



*Nuon Chea's defense counsel Jasper Pauw questions witness Sao Sarun at the ECCC on Tuesday.*

**Testimony of Witness Sao Sarun Concludes with Defense's Impeachment Efforts**  
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Visitors from across Cambodia packed the public gallery at the Extraordinary Chambers in the Courts of Cambodia (ECCC) Tuesday, June 12, 2012, as proceedings resumed in Case 002 against accused Nuon Chea, Khieu Samphan, and Ieng Sary.

Seven commercial busses filled the parking lots, bringing almost 500 villagers and students from across the country to witness the historic trial. The students, hailing from Hun Sen Klar Kon High School in Bantheay Meanchey province over 400 kilometers away, left home at 10:00 p.m. the previous night in order to arrive at the ECCC for morning session. Though a few students mentioned being tired, they all appeared excited to have arrived.

The crowd was so large that security guards had to turn away late arrivals; with no seats left in the public gallery, these visitors had to settle for watching the morning proceedings remotely from the common courtyard.

Only four rows of the public gallery were filled during the afternoon session, however. A group of monks had replaced the students, occupying the front row. Dressed in traditional, vibrant

orange *sbangs*, the monks created a stark contrast to the neutral colored walls and deep blue seating of the public gallery.

The Court provided a full day of proceedings for the viewers, convening shortly after 9:00 a.m. and continuing until a few minutes after 4:00 p.m., finally concluding the testimony of witness Sao Sarun.

***Witness Claims He Never Heard of Sector-Level Purges; Recalls No Arrests, Only Releases***  
After granting accused Ieng Sary's request to participate remotely in the proceedings from his holding cell, President Nonn turned the floor over to Civil Party Co-Lawyer Ty Srina who continued her examination from the previous day.

On the first topic of the morning – the structure of Sector 105, Mr. Sarun was unable to provide substantive information and often concluded his answers with “I was at the district level and those were the affairs of the sector left.” He did remember, however, that Sector 105 contained four offices – offices K-17, K-11, and K-16, as well as the Commerce Office – but he was also unable to elaborate further.

When the witness responded that he never heard of purges occurring at the sector level, Ms. Srina proceeded to read the witness a statement about arrests in Sector 105 that he had made during an interview with the Office of the Co-Investigating Judges (OCIJ): “When I was on the sector committee, there were only releases.” Mr. Sarun recalled his statement and added that he was referring only to arrests made by the sector's security office, the office that had been managed by Ta Sophea.

Ms. Srina asked how many people were released from the security office. The witness replied, “Quite a number of people.” Mr. Sarun released prisoners from the security office “on two occasions,” he added. Ms. Srina followed, “Why did you dare release these senior prisoners?” The witness explained he had learned “there was no substantial wrongdoing” after their interrogations. However, he also confirmed that their release was prompted by instructions from the party center.

The sector security office, Mr. Sarun explained, was also referred to as the “re-correction center.” The kinds of people detained in this office were those people “who had some fighting or married couples that had arguments ... people that did small things.”

When Ms. Srina asked if party traitors were also detained at the sector security office, Mr. Sarun retorted, “I never heard of that. I never heard of those who betrayed the revolution.” As on the previous day, the witness appeared defensive when questioned about party purges, arrests, or executions. He was also reticent to discuss his relationship with Lang, the secretary of Sector 105, explaining that he only met with Lang when he was called to attend sector committee meetings.

Ms. Srina moved to the topic of dam instruction within the sector. The witness informed the Court that the people were responsible for building the dams within their respective districts. The workers, he added, began at 6 a.m. and finished at 7 p.m.; he said they took a break at 10:30 a.m.

When asked about rice farming, the witness explained, “Rice production was also distributed to the people. People were given 30 buckets of rice per year.”

Before the witness could continue his answer, President Nonn interrupted to admonish Ms. Srina, “Counsel, please pay attention to your questions. Make sure your questions don’t move beyond the facts against the accused persons. Regarding the facts concerning Sector 105, we are dealing only with the facts concerning the Phnom Kraol office.”

***Witness Continues to Respond Vaguely to Questions on Arrests and Party Purges***

After thanking the President for his “reminder,” Ms. Srina asked the witness if he ever noticed sector committee members making complaints during committee meetings and then disappearing. “No, I don’t think so,” Mr. Sarun replied, “No one disappeared.”

Ms. Srina tried another topic but received the same indirect responses. When asked to whom Secretary Lang reported, Mr. Sarun answered, “I don’t know. It was beyond my knowledge.” To refresh his memory, Ms. Srina read another of the witness’s OCIJ statements: “He [Lang] reported only to Pol Pot.” When asked if he still stood by this answer, the witness countered, “I once indicated this to the investigative judges.”

Moving on, Ms. Srina inquired vaguely, “What was the authority of the party like?” Mr. Sarun retorted, “I do not know the authority of the party.” He continued to deny knowledge of upper-level authority, even when prompted by previous testimony. When asked who had the authority to remove persons, the witness replied, “I don’t know. Perhaps the superiors.” Clarifying whom he was referring to when he mentioned “superiors,” the witness explained, “I was referring to Pol Pot because he was in charge of the whole country.”



