



អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា
Extraordinary Chambers in the Courts of Cambodia
Chambres Extraordinaires au sein des Tribunaux Cambodgiens

ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ

Kingdom of Cambodia
Nation Religion King
Royaume du Cambodge
Nation Religion Roi

អង្គជំនុំជម្រះសាលាដំបូង
Trial Chamber
Chambre de première instance

ឯកសារដើម
ORIGINAL/ORIGINAL
ថ្ងៃ ខែ ឆ្នាំ (Date): 01-Nov-2012, 10:30
Sann Rada
CMS/CFO:

TRANSCRIPT OF TRIAL PROCEEDINGS

PUBLIC

Case File N° 002/19-09-2007-ECCC/TC

24 October 2012
Trial Day 123

Before the Judges: NIL Nonn, Presiding
Silvia CARTWRIGHT
YA Sokhan
Jean-Marc LAVERGNE
YOU Ottara
THOU Mony (Reserve)
Claudia FENZ (Reserve)

The Accused: NUON Chea
KHIEU Samphan

Lawyers for the Accused:

SON Arun
Jasper PAUW
ANG Udom
Michael G. KARNAVAS
KONG Sam Onn

Trial Chamber Greffiers/Legal Officers:

SE Kolvuthy
Roger Phillips
DUCH Phary

Lawyers for the Civil Parties:

For the Office of the Co-Prosecutors:

CHAN Dararasmey
Vincent DE WILDE D'ESTMAEL
VENG Huot
Tarik ABDULHAK

PICH Ang
Élisabeth SIMONNEAU-FORT
MOCH Sovannary
Lyma NGUYEN
CHET Vanly
VEN Pov
Beini YE

For Court Management Section:

UCH Arun
SOUR Sotheavy

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List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
MR. ABDULHAK	English
MR. ANG UDOM	Khmer
MR. CHAN DARARASMEY	Khmer
MR. DE WILDE D'ESTMAEL	French
MR. KONG SAM ONN	Khmer
MR. KUNG KIM (TCW-362)	Khmer
MS. LAY BONY (TCCP-64)	Khmer
MS. MOCH SOVANNARY	Khmer
THE PRESIDENT (NIL NONN, Presiding)	Khmer
MR. PAUW	English
MR. PICH ANG	Khmer
MS. SIMONNEAU-FORT	French
MR. SON ARUN	Khmer
MR. VENG HUOT	Khmer

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1 P R O C E E D I N G S

2 (Court opens at 0902H)

3 MR. PRESIDENT:

4 Please be seated. The Court is now in session.

5 [09.03.26]

6 During today's session, the Chamber continues to hear the
7 testimony of Civil Party Lay Bony.

8 The Chamber wishes to also inform the co-lawyers for the civil
9 parties and Ms. Lay Bony that, when putting questions and
10 responding to the questions, make sure you observe some pause so
11 that the interpreters could render the message fully, because
12 yesterday you were rather fast.

13 Court greffier is now instructed to report on the attendance of
14 the parties to the proceedings today.

15 THE GREFFIER:

16 Good morning, Mr. President. All parties to the proceedings are
17 present, except Mr. Ieng Sary, who is absent due to his health
18 reason. According to document E/237, the accused person has
19 waived his right to the testimony of the civil party and another
20 reserve witness, TCW-362.

21 Mr. Arthur Vercken is absent because of his personal commitment.
22 TCW-362 is ready in the waiting room and awaits a moment where
23 the witness will be asked to take an oath. According to the
24 witness's best recollection and knowledge, the witness has
25 nothing -- or has no relation or blood relation to any of the

2

1 parties to the proceedings, including the accused persons. This
2 witness will be assisted by Duty Counsel Mr. Lim Bunheng.

3 [09.05.48]

4 MR. PRESIDENT:

5 Thank you.

6 We would like to hand over to the lawyers for the civil parties
7 to proceed.

8 QUESTIONING BY MS. MOCH SOVANNARY RESUMES:

9 Thank you, Mr. President, Your Honours. And very good morning to
10 you, Madam Civil Party.

11 Q. Yesterday, we left off when you were evacuated to Kandal and
12 Battambang. Today I would like to continue putting a few more
13 questions concerning this evacuation.

14 Could you please be more precise on when, exactly, you were
15 transferred from Kandal?

16 [09.06.44]

17 MS. LAY BONY:

18 A. Very good morning, Your Honours.

19 At that time, I do not recollect the exact date, but it is most
20 likely in May. The rain started to fall heavily already; it was
21 the farming season, and I was transplanting the rice when I was
22 asked to pack my luggage so that I could be transported to
23 Battambang.

24 Q. I will refer to the same question as I did yesterday. And with
25 Mr. President's leave, I want a document to be put up on the

1 screen, document in Khmer ERN 00373249, English ERN 00379159, and
2 French ERN 00422451 through 52.

