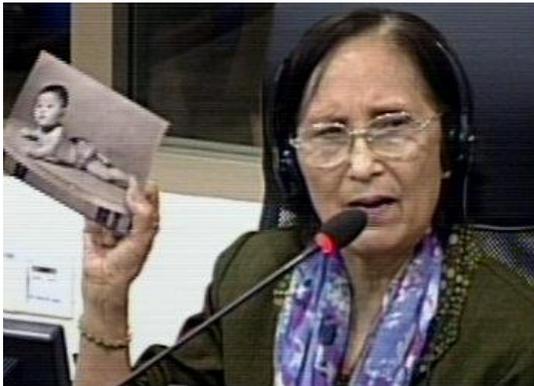


“If You Tell Them, You Will Be Killed”: Civil Parties’ Stories Heard

June 04, 2013 By Mary Kozlovski



On Tuesday, June 4, 2013, a fourth victim impact hearing was held in Case 002 at the Extraordinary Chambers in the Courts of Cambodia (ECCC). Since last Monday, civil parties have testified about the harm they suffered under the Democratic Kampuchea (DK) regime. Civil party lawyers questioned their clients, while prosecutors and defense attorneys had limited time to examine them on the facts in Case 002. The civil parties who testified on Tuesday were Cambodian-American Bay Sophany, Soeun Sovandy, and Seng Sivutha. Another civil party will be heard earlier than usual at 8:30 a.m. on Wednesday, June 5, as they are testifying via video from the United States.

On June 4, 2013, 600 people from Kampong Cham province’s Kang Meas district attended the hearing, while 25 people from Preah Vihear and Ratanakkiri provinces were brought to the court by the Documentation Center of Cambodia (DC-Cam).^[2] The three civil parties all posed questions to Case 002 defendants Nuon Chea and Khieu Samphan. Khieu Samphan was present in court all day, while Nuon Chea monitored proceedings remotely from a holding cell.

First Civil Party Called to Testify

At the beginning of the hearing, 67-year-old Cambodian-American civil party Bay Sophany was called to the stand. She told Trial Chamber President Nil Nonn that she presently lived in San Jose, California, in the U.S., was married and had three children – one son and two daughters.

Prior to Ms. Sophany’s testimony, International Civil Party Co-Lawyer Nushin Sarkarati stated that her client was a direct victim of the forced evacuation of Phnom Penh, forced to flee her home with her six-month old baby and two small children and only a tiny bundle of clothes, milk, and water. She later lost all three children, Ms. Sarkarati told the court. She said that after the fall of the Khmer Rouge, Ms. Sophany left Cambodia in 1983 and reunited with her husband in the U.S., where she now works as a mental health counselor at the Gardner Mental Health Center in San Jose – created to assist victims of the Khmer Rouge regime with mental health problems related to trauma. “[Ms. Sophany] will explain that her symptoms are not unique – she sees the same symptoms amongst her clients and the community around her,” the lawyer added. “[She] will explain that not only did the war tear apart her community, it left her

and her husband childless, without an extended family, and with a feeling of hopelessness and isolation that endures to this day.”

Bay Sophany’s Life before and after April 17, 1975

Under questioning from Ms. Sarkarati about her life prior to April 1975, Ms. Sophany recalled that she lived in Phnom Penh, where she worked as a teacher and her husband was a lieutenant colonel. They had three children. She testified that her husband was the youngest brother of the first wife of General Lon Nol and was assigned by the Lon Nol government to study in the state of Georgia in the U.S. for a senior military role in late 1974. Describing the start of Khmer Rouge rule, Ms. Sophany said that on April 17, 1975, Khmer Rouge soldiers entered Phnom Penh – carrying weapons and wearing black uniforms and stern facial expressions – and began firing shots into the air, pushing people to leave the city immediately. The civil party described how she grabbed her children, along with a bag of milk, milk bottles, and a set of clothes for each of them, as Khmer Rouge soldiers warned residents that the Americans would drop bombs on the city and they must leave for three days. She told the court she had to leave because if soldiers entered her house, she would be killed, due to the photographs of her husband in military uniform and her extended family on display.

After being unable to make it to her elder sister-in-law’s house, Ms. Sophany said, she was moved with others along the crowded streets on the main road near Chamkarmon^[3] before reaching Chbar Ampov.^[4] She detailed the sight of dead bodies along the road – those of Lon Nol soldiers, elderly people, children, and pregnant women. Reminding the court that it was the hot season in April, Ms. Sophany recalled also seeing disabled people and people with oxygen tubes in their noses.