When Ms. Srina began to ask the witness about marriage ceremonies, President Nonn informed the witness not to answer, noting that the question was repetitive because the co-prosecutors had already covered that subject. Ms. Srina informed President Nonn that her questions were different from those the co-prosecutors put to the witness. When she asked if she could proceed with her questions, President Nonn replied firmly, “No, you may not.”

Although Ms. Srina announced she was changing topics, she still proceeded to ask about wedding policy within the sector. When she asked the witness what were the punishments of those who refused to marry, Mr. Sarun, taking the President’s lead, replied, “I already answered these questions to the co-investigating judges and the co-prosecutors. We did not have any rights to force them to get married.”

By this point, some participants in the courtroom had begun to appear weary of the counsel’s line of questioning. Both Judge Sylvia Cartwright and Defense Counsel for Khieu Samphan Kong

Sam-Onn were seen resting their heads on their hands. In the public gallery, the school children seemed more interested in their friends beside them than the proceedings within the Chamber.

With his back turned to the public gallery, however, the witness's responses did not change. When Ms. Srina questioned the witness on the military structure of Sector 105, she again had little success. Hoping to refresh the witness's memory, she read another statement from Mr. Sarun's OCIJ interviews: "During the Congress Pol Pot declared that civilian and military cadres should stop the killings or arrests until a prior summons by the center was obtained." Ms. Srina then asked what prompted Pol Pot to make this announcement. The witness responded characteristically, "As I already stated before the co-prosecutors, I think the position is clear."

Not giving up, Ms. Srina suggested she had not made herself clear. "What had happened to make Pol Pot announce that the military cadres stop the killing and arrests?" she repeated. "I don't know," Mr. Sarun replied, "I just know he announced that when people committed wrongdoings they should not be killed but should be re-educated."

Ms. Srina switched topics and asked the witness to elaborate upon his previous statement about "chit-chatting" with Khieu Samphan. "He was talking about the economy, about growing vegetables, about production, about the food rations of the people, and that's all," the witness explained. "Did he also talk to you about the four-year plan of the CPK?" Ms. Srina followed. "No, he didn't," Mr. Sarun replied.

Regarding his role disseminating party policy, Mr. Sarun explained, "The local people had to follow whatever they were expected of." When asked what happened to those who refused to follow party instruction, the witness replied curtly, "Nothing happened to them." He continued rather cavalierly, "I already answered to the co-prosecutors."

For her final question to the witness, Ms. Srina asked Mr. Sarun to explain what he meant when he mentioned "being afraid" in his previous testimony. "I was afraid," the witness began, "I couldn't help not being afraid because other people were getting called and disappeared. And a very close member of my family, my brother-in-law was called and disappeared." Thanking the witness for his response, Ms. Srina announced she had concluded her examination.

### ***Civil Party Co-Lawyer Confronts Witness with First-Hand Accounts of Sector 105 Brutality***

International Civil Party Co-Lawyer Elisabeth Simonneau Fort gained control of the floor, announcing she only had a few questions. With respect to the transfer of people, she inquired whether Mr. Sarun had heard of any transfers, even though he had testified he never saw any transfers. The witness replied, "I have never heard or witnessed people being transferred by other regions to Sector 105."

Ms. Fort then announced she wished to read a document to the witness and proceeded to read an excerpt from a civil party applicant: "During Democratic Kampuchea I lived in Kampong Speu province. I was evacuated and sent to Mondul Kiri province in the district of Koh Nhek. A year later ... I was transferred to the Khmer-Vietnam border. I was a direct witness of executions." The witness, however, could not confirm the civil party's statements, stating he had no knowledge of killings within Mondul Kiri.

Ms. Fort moved discussion to the witness's role as head of the Sector 105 medical division, asking what medical treatments were available for the people. Mr. Sarun replied, "There was sufficient medicine. There were people skilled at treating malaria. There were midwives and doctors who practiced general medicine. There were even surgeons."

Ms. Fort then read another civil party application excerpt written by an individual who was 33 years old in 1977:

In 1977 during the rainy season my father was assigned to plant bamboo in the forest. He had to work from dawn to dusk. He worked without eating. And he had to travel long distances. He was deteriorating day after day up until he became very sick. His body was swelling. He was taken to a medical unit where there were no doctors to care for him, nor were there pharmaceuticals. The Khmer Rouge said if you were sick you had no right to eat. He was deprived of food until his death.

Mr. Sarun responded, "No, I don't know anything about this. At that time I was confined to my position at the district. On top of that, I had no knowledge of having heard of people being treated like that."

Moving on, Ms. Fort then asked the witness if pregnant women or the elderly were entitled to medical treatment. "Pregnant women were not allowed to work hard," the witness explained, "And for a few months after delivering their babies, they were allowed to stay home."

Ms. Fort read another excerpt from a civil party application, this one by an individual who was a 20-year-old-woman in 1975:

In 1975 I was forced into marriage. Later on I became pregnant with my first daughter. One week following the delivery, I was sent into the rice fields although I was not ready. I received a very small, insufficient food portion. We only received one can of rice for four people. I was malnourished and exhausted. I often fell asleep on the rice fields. ... My mother was very elderly. She worked until she perished.