3 Here, you stated before the Investigating Judges that you were
4 taken by an ox cart to the riverbank before you boarded a boat to
5 Battambang, and then you were transported by the Chinese military
6 truck.

7 My next question is: When you reached the riverbank, how many
8 boats did you see coming to pick up the people?

9 A. Through the ox cart – indeed, when I reached the riverbanks, I
10 saw three ships -- big vessels -- those ships that could
11 accommodate a few hundred people. And we were asked to load our
12 luggage onto the ships immediately because we had to rush to make
13 sure we got to Kampong Chhnang before the sunset.

14 [09.09.28]

15 Q. Can we ask you, please, how many people were boarding each
16 ship at that time?

17 A. There were not a lot of people; it was not very crowded,
18 because people could lie down if they wished.

19 Q. How many people approximately were there on the – the dock of
20 the ship that you were boarding?

21 A. There were less than 100 people, altogether.

22 Q. Were all the evacuees from Khsach Kandal district or from
23 elsewhere?

24 A. All the evacuees were from Khsach Kandal district, indeed from
25 different communes and villages.

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1 Q. You just mentioned that when you were on board the ship you
2 saw the Khmer Rouge soldiers who were armed and who pushed you
3 onto the ship. So do you know where these soldiers were from?

4 [09.11.37]

5 A. I do not know where the soldiers were from, but I know that
6 they were from the zone.

7 Q. I would like to go back to your record of interview on ERN in
8 Khmer 00373250, English ERN 00379160, French ERN 00422452.

9 In that portion, you say that you were sent to Wat Kaoh Chum, in
10 Pursat, and that the ox cart was seen poised to transport the
11 people to other locations.

12 My question is: Who prepared the ox carts to receive the people?

13 A. I have no idea who made all these arrangements, but after
14 asking a few questions to other villagers, I learned that the ox
15 carts were from different cooperatives -- from Sector 22 and
16 Sector 23, for example. I asked them where the ox carts could
17 have been from; some would say they were from Kandieng location,
18 and they asked us where we would like to go or whether we would
19 like to go to Kandieng or not, and I said I had no idea.

20 Q. When the Khmer Rouge cadres in Khsach Kandal asked you to
21 leave the area, you were told that you would be transferred to
22 Battambang, where food was plentiful. When you were transported
23 to Pursat, did the Khmer Rouge keep their word by transporting
24 you all the way to Battambang as they promised?

25 [09.14.09]

5

1 A. Indeed, they did not honour their promise. I believe that they
2 only used that as a pretext to make sure we could be moved from
3 the location more immediately. And I don't believe that they care
4 so much about failing to honour their promise.

5 Q. At the cooperative at Pursat province, did you have enough
6 food -- or was the food plentiful as they said?

7 A. During the Khmer Rouge regime, from the beginning when I left
8 Phnom Penh, whenever the harvest - rather, whenever the rice
9 transplant season came, it was the most difficult time concerning
10 food. So we did not have food to eat, in particular during the
11 farming season, but I could manage to bring along some foodstuff
12 so that we could survive on them.

13 [09.15.49]

14 Q. What was your impression concerning the livelihood of the
15 evacuees and other people? Did you notice that these people were
16 given enough food to eat?

17 A. At the Kaoh Chum Cooperative, I only learned about people in
18 my neighbouring village. And the people in that village had to
19 clear the bamboo trees so that they could make a village. And the
20 evacuees in this village all died, sometimes in -- the whole
21 family, none last member of the family survived because of the
22 ordeal.

23 Q. I will conclude this point by asking you this question: When
24 the evacuees were transported or transferred to the location, how
25 were they treated?

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1 A. At that time, there was no special treatment. We were made to
2 form groups, eating communally, like four cans of rice for a few
3 people. And people would be tasked with working at different
4 locations. But when people fell ill, we were not offered any
5 medicine, and the food itself was short.

6 [09.18.06]

7 Q. This is the last question to you, please: Have you observed --
8 or what was your observation concerning the transfer of the
9 people from Phnom Penh to Bakan district, in Pursat? Do you
10 believe that such policy was friendly enough to the people who
11 were evacuated?

12 A. I personally feel that, if they were to treat us well to bring
13 us all the food supplies they wanted, I do not feel there would
14 be any short supplies of food because there was plenty of food
15 available. However, the Phnom Penh dwellers, who were then the
16 evacuees, were destined for being tempered, mainly, and they did
17 not care whether we died or not; they just wanted to make sure we
18 got tempered.

19 MS. MOCH SOVANNARY:

20 Thank you very much, Madam Civil Party, for your responses to my
21 questions. And I thank you, the Bench, for this opportunity to
22 put all those questions to the civil party.

23 Next, I would like to cede the floor to my colleague, Ms.

24 Élisabeth Simonneau-Fort.