Fearing that she might lose her children in the crowds, Ms. Sophany testified that they passed Chbar Ampov and headed toward Traoy Sla^[5], taking several days to leave Phnom Penh entirely and sleeping in empty houses along the way. The civil party described a day of pouring rain, during which she and her children crouched under a mango tree but got soaked. The next morning, they were made to continue moving, and she and her children grew sick with fever due to the rain and extreme heat, she recollected. Upon reaching Traoy Sla and taking refuge in a house with some base people, Ms. Sophany said, her children got sicker and people gave them some food, but Khmer Rouge soldiers instructed them to stop and she was told to move away from them. She added that she was treated like a “new person,” or “17 April person.”^[6]

On the village outskirts, Ms. Sophany recalled, she built a shelter from palm leaves; her baby became seriously ill and she exchanged a diamond ring – a wedding gift from her elder sister-in-law – with some base people for 25 cans of rice, which she subsequently traded for ten tablets of aspirin. However, the civil party testified, her baby contracted dysentery and could not eat, vomiting anything she ingested. After searching for someone with medical experience, Ms. Sophany said, a villager advised her to walk four or five kilometers to a military hospital, where a medic injected her baby in the head with an unknown substance. After this injection was administered her baby suffered from a seizure and died, Ms. Sophany recounted, describing to the court how she cried and hugged her child, before burying her in the nearby forest and erecting a wooden stake to mark the location.

At the time, the civil party stated, she grew confused and forgetful, and Khmer Rouge soldiers forced her to work extremely hard planting corn while her children stayed at home with no one to care for them. Ms. Sophany testified that she attempted twice to leave and was stopped by Khmer Rouge soldiers, but she succeeded on her third attempt, taking a small boat to another village and boarding a truck with Chinese people being sent back to Phnom Penh to plant vegetables.^[7] Upon their arrival in the city, however, they were driven to Tuol Sleng pagoda near Kampong Kantuot^[8] where there was a military base and battalion with many armed Khmer Rouge soldiers in black uniforms, she recalled; they were packed into

an empty house like “a bunch of bananas” before being made to clear bushes and forest for farming and plow the fields. Ms. Sophany added that it was “difficult” work during which insects stung them and people who resisted or did not work hard enough were harshly beaten.

Ms. Sophany testified that her son one day attempted to follow her to work in the rice fields and was grabbed by two Khmer Rouge soldiers, one of whom put a gun his mouth. She described how her son cried and the soldiers said her son was an “American son,” not a “Cambodian son,” before informing her they would not kill him but had to threaten him so he did not follow her. She said another Khmer Rouge soldier then pointed a gun at her back to make her keep walking and she begged them not to kill her son, whose hands were tied together with a scarf. After she turned to go to work, Ms. Sophany told the court, her son and daughter still ran after her.^[9]

From then on, Ms. Sophany testified, her children became swollen and sick; she received only a cup of watery gruel each day while her children got half a cup. The civil party said she had a Seiko wristwatch hidden and exchanged it for some medicine from villagers, who gave her only eight Vitamin B1 tablets that did not help her children. Then, Ms. Sophany stated, she was sent to a military base called “320” for three months, where she was forced to work hard carrying earth to assist in building a dam. She said she was then sent to an unknown location, where the Khmer Rouge took her biography and accused her of being a television commentator during the Lon Nol period. After this incident, Ms. Sophany added, she was kept under surveillance. The civil party testified that she and her children, among others, were taken near Phnom Chisor^[10], where they had to work “extremely hard” breaking rocks and where her son’s health became worse. Ms. Sophany recalled that she ran out of medicine and the Khmer Rouge soldiers starved them for two days; the family ate only boiled wild plants and she begged people for some rice and picked some palm fruit. Ms. Sophany said:

On that night, when we were so starving, we did not have anything to eat but the plant leaves. I cried very painfully. I hugged my two children. I did not know actually while, at that night, while I hugged my son, I did not know when my son passed away. And the next morning when I got up, I saw my son. He was motionless; his body temperature got very cold. And I did not know. I tried to open the eyes of my son, I tried to feel him on the nose, but then I realised that my son had already passed away.