"Mr. Witness, does this remind you of any scenes you may have witness at the time?" Ms. Fort asked. Again, Mr. Sarun denied any knowledge. "No," he replied, "I don't know of such things happening during 1975."

Ms. Fort continued on and read from another civil party document, this one made by a 16-year-old boy:

With respect to my father who was very elderly, he was asked to supply tapioca. He was then asked to go hunting. He also was malnourished. He worked until exhaustion. He never had any time to rest. He was exhausted to the point of becoming sick. At that point I had requested medicine from the commune chief. ...

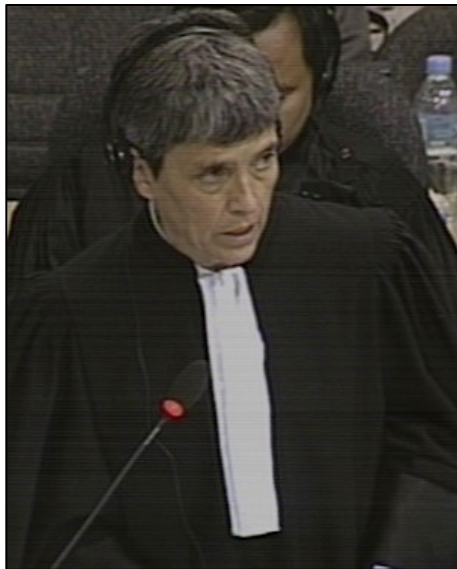
The chief told me, “It is not worthwhile to take care of the elderly. We should take care of those who are capable of working.”

The witness also denied knowledge of any events similar to those the boy described.

### ***Court Hits a Procedural Roadblock on Use of Civil Party Statements***

When Ms. Fort moved on and asked the witness if children were afforded sufficient medical treatment, National Co-Lawyer for Nuon Chea Son Arun stood to address the Court. Objecting to the “line of questioning by civil party counsel,” Mr. Arun reminded the Court, “These are documents by another person and are being used to impeach the witness.”

International Co-Lawyer for Ieng Sary Mr. Michael Karnavas followed with an objection as well. “These are unsworn statements. I assume the trial chamber is aware of that.” Mr. Karnavas continued, “This issue has been before the court, and it is still unresolved whether we can use such statements.” Mr. Karnavas concluded his objection, stating, “Obviously this is a technique to impeach the witness. We are entitled to confront these witnesses.”



Ms. Fort responded, “I understand the reaction of defense counsel in the fact of such a situation, and I’m surprised to hear them say that we can only use documents from witnesses. I believe the prosecution and defense have used all sorts of documents from all sorts of persons. ... Regarding the objections by my learned colleague, Mr. Michael Karnavas, the Chamber will assess the evidence and its probative value. ... The civil parties’ testimonies’ are also very important. They were provided sincerely. ... And I’m using only statements that are relevant.”

After a conferring briefly with the other judges, President Nonn announced, “Counsel, you may be seated. ... To deal with this issue to be in line with the previous decisions of the trial chamber so we can set precedent for future proceedings, the Chamber will decide on this matter in due course.”

International Assistant Prosecutor Dale Lysak addressed the Court to clarify an issue, explaining that the civil parties signed their names under the words, “To the best of my knowledge and belief the information I have given is correct, otherwise I will be liable under the applicable law,” on every civil party information form. “Aside from that point we certainly support the civil party’s use of these statements,” he continued. “The defense has been allowed to do this with the other witness[es] who are not going to testify. Certainly all four thousand of the civil parties are not going to be able to testify. ... It seems entirely appropriate that he be confronted with the voices of those victims,” Mr. Lysak concluded.

Mr. Karnavas offered a response, “An affirmation is not an oath; he ought to know better. ... Our position is rather one of principal. ... We need a set of guidelines and rules that are going to be

followed universally throughout trial. We do not think these statements should be used unless the civil parties will be present to testify.” Mr. Karnavas concluded that the defense did not object to the civil parties’ voices being heard but believes the accused have a right to confront those whose statements are used to testify against them.

After briefly convening with his fellow judges, President Nonn addressed the Court, “The Chamber is interested in hearing the arguments made by the parties.” He continued, however, “It is surprising that the parties did not stand up right after the document was referred to. The Chamber has indicated time and again that if any party wishes to oppose the document being referred to, then the party should oppose straight away.”

After President Nonn’s comment, National Civil Party Co-Lead Lawyer Pich Ang took the floor in response to Mr. Karnavas’s argument. Although he conceded that the civil parties were not under oath, Mr. Ang argued, “Civil parties are not obliged to take an oath. ... As already stipulated by international rule 23, the statement of the civil parties can be part of the evidence to consider. In this regard, the argument that the civil parties did not take an oath cannot be taken into account.” He concluded, “Secondly, as indicated in the civil party victim information forms, the information is not intended to incriminate the witness. We have only been trying to elicit information from the witness.”

President Nonn announced once again, “The Chamber will decide on this matter in due course.” He then warned civil party co-lawyers to ask relevant questions regarding facts set out in the Closing Order, specifically about facts concerning Tram Kak district – not Mondul Kiri province.