25 [09.19.52]

7

1 MR. PRESIDENT:

2 Counsel Simonneau-Fort, you may now proceed.

3 QUESTIONING BY MS. SIMONNEAU-FORT:

4 Good morning, Mr. President. Good morning, Your Honours. Good
5 morning to all of you. Good morning, Witness. I'm going to put to
6 you a few questions now.

7 Q. I would like to return a bit to the first transfer -- the
8 first evacuation of people that you were involved in. And you
9 told us -- you described your journey to us. And how long
10 basically -- including the stops along the way, how long did this
11 first journey last?

12 MS. LAY BONY:

13 A. I cannot recollect this precisely, but I left on the 17th of
14 April, and after a few stops, we reached Khsach Kandal district
15 by late - rather, by the end of the Khmer New Year. So I can say
16 it took us approximately one month for the trip.

17 [09.21.32]

18 Q. Thank you. You described what happened along the road, in
19 particular in regard to your family. So, among the people -- what
20 would happen to those who could not keep up with the journey, who
21 could not continue?

22 A. For people who could not continue their journey, like the
23 people who had just left the hospital, they would be pushed by a
24 wheeled hospital bed or they would be carried in stretchers or
25 hammocks. And somebody who was seriously ill would also be

1 carried on somebody's back while walking.

2 Q. Did people remain on the wayside?

3 A. Yes, there were women who were giving birth to the babies, and
4 we could hear them crying out loud in pain when they were about
5 to give birth to the babies. And we would be crying, asking for
6 any midwives who would be able to help give birth to the child.
7 Then, later on, we could find a senior midwife who could like
8 help the woman - the women delivering the babies.

9 [09.23.59]

10 Q. I am now going to turn to the place where you stopped for a
11 few months, called Bancheng Buk (phonetic) -- I'm sorry for my
12 pronunciation.

13 You told us that there meetings were organized, which you
14 attended. And during these meetings, were you given information
15 on what was happening in Cambodia? And were you given any
16 information on the national policies?

17 A. In Anhcheaeng Leu village, I attended livelihood meetings. I
18 also engaged in carrying banana trees. After giving birth to my
19 child, for 20 days I reached that village. And because I feared I
20 would be killed, I had to engage in carrying big heavy banana
21 trees. I did not have the gut to even tell the people that I had
22 just delivered the baby; I had to work and carry heavy loads.
23 However, in the meetings, we were not told anything about the
24 policy of the Angkar, rather than teaching us or lecturing us on
25 how to build canal, digging dikes and how to comply with the plan

1 of the Angkar.

2 Q. Thank you. Were you obliged to listen to speeches at times --
3 speeches by political figures?

4 A. At that time, I did not have an opportunity to listen to any
5 of the speeches.

6 [09.26.19]

7 Q. Thank you. You often said to us yesterday and also you told
8 the Investigating Judge that you were considered as a member of
9 the New People, and you also spoke to us about the Base People.
10 So, can you tell us what the differences were between both of
11 these categories in day-to-day life, in the way people were being
12 treated in -- when you were at work, etc.?

13 A. The Old People and the New People were different. The Old
14 People had been living in the communities for a very long time;
15 they had their own belongings, property, they had their household
16 utensils and -- ready for use. But for the 17 of April People,
17 they were New People and evacuees; they were told by Angkar that
18 they would be leaving the city for three days because they had to
19 -- we had to leave before the bombs would be dropped on us. So we
20 left with nothing.

21 We were from the worker class family, we never -- or business
22 people -- we never got used to farming, chopping small trees to
23 clear way for paddy fields. So we had to make the most of it. For
24 example, we would take the advantage of having our brought along
25 belongings and things to exchange with things we needed. For

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1 example, we would exchange some belongings for knives or other
2 kitchen utensils.

3 [09.28.36]

4 And we did not do very well in performing our farming tasks and
5 we were accused of being not skilled or being passive. And the
6 Old People in the base actually got used to the work; they could
7 do things much faster than we did. For example, when it comes to
8 farming, the Old People could take a few hours to finish the
9 whole paddy field when farming, but we had to really spend much
10 more time than that because we did not get used to doing it.

11 Q. Were the New People respected by the Khmer Rouge just as the
12 Base People, or was there a difference?

13 A. Indeed, New People were not treated equally as they did to the
14 Old People, because the Old People had already built there
15 themselves. So it is the New People who had to build themselves,
16 the newcomer.

17 [09.30.03]

18 Q. Thank you.

19 Yesterday, you told us that your daughter was -- felt ill during
20 the journey, when people were evacuated, because she ate corn
21 that was spoiled. And what happened to your daughter?