Ms. Sophany told the court that she buried the body of her son near the foothills of Chisor Mountain and carved his name on a stone. After her son’s death, the civil party recalled, her five-year-old daughter fell ill and she could not help, as she had no medicine. Ms. Sophany said her daughter died, after which she became “almost insane” and did not talk to anybody. “I wanted to die with my children because I had nothing left – my children were all dead,” she said. “They died because of the Khmer Rouge soldiers, and I would like to appeal to the court to find justice.”

A photograph was put on display of a baby lying on its stomach, which the civil party identified as her youngest daughter who died after being injected by a medic at a Khmer Rouge hospital. Ms. Sophany said she had sent the photograph to her husband in the U.S. a week before Phnom Penh fell to the Khmer Rouge. She testified that after the Khmer Rouge era was over, she had no one left; her parents disappeared and villagers in Kampong Chhnang said her father had been killed. The members of her husband’s side of the family were killed, Ms. Sophany informed the court, and she had only her husband left in the U.S. The civil party stated that she became mentally ill as a result of her suffering under the Khmer Rouge regime and still experienced nightmares in which Khmer Rouge soldiers chased and tried to kill her. Physically, Ms. Sophany added, she sustained a wound on her leg.

Accused Respond to Questions from Bay Sophany

At this juncture, Ms. Sophany asked the two accused if they were aware that the Khmer Rouge mistreated and killed young children and interrogated and forced them to tell stories about their parents. Additionally, she inquired if the two men had ordered Khmer Rouge soldiers to behave in such a manner, and if not, who did.

Firstly, Khieu Samphan rose and stated – as he has to civil parties posing questions over the previous week – that he was not a DK leader and though labeled head of state, he had no authority. The accused said he did not know about Khmer Rouge soldiers killing, mistreating or interrogating children, and to his knowledge no such orders were given. He asserted that he had given no such orders, had no authority over the military, and was not cruel. Noting that Ms. Sophany had testified to being in Traoy Sla, Khieu Samphan said the person responsible for that sector was vested with such authority. “I myself would oppose such cruel and crazy acts, but I really regret that I did not know about this matter,” he concluded. Next, Nuon Chea, sitting on a bed in his holding cell, expressed his “sorrow and regret” for Ms. Sophany’s loss. He responded that the DK government had no policy to kill its own people but instead to rescue and build people into good citizens and compatriots who loved one another. Nuon Chea said DK had no policy to kill young children.

Prosecution Quizzes Civil Party about Family and Evacuation

After the responses from Khieu Samphan and Nuon Chea, International Senior Assistant Co-Prosecutor Vincent de Wilde cited a letter [\[11\]](#) in which Ms. Sophany said she lost many family members on her husband’s side who had been executed. [\[12\]](#) When asked for her sources, Ms. Sophany replied that she received information from people in her mother-in-law’s native village in Takeo province and the Khmer Rouge knew of her in-laws’ background; her father-in-law was Lon Nol’s father-in-law and they were aware of her elder brother-in-law’s occupation. She testified that most of her husband’s relatives were public servants and senior government officials during the Lon Nol regime, and even her own parents were killed because of their connection to her husband’s relatives. She stated that Khmer Rouge soldiers killed Lon Nol soldiers, in particular those of a similar rank as her husband.

Turning to the classification of people in DK, Mr. de Wilde queried whether the Khmer Rouge ever explained why certain people were treated differently or why 17 April people were segregated from base people. Ms. Sophany answered that the Khmer Rouge said her social class differed from that of base people in her village; she was considered a new, 17 April person. She testified that base people – those who lived in liberated zones – had more than 17 April people; they had sufficient rice while April 17 people had watery gruel with a few grains of rice, some salt, and occasionally a small amount of dried or fermented fish. Ms. Sophany related how they were sometimes starved. Elaborating, Ms. Sophany told the prosecutor:

We were treated as the new people, the 17 April people, which had a different social status or class compared to the base people. While we were working, we were watched by armed people, even during the night time when we were sleeping, people would be walking around and monitoring us.

Ms. Sophany stated that they had to break rocks for road construction and she wounded her leg, which became infected, but she still had to work or her rations would be withdrawn. Mr. de Wilde quoted the document previously mentioned [\[13\]](#) as saying that a woman was beaten severely to retaliate against imperialism and capitalism because one of her children informed the Khmer Rouge that she had stolen a pumpkin. When asked if she felt the Khmer Rouge’s mistrust of people of her class, Ms. Sophany replied that the woman beaten was married to a former soldier [\[14\]](#) and was breaking rocks next to her, while her

children were beaten and interrogated in the village. She described how her own children were beaten and asked about their parents' occupations under the former regime and whether their parents had stolen anything from Angkar. Ms. Sophany testified that she told her children never to say that their father was a soldier and lived in the U.S. or they would all be killed; instead they told the Khmer Rouge that their father was a teacher and their parents were separated.

When the children of the woman breaking rocks near her told the Khmer Rouge their mother had a pumpkin and they could not find it, the Khmer Rouge – including a pregnant woman – tied her up and beat her, Ms. Sophany recollected, though the woman denied the theft. The civil party said the rest of the people kept their heads down. “We were encouraged to beat that woman; even if I had to die, I would not lay my hand on her,” the civil party added. In response to Mr. de Wilde’s final question, Ms. Sophany testified that toward the end of the regime, the Khmer Rouge forced 17 April people – by then in a designated village – to dig two meter by 0.5 meter pits that were one meter deep, which she was told were intended for fertilizer. However, these pits were not finished because Vietnamese troops arrived, she told the court.

Further Examination by Civil Party Lawyer

Granted an extra five minutes Ms. Sarkarati inquired if any of Ms. Sophany’s trauma symptoms, such as nightmares, changed when she left Cambodia for the U.S. The civil party answered that the symptoms remained, especially because she witnessed the children of American families and thought of her own. “I still recall the time when my children talked to me; I remember every word they said to me,” she said, adding that she could not have more children following the end of the regime due to her health. When asked what problems she saw among Cambodian victims she met at the health center, Ms. Sophany said they brought the trauma of the Khmer Rouge period with them and she provided them with counseling – particularly those who did not make a good living in the U.S. The civil party stated that she could not be compensated for her suffering and appealed to the court to find justice for her children and family killed by the Khmer Rouge. She asserted:

If those dead family members do not find justice, I believe that I will not be able to die at peace. As a mother, as a daughter of my parents, and a mother of my children, I want to find justice for them.

Nuon Chea Defense Cross-Examines Civil Party

Firstly, National Co-Lawyer for Nuon Chea Son Arun pressed Ms. Sophany for detail about the evacuation. In response, Mr. Sophany testified that Khmer Rouge soldiers did not enter her house but were shooting into the air and pushing her neighbors to leave their houses immediately because the Americans would drop bombs; they were one house down and approaching her residence, so she left. When queried if she therefore left Phnom Penh of her own free will, Ms. Sophany disagreed, rhetorically asking, “Who would do that?” Again, the civil party told the court that she left because of the aforementioned actions by Khmer Rouge soldiers. “If they were to enter my house and saw the photos, and while I was there, then there would be big trouble for me,” Ms. Sophany reiterated.

After Mr. Arun posed a query about the soldiers’ behavior, Ms. Sarkarati objected that his questioning was repetitive and he was badgering the civil party. President Nonn instructed Ms. Sophany to respond, and Mr. Arun inquired again about the behavior and appearance of the soldiers. She responded that they were stern and stared at people, threatening everyone to leave their houses for three days or Americans would drop bombs. “They were of a cruel nature, and they wore black uniforms,” she said. When Ms. Sarkarati objected to the start of Mr. Arun’s question – describing Ms. Sophany as evacuating herself from Phnom Penh – she was overruled. In response to Mr. Arun’s query about people with whom she had

exchanged her ring, Ms. Sophany replied that she swapped it secretly with base people in Traoy Sla, whom she said were “kind of wealthy” and knew gold and diamonds well.

Mr. Arun asked Ms. Sophany how she could assist other women with their mental health when she had testified that her health was not great, her memory did “not serve her well,” and she suffered from chronic mental trauma. Ms. Sarkarati interjected again, arguing that the civil party had never testified that her memory was not good and requesting that defense counsel refrain from assuming facts not in evidence. Her objection was sustained, and Ms. Sophany was instructed not to respond.

With this ruling, the Nuon Chea defense ended their cross-examination, and lawyers for Khieu Samphan said they had no questions.

Article continued at: <http://www.cambodiatribunal.org/blog/2013/06/%E2%80%9Cif-you-tell-them-you-will-be-killed%E2%80%9D-civil-parties%E2%80%99-stories-heard>