***Civil Party Victim Recalled Trucks Taking Prisoners for Execution in Mondul Kiri Province***

“Very well, Mr. President,” Ms. Fort responded. She then proceeded to question the witness on prisoners at Phnom Kraol. “Did you see or hear about people who were arrested either on foot or lorry to a destination unbeknownst to you?” Ms. Fort asked. The witness, as expected, responded, “I do not know about that.”

After receiving temporary leave to read civil party statements though informed they carried “little probative value,” Ms. Fort read the following excerpt:

At the end of 1975 I drove a truck that was full of men and women who were considered traitors to the nation. I drove them to the Kratie province. ... There were boats waiting for us. ... I do not know where they were led; I only heard that they were taken for reeducation. They disappeared since then. ... Since 1978 I was sent to work as a driver as I had done in the past. ... At that point there were two trucks made in China that were used for transporting many people ... who were sent for execution. ... Every day in the morning those trucks came to take away 10 or more people and then returned without the people.

When asked if the statement refreshed his memory, Mr. Sarun replied, “I do not know about that. In 1975 I did not hear or see this.”

***Witness States Security Center Operated “Normally” When There Were “No Arrests”***

Ms. Fort moved into her next topic of discussion by reading a statement the witness had made regarding the security center of Mondul Kiri: “It was operating normally. We did not arrest anyone.” She then asked the witness if he had meant that the security center functioned as usual when there were no arrests. The witness replied, “When I said the security center was functioning as usual, that means there were no arrests.”

Ms. Fort proceeded to read another civil party statement to the witness, one discussing the Phnom Kraol prison, written by a woman who was 24 years old in 1975: “My husband was sent to K-17 that was close to Kraol mountain. This was very close to the security detention center. ... I saw people arrested, shackled, lined up, and led away.”

“Mr. Witness,” Ms. Fort asked, “Does this refresh your memory about the Phnom Kraol security office?” Mr. Sarun replied, “As I already said, I did not see. I did not hear about people being arrested at the security center.”

***Witness Denies Allegations of Forced Marriages in Mondul Kiri Province***

Thanking the witness, Ms. Fort said she had one final question regarding forced marriages, reminding Mr. Sarun that he had said “on several occasions, that consent was required.” She then proceeded to read a final civil party statement: “I was assigned with cutting wood. The head of the unit, Run, forced me to marry Ey. ... Anyone who challenged an order was arrested. During the wedding there were 18 couples who stood in two rows. Each person had to declare their consent to the marriage.”

Again, Ms. Fort asked, “Witness, does this refresh your memory?” Mr. Sarun responded, “In 1975 I was at the district, but so far as I remember, there was no such forced marriage.”

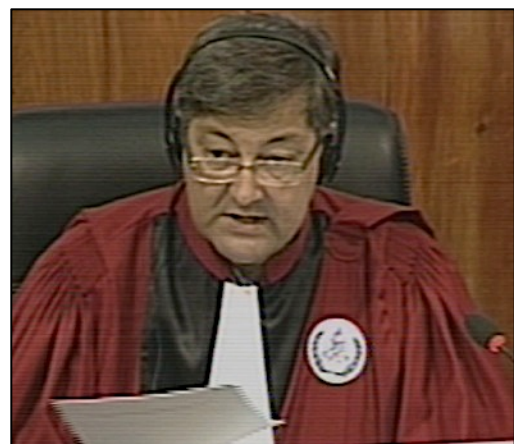
Ms. Fort thanked the witness, adding, “I regret not having been able to refresh your memory on some important points.” She then concluded her examination.

President Nonn subsequently opened the floor for the judges to put questions to the witness. Judge Jean-Marc Lavergne took the floor.

***Judge Jean-Marc Lavergne Questions the Witness on Sector 105 Transfers to S-21***

Judge Lavergne began by briefing the witness on two S-21 prison documents dealing with persons arrested from Sector 105 and Division 920 and subsequently transferred to S-21. The first document listed 318 prisoners from Sector 105 and Division 920; the second document, dated November 23, 1977, listed 151 detainees transferred to S-21 on that date alone.

Judge Lavergne asked the witness if Secretary Lang ever went another name. Mr. Sarun responded that he was unaware of any others. Judge Lavergne followed,





“Do the names Ham and Chhan mean anything to you?” The witness said they did not.

Judge Lavergne continued. “Was another person appointed to head Sector 105 before you were appointed to head that sector?” Mr. Sarun replied that no other person took over as Secretary of Sector 105 between the time of Lang’s death and his appointment. Judge Lavergne asked the witness when he assumed duties as Secretary 105. Mr. Sarun explained, “I resumed my role of as secretary of the sector in the aftermath of Lang’s death. It was in September of 1978.” Therefore, Judge Lavergne inquired, “Who was in charge of the sector between the beginning of 1978 and September of 1978?” The witness responded, “I don’t know.”

Judge Lavergne went on to educate the witness on various telegrams between Lang, Pol Pot, and Nuon Chea in which Lang was referred to as “Comrade Chann.” When asked if Lang informed the witness that he was in touch with party leaders in Phnom Penh, Mr. Sarun responded, “When Lang was in charge, I had no idea where he would send messages. I took office in 1978, and I have no knowledge prior to that.”

Judge Lavergne then embarked on a series of questions regarding the military structure of Division 920. The witness said he was not aware who headed Division 920. Neither could he recall a man by the name of Men Man, alias Chinn. Although he had just stated he did not know the head of Division 920, Mr. Sarun said, “San was the head of the division,” after Judge Lavergne asked him if he knew a man known as San. The witness also informed the Court that San was deceased.

“Very well,” Judge Lavergne replied, moving on to brief the witness on another series of telegrams, these sent by Division 920. “Regarding your relations with San,” Judge Lavergne asked, “Unless I am mistaken, you did acknowledge having meetings with him and that during those meetings San came with lists of those persons who had to be arrested. Is this something you can confirm?” Mr. Sarun replied, “With regard to the messages ... I don’t know because I was at the district. I don’t know anything about this.”

“Witness, I don’t think you understood my question,” the judge countered, “I was not talking about messages; I was talking about meetings during which you met San. ... Do you recall whether San brought lists of persons to be arrested?” The witness responded, “There was a meeting. However, I have no knowledge of lists being discussed in the meeting. ... It was never brought up.”

“Very well,” Judge Lavergne said again. He then asked the witness various questions about security in Sector 105. The witness confirmed Sophea’s role as head of the sector military, after which Judge Lavergne asked about Sao Champi, alias Mang. The witness said Sao Champi was his younger sibling who was a member of a “regimen” under Democratic Kampuchea (DK).

As his final question, Judge Lavergne asked, “Mr. Witness, when you were addressing telegrams to ‘Beloved Brother,’ did you also send copies to Nuon Chea, Ieng Sary, Van, and Vorn Vet?” Mr. Sarun replied that he only wrote to Pol Pot.

***Witness Recalls Death and Destruction from Pre-DK American Bombardments***

After the lunch adjournment, President Nonn handed the floor to International Co-Lawyer for Nuon Chea Jasper Pauw to start the witness examination for the defense.

Mr. Pauw began by questioning the witness on American bombardments in Mondul Kiri province between 1970 and 1975. “The houses in the province were destroyed,” Mr. Sarun explained, confirming that he witnessed the American bombings. “The bombardments took place from 1970 to 1975. The bombers included B-52s,” he added.

When asked about bombings of pagodas, the witness informed the Court that the pagoda in his home village was destroyed in addition to other pagodas throughout the province. Regarding rice paddies, the witness replied, “In some parts near the border the plantations were it, and my family members, 11 of them, were injured by the bombs.”

Mr. Pauw asked the witness about those were killed or injured by the bombardments. “In some villages, only very few people were left,” Mr. Sarun explained. “Some died and some were injured. ... I talked to those who survived the bombings and they said the people who died because of the bombings were buried.” He continued, “When the attacks were taking place, a lot of people were taken away with the troops that attacked at that time. They were moved to Vietnam.” Other people, the witness stated, “had to flee for their lives. They had to run to the countryside to avoid being bombed on.”

Mr. Pauw inquired whether Mr. Sarun ever saw American helicopters – or “gunships” – in Mondul Kiri. The witness replied that he did and that the helicopters also dropped bombs that destroyed “villages and bridges.” Asked if he had seen American soldiers in Mondul Kiri, the witness responded, “I saw the airplanes and the American soldiers enter the village of Kreng Tek, adjacent to Kratie province.”

***DC-Cam Document States Lon Nol Asked U.S. to Bomb Rebel Areas in Cambodia***

Asked if he heard people discuss why they believed the Americans were bombing Cambodia, the witness responded, “I don’t understand the question.” To help clarify, Mr. Pauw asked the Court’s permission to read an excerpt from a publication by the Documentation Center of Cambodia (DC-Cam) discussing the American bombings during the 1970s. The document, Mr. Pauw explained, was entitled “Khmer Rouge Purges in the Mondul Kiri Highlands” and contained statements by an individual from Mondul Kiri who witnessed the bombings during this period of time.

President Nonn asked if the document had been put before the Chamber, to which Mr. Pauw responded, “Mr. President, as you know, our position is that we should be able to use any document to impeach a witness and especially a document such as this DC-Cam publication.”

President Nonn, turning off Mr. Pauw’s microphone, interrupted, “You are supposed to follow the instructions concerning how to impeach a witness. You are now instructed to read the instructions of the Trial Chamber dated on the 24<sup>th</sup> of May 2012.” The president continued, “The documents that have not yet been put before the Chamber shall not be raised. Only after rule 87.4 is fulfilled will a document be allowed to be put before the Chamber and the witness.”



Mr. Pauw responded, “Mr. President, for the record, I think that would be a violation of my client’s rights to effectively question this witness.” Nevertheless, Mr. Pauw conceded that the document was mentioned on the prosecution’s document submission. Assistant Prosecutor Dale Lysak confirmed that the document was included in the prosecution’s annexes. The prosecution, he continued, did not object to defense counsel putting the document to the witness as long as the questions related to the witness’s direct knowledge.