22 A. When we reached Khsach Kandal, my daughter, who had been ill
23 for a few days already, she had severe diarrhoea, and we did not
24 have enough medicine for her treatment. I was asked to pick up
25 some leaves to -- for her, to treat her illness. And every one

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1 member of our family got ill; we got fever and high temperature.
2 And my aunt who lived in the Vihear Suork commune who paid a
3 visit to us, when she saw this, she would like to take my
4 daughter to live with her so that she could be treated. Because
5 she believed that when a member of the family is sick and if she
6 allowed to be among the family, then everyone could get infected.
7 So, with that offer, I also agreed to let her go. A few days
8 later, I believed that my daughter would be properly treated or
9 well taken care of, but only to learn that she died when being
10 there.

11 [09.32.17]

12 Q. How old was your daughter, Madam?

13 A. She was five years old; she was born by late 1971.

14 Q. In the first place where you lived for a few months, did you
15 see or did you hear about people disappearing or being arrested?

16 A. I heard about this. Before I were made to live in a private
17 house assigned by the Khmer Rouge, I lived with Comrade Yorn with
18 a few families and I was asked to conceal my identity, I was
19 asked to really keep the secret. I was told to tell people that I
20 was a taxi driver or just foodstuff vender. And a lot of people
21 who knew one of the family members -- because he went there on
22 several occasion, was reported, and later on we learned that he
23 disappeared. I don't remember the name of that person because his
24 identity was somehow revealed (sic). And from that incident we
25 were told that we had to be prepared. For example, if we had a

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1 male member in the family, we had to be ready -- for example,
2 packing our luggage. If we were called, then we would be ready to
3 go and leave. Fortunately, none of my family members would
4 disappear after that.

5 [09.34.54]

6 Q. When somebody disappeared, were you then given any kind of
7 explanation about the disappearance?

8 A. I was not told about this. They -- we only learned that the
9 person was taken to work at other location. We had no nerve,
10 actually, to -- or strength to ask people what happened to a
11 person who disappeared.

12 Q. Thank you. You were displaced then, once again; you were told
13 that you were going to Battambang, and in fact you went to
14 Pursat. What was the physical condition for the 17th of April
15 People when they were displaced a second time?

16 A. I, myself, was sick because during the day of the evacuation,
17 a few days before that I was transplanting potatoes at my -- in
18 my backyard -- and at that time, because we had to be evacuated,
19 I had to make use of the potatoes that we planted so that we
20 could eat on the road. But the foodstuff that we had to eat on
21 the road didn't do any good to us; it was bad to our stomach.

22 [09.36.55]

23 Q. Yes, but generally speaking, people who were moved with you --
24 all of these people -- were they in good physical shape or not?
25 What kind of health status did they have when they were being

1 displaced?

2 A. Early days during the evacuation, our physical and health
3 condition was normal; we still looked good and we could bring
4 along with us some belongings. We could have them exchanged with
5 some rice to store for future supply. In Pursat, I could manage
6 to keep some of this rice we could have traded with other people,
7 so we still looked reasonably normal.

8 However, when time passed by, we did not have enough food to eat;
9 we ate the food that was very little. We ate food that made us
10 become -- you know, our body parts become swollen. And we
11 believed -- at that time we noted that the pigs were even given
12 more food than -- that they gave to human beings.

13 Q. Thank you.

14 After the second displacement, you came to Kaoh Chum. Madam, can
15 you tell us what happened to your son, Sinarith?

16 [09.39.21]

17 A. At Kaoh Chum Cooperative, we were put into different groups,
18 and with the belongings I brought with me -- I could have them
19 traded with some sticks and poles so that we could make our
20 makeshift shelter. And my mother and brothers and my remaining
21 son still stayed with me, but we had to work very hard; we did
22 nothing but concentrate on farming. And in the evening we would
23 attend meetings -- livelihood meetings, and I was criticized for
24 not efficiently perform my task. I was in Phnom Penh before, and
25 I got married with a high-ranking officer, and I did not know how

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1 to do this hard work before. And in the cooperative I had to
2 carry water to feed -- to irrigate the plants. And the pond where
3 the water was fetched was far from the location where the plants
4 were grown, so it was so difficult, and I could not manage to
5 follow -- to comply with the plan. And for that I was severely
6 criticized.

7 Q. It's a little difficult to give a precise answer, I quite
8 understand that, but I do need to ask you, what happen to your
9 son, Sinarith?

10 [09.41.35]

11 A. My son got ill again, he got diarrhoea. And noting that
12 nothing could cure his illness, I asked the he be admitted to
13 Kandieng Hospital, where he died. And I returned to the
14 cooperative, and only my husband and I survived.

15 Q. Excuse me for dwelling on this. What happened to your younger
16 sister, please?

17 A. My younger sister also died after she had a kind of symptom
18 that the whole body was swelling and she couldn't survive this
19 ordeal.

20 Q. When you were in this second place, were you under
21 surveillance?

22 A. