta Kim being taken away at the airport; he did not know the reason Ta Kim was taken, however, and he said he never saw Ta Kim again. Regarding his brother-in-law, Ta Sophea, the witness said, “During our trip to Phnom Penh nothing happened.” To assist in refreshing the recollection of the witness, Mr. Lysak read another statement from Kham Ansi’s OCIJ interview: ““Once, while meeting with Ta Lork and Ta Sarun, they told me that Ta Sophea had been taken to study in Phnom Penh.” The witness confirmed that Ta Sophea had been “taken to study” but added that he, like Ta Kim, was never seen again.

When the witness said no one mentioned Ta Sophea at the meeting in Phnom Penh, Mr. Lysak read another statement from Mr. Sarun’s first OCIJ interview: “Pol Pot told us to try to strengthen our forces and strategies to resist Vietnam. At that time he did not refer to anyone as a traitor. He said that Sophea should stay in Phnom Penh and work on military affairs. Sophea has disappeared since then.” The witness confirmed his statement and added, “Pol Pot told us he was to stay and work there, but he was never seen again.”

Mr. Lysak subsequently informed the Court that an S-21 prisoner log recorded a man by the name of Bunthy, alias Kim, entering the prison December 6, 1978; he also had a S-21 confession by Chan Kim, Deputy Secretary of Military Division 920, dated December 10, 1978. Although the witness could not verify the dates, he reconfirmed his statement that he never saw Ta Sophea after Ta Sophea was taken at Phnom Penh.

Moving on, Mr. Lysak asked who was responsible for supervising the Phnom Kraol security office in Mondul Kiri. Mr. Sarun said it was Ta Sophea. The witness did not know details about a man named Ta Leng because, the witness said, he came from Ratanakiri. Mr. Lysak read another statement from the witness’s OCIJ interview, where the witness discussed Ta Leng being arrested by division 920, which, he said, had the authority to arrest both civilians and military personal in the sector. Mr. Sarun confirmed this statement but could provide no further details about Ta Leng’s arrest. Mr. Lysak then informed the Court that the name Leng was present on another S-21 prisoner list.

The witness was unable to recall anything about the fate of Cham, the Chbar district secretary. Mr. Lysak informed the Court of another S-21 document. This one, entitled “Prisoners interrogated on the 8th of April 1978,” indicated Em Khut, alias Cham, entered S-21 on March

23, 1978. Regarding Kong Lin, whom the witness had previously asserted was alive at a later time than indicated on another S-21 prisoner list, Mr. Sarun restated his belief that Kong Lin was alive in Mondul Kiri province, even though Mr. Lysak informed him that Kong Lin's brother had not seen him since 1978.

Court Officials Were Told Witness Had Died prior to Being Summoned to Court

As his final question, Mr. Lysak asked the witness, "Are you somewhat reluctant to appear here as a witness and testify against the accused?" Mr. Sarun replied, "No I'm not reluctant at all. I have nothing to be reluctant about." Following up, Mr. Lysak inquired, "Are you aware that when court officials came to summon you to testify at trial, that your commune official told them you were deceased?" The witness explained, "At home I had fallen very ill and I had to be treated by an herbal man and I told my children that I would not live. That is why people thought I had died."

Thanking the witness for his cooperation, Mr. Lysak concluded his examination.

Civil-Party Co-Lawyer Struggles to Obtain New Information from the Witness

President Nonn handed the floor over to Civil-Party Co-Lawyer Ty Srina to continue the examination of the witness

After greeting the witness, Ms. Srina posed some questions about Mr. Sarun's participation in the revolution between 1970 and 1975. The witness explained he was not aware of the party leaders' identities when he first joined the revolution. When asked to be more specific, the witness stated bluntly, "I just didn't know who the founders were." He was unable to recall any discussions of evacuation plans during the meetings he attended before 1975.

Referring to the period of 1975 to 1979, Ms. Srina asked the witness how often he attended political meetings. Mr. Sarun replied that he only attended one session after 1975 in Phnom Penh. When asked why he attended, he stated simply, "I was called to attend the meeting and I came." At the meeting, he informed the Court, the attendants were called to disseminate the information they learned to the villagers of their respective divisions.



Ms. Srina asked the witness to describe the housing condition of the villagers while he was Secretary of Pich Chenda district. "After the war people would chop some trees to make their improvised, makeshift, thatched houses," he replied. "The villagers themselves had to build the houses." Ms. Srina then inquired how often Mr. Sarun traveled from Pich Chenda district to Koh Nhek district. The witness said he traveled to Koh Nheck once a month to attend sector meetings at office K-17 in Phnom Kraol. He added that he only visited Koh Nheck when the Secretary of Sector 105, Ta Lang, summoned him to do so.