President Nonn thanked Mr. Lysak and also added, “Parties need to establish a basis for the document. ... It does not matter if it is in the annex or not. ... You may proceed.”

Appearing befuddled, Mr. Pauw responded, “Thank you, Mr. President, but I am confused as to what I should proceed. Should I provide reasons for relying on a document that the OCP [Office of the Co-Prosecutors] has submitted and that the OCP does not object to? Should I file a request to have this submitted as new evidence even though this document comes from the prosecution? Or shall I proceed with my questioning? So some guidance would be appreciated.”

President Nonn explained to Mr. Pauw that the counsel was permitted to put questions to the witness as Mr. Lysak had indicated the document had already been submitted to the Chamber. He reminded Mr. Pauw again that he was to put questions to the witness that were relevant to the witness’s personal knowledge.

Thanking the President for his explanation, Mr. Pauw proceeded to read a statement by a Pnong inhabitant of Mondul Kiri from the document:

The bombing first started in the late 1960s. The Americans came to take action in Cambodia to fight the Vietnamese and the Viet Kong, not the people of Cambodia. This was because there were people from Cambodia ... who had contacted the Americans. Lon Nol made that request in order to oppose Sihanouk. Then the bombs were dropped everyday. The sky became dark with the helicopters. There were many helicopter gunships and B-52s dropping bombs. ... One time my children and my wife were running away from helicopters approaching and firing. They had been grinding rice. I knew it was American soldiers because they came to my village. The helicopters landed on the mountains, in the fields, everywhere. I did not understand the American language. I looked at the faces of the Americans and the Lon Nol soldiers. I was already afraid. At that time the Viet Kong were with the Sihanouk forces and Lon Nol was with the Americans. Lon Nol asked the Americans to bomb places in Cambodia. ... They mistakenly hit houses.

Mr. Pauw then asked Mr. Sarun if he had ever heard people mention Lon Nol making requests to the Americans to bomb areas of Mondul Kiri. The witness replied that he did not and that he only saw the bombing.

***Defense Presents Witness with Documents Citing His Involvement in Exterminations***

Mr. Pauw moved on to discuss a more sensitive topic – the witness’s personal reservations – if any – about testifying before the Court. The counsel reminded Mr. Sarun that the prosecution had asked him if he was reluctant to testify against the accused, to which he had answered he was not. Mr. Pauw then inquired, “Mr. Sao Sarun, are you perhaps reluctant to testifying because of your own role during the DK regime?” The witness replied, “No I am not. I answered to the co-prosecutors on the basis of what I know.”

Mr. Pauw asked the Court’s permission to read another excerpt from the same DC-Cam publication. After quickly convening with his fellow judges, President Nonn asked Mr. Pauw if the document was available in Khmer and French. Mr. Pauw replied, “No, it’s not, Mr. President. I trust however that that’s not a problem considering that I can read it to the witness and it can be conveniently translated in the other languages.” Continuing, he argued, “It’s the document we relied upon before. In fact twenty minutes ago the prosecution did not object. And it’s relevant. It relates directly to the role of Mr. Sao Sarun. And I note that the civil parties also relied on documents that were not translated into all languages.” Finally, he concluded, “So I hope we can proceed and that I don’t need to resort to summarizing this document. I think it will be a much more pleasant experience if we can just read from this document and ask questions that are based on this document that are not controversial.”

Flummoxed with such a long response, President Nonn stated bluntly, “Counsel, you did not seem to answer my question. My question was, ‘Is the document available in Khmer or French?’ You were not supposed to explain to us.”

“As far as I know,” Mr. Pauw replied, “It is not translated in Khmer or French.”

After reminding Mr. Pauw to extract only “small portions” of the document to allow for easy translation, the President permitted him to proceed.

Before turning back to the document, Mr. Pauw retorted, “Forgive me if I am not exactly trusting on these matters.” He then read the following excerpt to the witness: “With Horn’s death, Sarun, an ethnic Lao, became the Secretary of Region 105. The conflict between Con Fung and Horn and the insulation of Sarun as region secretary led to the imposition of stricter rules in the region and coincided with the period of the greatest number of deaths.”

Mr. Pauw then read another excerpt under the heading “Flood of Killings”:

Many informants mark the beginning of the most radical changes in Mondul Kiri to late 1977 and 1978 when Sarun took power. ... After Sarun became the region secretary, they arrested people every day, four or five people a day. The chief of the cooperative tried to get people to work harder by telling them Sarun was going to kill the lazy people.

Mr. Sarun denied the implications of the excerpts, stating, “This matter is not correct. Those who reported this exaggerated the facts. I never saw or knew of the killings of the people. I deny this statement.”

Mr. Pauw asked the witness if he was more “active” than his predecessor, Lang, regarding the ordering of executions of local villagers. The witness asserted ardently, “No, I was not. When I took power it lasted only for two months. I was not a strong man who arrested the people. I reject what was read out just now. It was accusing me incorrectly.”

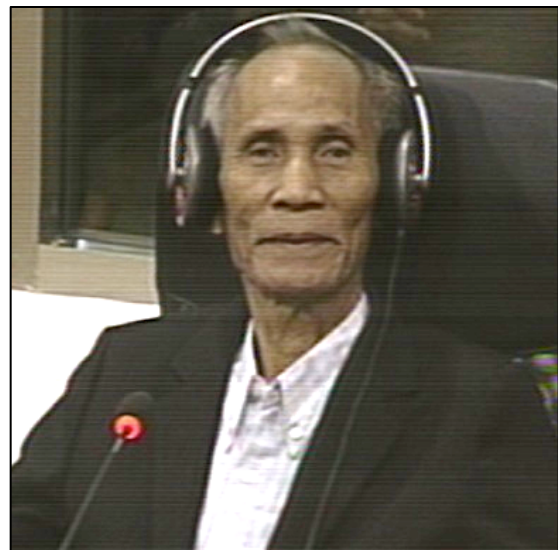
***KR Scholar Stephen Heder Claims District Secretaries Are “Key Figures” in DK Killings***

Thanking the witness for his response, Mr. Pauw proceeded to read an excerpt from another document, an article written by the Khmer Rouge scholar Stephen Heder about the role of mid-level cadres during the DK regime: “In practice, the most important level on both the chain of command and the hierarchy of delegates and discretionary authority appears generally to have been the districts . . . making district party secretaries key figures in responsibility for killings nationwide.”

Mr. Pauw then asked the witness if he agreed with Stephen Heder’s conclusions that district secretaries were “key figures” in the killings. Mr. Sarun responded, “I do not know about what happened throughout the country. I do not agree with that because my district was different from other districts.”

Mr. Pauw read another excerpt from Stephen Heder’s article: “Most prisoners were sooner or later executed on the authority of the district itself.” Mr. Pauw then asked the witness, “Was that your experience in your district?” Mr. Sarun countered,

“My answer is that within my district no one was ever sent as prisoner.” He also added that he never reported to the party leaders about killings or arrests during his role as district secretary.



***Potential ECCC Witness Recalls Entire Families Arrested During the “Ta Sarun Era”***

Mr. Pauw then informed the Court that he wished to confront the witness with statements made by witness TCW 307 – statements, he explained, that relate directly to the witness.

Before announcing a ruling, President Nonn asked the Chamber if any other parties had comments. Mr. Lysak took the opportunity to make a statement. “The Chamber has previously ruled that only statements made by witnesses who will not testify can be used. The reasoning of that is known to the Trial Chamber,” he noted, “Our view is that we do not have any objection if the Trial Chamber feels it is appropriate and, in particular, if the passage directly relates to something within the witness’s knowledge. And that the witness who will be coming is not identified.”

Ms. Fort also made a statement, “Mr. President, as far as we’re concerned we have no objections either, given the fact that all parties enjoy the same rights.”

President Nonn, agreeing with Mr. Pauw and his colleagues, gave Mr. Pauw permission to read the witness’s statement as long as he ensured the confidentiality of the witness’s identity.

Mr. Pauw read the following statement from witness TCW 307’s OCIJ interview: “During the Ta Sarun era, the arrests of families were made, but I don’t know where those families were taken to be killed.” Asked if he could remember such events occurring within his sector while he was secretary, Mr. Sarun responded, “No. Whole families would never be arrested. I think the person who stated this must be exaggerating because we never made any arrests of any villagers to be executed.”

Mr. Pauw continued reading from witness TCW 307’s OCIJ interview: “The prisoners were brought in from districts within Sector 105. The majority of the prisoners who had been arrested and put in the security office were accused of practicing black magic and incantation witchcraft.” Mr. Pauw inquired whether Mr. Sarun remembered people being arrested for practicing “black magic and witchcraft.” Mr. Sarun stated again, “I do not think we ever arrested people believed to be practicing black magic or witchcraft. I was told not to do that.”

Informing the witness it would be his last question on the topic, Mr. Pauw read another excerpt to the witness: “Those who were brought for reeducation in Phnom Kraol security office included those who broke disciplines, committed immoral offense, stealing, and robbery, and work evasion. In each case the defender had to prepare a biography. The Center never made any orders to the K-17 office for any arrests.” Mr. Pauw asked the witness if it was his experience that the Center never sent orders for arrests to the K-17 office. Mr. Sarun responded evasively, “There were never any arrests.”

President Nonn interjected and informed the Chamber it was time for a short break.

### ***The Chamber Continues to Quarrel over Documentation Issues***

Before giving Mr. Pauw the floor, President Nonn asked if the quotes he had referred to by Stephen Heder had been put to the Chamber for submission into evidence. Mr. Pauw informed the Court that they were present in the annex, but he had misplaced the document numbers.

Mr. Lysak, coming to the aid of opposing counsel, informed the Court, “I can’t tell you for sure ... but there are at least excerpts from Steve Heder ... that was included on our annex.”

The matter was not settled, however, as another comment by Mr. Pauw prompted further argument amongst President Nonn, Mr. Pauw, and Mr. Lysak. Ending the discussion, President Nonn convened yet again with his fellow judges. He then handed the floor to Judge Lavergne to sort out the situation.

Judge Lavergne lamented, “The Chamber is most regretful to spend so much time reminding parties of the rules. ... That one would want to use documents in the proceedings would entail

that the documents have been admitted into the proceedings.” Concluding, he admonished the parties, “It is time you oblige by the rules made explicit by this Chamber. ... All parties want to be informed in advance if the document will be used to question a witness. This is a minimum. ... It would be wise if you employ a minimum amount of effort in employing this task.”

Thanking Judge Lavergne, President Nonn added that the documents placed on the interface “cannot be used interchangeably to fulfill rule 87 as the rule that governs the use of documents in the trial chamber.”

Mr. Pauw, thanking the President, agreed that the Court was spending too much time discussing procedural matters. However, he added, “If we are in possession of exculpatory documents, it is our duty as defense counsel to impeach the witness.” Mr. Pauw then continued with his examination.

Moving on to another topic, Mr. Pauw reminded the witness of the meeting the he had mentioned attending in Phnom Penh shortly after the death of Lang. To help refresh his memory, Mr. Pauw quoted one of the witness’s OCIJ interview statement where he related being called by Pol Pot to attend a meeting in Phnom Penh two or three months after the death of Lang. When asked if he remembered the meeting, Mr. Sarun replied, “I maintain what I told the co-investigating judges. I have said this clearly.”

Mr. Pauw read a portion of the witness’s previous testimony in which the witness recalled joining only Pol Pot at the meeting. When Mr. Pauw asked if the witness remembered such a statement, Mr. Lysak objected, informing the Court that Mr. Pauw had not read the full excerpt of the witness, specifically the latter part where the witness’s memory was refreshed by being read his former OCIJ interview statements.

Mr. Pauw explained that he left the latter part out because “we cannot assume that his statements before the co-investigating judges were correct. We need to test, we need to verify how he came to these judgments.” Continuing, he argued, “This witness has made absolutely contradictory statements in his testimony that may be due to memory loss. They may be due to other reasons. We don’t know. ... I am asking the witness to confirm the truthfulness of a statement this witness made last week under oath. It is in the records.”

Preventing Mr. Lysak from posing a counter-argument, President Nonn engaged in a quick discussion with the other judges. He then announced that the question was repetitive.

Mr. Pauw responded, “I remember the OCP asking about seventeen times whether the witness’s statements were truthful,” but President Nonn turned off his microphone before he could complete the statement and informed him he had to move on.

Thanking the President, Mr. Pauw moved on to ask the witness about the series of telegrams he had discussed with Mr. Lysak the week before. Mr. Pauw reread excerpts from the telegrams and subsequently asked the witness if he confirmed them. As he had done most of the day, Mr. Sarun responded to each question, “I already discussed this with the co-investigating judges.”

Finishing his examination and announcing that no other co-lawyers for Nuon Chea had questions to put to the witness, Mr. Pauw proceeded to make a “two-minute” oral submission to the Chamber.

“You are not allowed to do that. The Chamber has already reminded you time and again on this,” President Nonn replied.

“If it related to the questioning of the witness it can be done in court,” Mr. Pauw replied, reminding the President of the ruling he confirmed just the week before, “And I believe it is the right of the public that they hear about our concerns.”

“No,” the President replied loudly, “You are not allowed to do that. You are now referred to rule 92 concerning the closing statement. Your request falls within the ambit of internal rule 92.” The president then handed the floor to Co-Lawyer for Khieu Samphan, Arthur Vercken.

### ***Witness Sao Sarun Concludes His Testimony before the Trial Chamber***



Mr. Vercken took the floor briefly, long enough to attempt to disassociate Khieu Samphan from any inculcating statements by the witness. He first received confirmation from the witness that the four telegrams he had sent to the party center in Phnom Penh were only addressed to Pol Pot and therefore, not addressed to Khieu Samphan. After confirming that all four telegrams were sent to Pol Pot alone, the witness added that Pol Pot was the only person he ever reported to during his role as Secretary of Sector 105.

Mr. Vercken inquired about the witness’s contact with Khieu Samphan during the DK regime. After reading a segment from one of his OCIJ interviews where Mr. Sarun stated he discussed economic affairs with Khieu Samphan during a break at the party Congress, Mr. Vercken asked the witness if he could elaborate upon their discussion. Mr. Sarun stated that he had only met Khieu Samphan once, during which they briefly discussed “crops,” not economic affairs. “Does that mean you were wrong when you answered the investigator’s questions?” Mr. Vercken replied. “I think after having been seriously ill; I may have misunderstood something. Please forgive me for that.”

“When you say you were ill, are you talking about the period when you interviewed with the OCIJ investigations?” Mr. Vercken asked. The witness responded, “I had been sick before I gave interviews to the co-investigating judges. That is why my memory is not very good.” Mr. Sarun again confirmed that he did not discuss economic affairs with Khieu Samphan at any time, after which Mr. Vercken concluded his examination.

After National Co-Lawyer for Ieng Sary Mr. Ang Udom announced he had no questions for the witness, President Nonn thanked the witness for his time and informed him that his testimony had come to the end. Before adjourning Court for the day, he informed the parties that testimony from witness TCW 488 would begin the following morning, Wednesday, June 13, 2012.