Ms. Srina floundered for the next ten minutes or so, attempting to ask the witness a complicated series of

questions about sector and district geography. President Nonn finally interrupted, “We’re afraid the Counsel has not studied the geographical locations of this place, and for that you have not put good questions to the witness.”

Thanking the President for such enlightenment, Ms. Srina moved to another subject. She asked the witness if he observed any “newcomers” over the time he attended the sector monthly meetings. Mr. Sarun replied that there were no new people, “other than the local people.” She then asked if the witness worked in the same location Lang had when Lang was Secretary of Sector 105. “When I was appointed as sector chief, I went to the same place where Lang had worked,” the witness replied. However, he stated there were no documents left by Lang regarding previous sector work.

At this point, President Nonn interrupted Ms. Srina’s examination, announcing that it was time for lunch adjournment. The President informed the Court that the witness’s examination would be postponed until the following morning, June 12, 2012, due to his continuing illness. However, the President added, the reserve witness, Khoem Ngorn, who began testimony during the afternoon session of Thursday, June 7, 2012, would be present to continue his examination during the afternoon session.

Khoem Ngorn Says He Was Reeducated due to “Moral Misconduct” with Women

The afternoon session commenced with International Senior Assistant Prosecutor Vincent de Wilde’s examination of witness Khoem Ngorn.

Mr. de Wilde picked up with last week’s discussion of the witness’s time in Phnom Penh at the Chinese Embassy, otherwise known as House #7 during the Democrat Kampuchea (DK) period. Regarding his self-criticism sessions, Mr. Ngorn testified that Phoeng, the deputy head of the office, criticized him because of his “moral misconduct” and removed him for three months. “At the time some women chit-chatted with me,” the witness explained, so he and a colleague were removed because of their “engagement with women.” The witness went on to explain that Hong had instructed him to refrain from immoral conduct; as far as he believed, engaging in any kind of behavior with women was prohibited.

Gaining permission to present to the witness a photograph of a foreign delegation at Pochentong Airport in Phnom Penh, Mr. de Wilde asked the witness if he recognized the person featured at the far right of the photograph. The witness said he had never seen the person before. Mr. de Wilde asked if he was able to identify another individual in the background. Mr. Ngorn responded, “I don’t see myself in the photograph.” Mr. de Wilde responded, “Thank you, witness. I am not asking you if you see yourself in the photograph, I am asking you if you recognize the person that the arrow is pointing to.” The witness replied he did not.



Mr. de Wilde moved on and asked the witness if he knew of any purges or arrests that occurred while Mr. Ngorn worked at the Ministry of Foreign Affairs. “I do not know anything about arrests, but I knew that people were removed from one place to another and were never seen again,” he replied. Regarding close friends and colleagues, Mr. Ngorn said his friend, Choeng, was removed and never heard of again. However, he did not know the reason behind Choeng’s removal.

To help refresh his memory, Mr. de Wilde read an excerpt from the witness’s OCIJ interview regarding the disappearance of Choeng. The prosecutor read:

At the Ministry of Foreign Affairs people accused of being enemies – CIA and KGB – were purged. Those accused enemies were Choeng and Thoeun. Choeng was arrested and taken to S-21, and Thoeun successfully escaped. Choeng was arrested because he caused a car accident and killed two people, including a Chinese national.

The witness told Mr. de Wilde that this statement was correct. Asked who would have had the authority to order Choeng’s arrest, Mr. Ngorn said it was most likely Hong, whom he saw leading Choeng away.

Mr. de Wilde changed topics, informing the witness that he had some questions regarding Mr. Ngorn’s time at Takmao. The witness explained that he was removed to Takmao in mid-1976 where he grew vegetables for three months before returning to his post at the Ministry of Foreign Affairs. He mentioned that he was re-educated and made to write his biography “up to three times a day” before returning to House #7. Hong, he said, ordered his removal and escorted him to Takmao.

An elderly man named Ta Huon, the witness added, gave him instructions during his stay at Takmao. Though he remembered Takmao being in the countryside, Mr. Ngorn was unable to recall any specific duties he was assigned. He remembered, however, being the only person from the Ministry of the Foreign Affairs there.

The other workers at Takmao, the witness continued, came from the countryside and various ministries. Takmao was a “re-education camp,” he added, where accused people were sent. “It was the place where we were tempered, uncle,” Mr. Ngorn concluded. However, he could not recollect anyone taken away from Takmao during the three months he worked there.

Mr. de Wilde redirected the discussion to Mr. Ngorn’s role accompanying guests while working for the Ministry of Foreign Affairs. The guests, he recalled, were Korean, Chinese, and Cuban representatives in addition to others from nations he was not able to recollect. Mr. de Wilde asked him who was the highest-ranking official that also accompanied the guests. Mr. Ngorn replied that Hong and “probably” Khieu Samphan accompanied them. When asked if he knew what the foreign guests were doing visiting Cambodia during that time, the witness responded that he did not understand anything about the nature of their visit and that he “dare not ask anything about that.”

Mr. de Wilde concluded his examination of the witness, and President Nonn subsequently handed the floor to Civil Party Co-Lawyer Lor Chunthy.

Civil Party Co-Lawyer Lor Chunthy Examines the Witness

After greeting the witness, Mr. Chunthy informed the witness that he wanted clarification on some contextual background issues.

Asked where he was before 1975, Mr. Ngorn explained that he was a “military man” – a soldier – in Takeo province. After being a military man for one month, the witness recalled, he was sent to Thormon village.

Mr. Chunthy inquired what the witness meant when he had referred to people from Takeo province being evacuated “to the back.” The witness reminded the Court that he did not witness the evacuation first-hand but had heard about it from his friend, Thoeun. Thoeun, Mr. Ngorn explained, had told him people were “loaded onto trucks” and taken away. Mr. Chunthy repeated his request to explain the phrase “from the back” as well as an explanation of a previous statement where he said people would have been shot had they refused to evacuate.

National Co-Lawyer for Khieu Samphan Son Arun made the first objection of the afternoon, arguing that all of Mr. Chunthy’s questions were leading because the witness was not present during the evacuation of Takeo.

Mr. Chunthy responded that these events were discussed in the witness’s OCIJ interview.

President Nonn announced that any questions concerning events also discussed in a witness’s OCIJ interviews were permissible. He informed Mr. Arun that his objection was not sustained.

Witness Speculated His Removal Was due to Connection with Purged Family Members

Mr. Chunthy moved on to the witness’s removal from the Ministry of Foreign Affairs to Takmao, inquiring whether it was because Mr. Ngorn had left Takeo. The witness stated he met his cousin in Takeo who said his wife had been smashed, implying that he could have been removed to Takmao because he had a relative who had been executed.

For his first and only statement of the day, Co-Lawyer for Ieng Sary Michael Karnavas stood with an objection. “Almost every single question asked has already been covered by the prosecutor. I simply asked that the gentleman just look at his notes and ask questions that haven’t been covered by the prosecutor.... If we are efficient, we could possibly finish examining this witness today,” Mr. Karnavas concluded.

President Nonn responded, “Thank you, counsel. However, you should have objected earlier than that and make your objection succinct. The chamber has observed that it is very difficult to control questions asked by the parties.... The Chamber reminds the parties to put only questions related to facts in the Closing Order.” After a lengthy speech on proper courtroom etiquette, President Nonn announced it was time for a short adjournment.

Civil Party Co-Lawyer: “I Am a Professional”

Before returning control of the floor to the Civil Parties, President Nonn announced, “Before break we had discussed the Civil Parties having concluded their questioning of the witness.” However, Civil Party Co-Lawyer Barnabé Nekuie stood to address the Court. President Nonn, appearing disappointed, reminded the parties once again to keep their questions clear, concise, and related to the facts in the Closing Order and handed the floor to Mr. Nekuie.

Mr. Nekuie addressed the President politely, “Let me reassure you that I am a professional, and when I arise, I put questions that are concise to the witness.” Mr. Nekuie then proceeded with his examination.

He began by asking the witness if he knew a woman named Thy had also worked at the Ministry of Foreign Affairs. The witness replied that he did and that Thy had lived with him. However, when Mr. Nekuie asked the witness if he remembered what she told him about purges, Mr. Ngorn replied, “As I stated, I do not understand much about the purges that occurred at the Ministry of the Foreign Affairs.”

Requesting the witness’s “indulgence,” Mr. Nekuie rephrased his question to ask about arrests that occurred at B-1. “B-1 was not known to me,” the witness responded. Attempting to “jog” the witness’s memory, Mr. Nekuie read a statement from one of the witness’s OCIJ interviews: “I never witnessed other arrests, but I learned about the disappearance of other people [besides Chroeng and Thoeun] at B-1.... Thy, a female, told me she had witnessed the arrests of people at the other departments at the Ministry of Foreign Affairs.” Asked if his OCIJ statement refreshed his memory, Mr. Ngorn replied, “I don’t think I understand.” After Mr. Nekuie rephrased his question, the witness replied, “Thy told me about the removals.... However, my memory is still poor, and I forget a lot.”

“Very well,” Mr. Nekuie replied, “We shall not dwell on this.” Moving on, he reminded the witness of his statement last week when Mr. Ngorn said he believed the revolution was about “the liberation of the poor.” The witness, who appeared to be suddenly suffering from a hampered memory, responded softly, “I cannot remember this well.”

Mr. Nekuie, seeing that the witness was “suffering from fatigue,” concluded his examination and handed the floor to the defense.

Defense Counsel Goes Silent after Prevented from Raising Questions about Hun Sen

The defense counsel seemed to follow a new strategy with the day’s cross-examination. Instead of boisterously struggling through a continuous line of objections and interruptions from President



Nonn and opposing counsel, the defense appeared to surrender after the first sign of struggle. All told, the three defense teams took less than a half hour combined to examine the witness.

International Co-Lawyer for Nuon Chea Michiel Pestman started off the cross-examination for the defense. After receiving confirmation from the witness that he felt good enough to continue, Mr. Pestman asked if he remembered being interviewed by the Documentation Center of Cambodia (DC-Cam) in 2004. The witness replied, "I do not understand."

To help jog the witness's memory, Mr. Pestman requested permission to read a document to the witness. President Nonn, appearing quite wary, asked Mr. Pestman if the document had been submitted to the Chamber to be put to the witness. Mr. Pestman replied, "We have visited this particular issue before. I believe the use of this document is vital for ascertaining the truth, and I wish to use this particular document to impeach the witness."

President Nonn interrupted, "I want to know if this document has been submitted to the Chamber as of yet. Answer my question, counsel!" He continued, "The importance is not about the contents of the document. We are to follow the proceedings outlined in Rule 87."

"I regret the overreliance of this trial chamber on procedure instead of seeking the truth," Mr. Pestman asserted. He then informed President Nonn that the defense had put the document on the Court interface.

Mr. de Wilde, coming to the aid of his colleague, addressed the Court, announcing that the document Mr. Pestman was seeking to place before the witness, a biography presented to the witness during his DC-Cam interview, had in fact been placed before the Chamber.

After consulting with his fellow judges and emphasizing his thanks to Mr. de Wilde, President Nonn informed Mr. Pestman that he could proceed.

Witness Denounces Former Statement Recalling Presence of Hun Sen in Top CPK Meeting

Mr. Pestman went on to read a very long excerpt from the witness's 2004 DC-Cam interview, in which Mr. Ngorn confirmed seeing Ta Mok, Ieng Sary, Son Sen, Nuon Chea, and Pol Pot, as well as Cambodia's current Prime Minister Hun Sen, attend high-level Khmer Rouge meetings.

Appearing uncharacteristically timid, the witness responded, "No, I don't think I answered this this way. I never knew about this. I don't know." He continued defensively, "Believe me or not, I did not say this. It is different from what I experienced. Because I'm illiterate, someone may have written this for me. I don't know."

President Nonn interrupted and addressed Mr. Pestman, "You have referred to a long passage... and he has indicated that he does not know about it."

Nevertheless, Mr. Pestman continued his inquiry and asked the witness, "Did you ever attend a meeting with Hun Sen in the 1970s, either before or after the liberation of Phnom Penh?" The witness replied, "If you talk about the 1970s, I was about this height [gesturing toward the floor with his hand].... I knew nothing."

President Nonn interjected again, “Counsel, could you put another question to the witness not related to the passage you have just read?”

Ignoring the president’s request, Mr. Pestman continued. “Witness,” he asked, “Are you afraid to testify about Hun Sen’s involvement in meetings during the Khmer Rouge period?”

Once again President Nonn interrupted, informing the witness that he need not answer the question because it was irrelevant.

Mr. Pestman retorted, “This question is particularly relevant. This interview states that the client attended a number of meetings with Hun Sen.”

“You cannot put the same question to the witness,” President Nonn replied, “If you have other questions, I will allow you to proceed if in my view the question is important.”

Mr. Pestman continued to respond to the president, stating that he did not understand why he could not question the witness about Hun Sen’s involvement as Mr. Ngorn had discussed the subject in his 2004 DC-Cam interview.

Apparently knowing he was fighting a losing battle, however, Mr. Pestman concluded, “You are preventing us from exercising our client’s right to cross-examine this witness. I’m very sorry. That’s all I have to say.” Mr. Pestman then sat down.



*Khoeum Ngorn during his May 2004 interview with DC-Cam.
(Source: Documentation Center of Cambodia)*

Proceedings Conclude Earlier than Expected

After thanking Mr. Pestman, President Nonn turned the floor over to National Co-Lawyer for Ieng Sary Ang Udom. However, Mr. Ang Udom informed the Court that he had no questions to put to the witness. National Co-Lawyer for Khieu Samphan Kong Sam Onn stated the same.

President Nonn replied, “Thank you for your clear positions that you do not have questions for the witness.”

Having concluded the witness’s examination surprisingly early, President Nonn informed the witness that his testimony had come to an end and announced that Court would adjourn ahead of schedule for the day. He announced that proceedings would resume the following morning, Tuesday, June 12, 2012, with the continuation of witness Sao Sarun’s testimony; in the event Mr. Sarun was unable to testify, President Nonn added, the Chamber would begin to hear testimony from the reserve witness TCW 488.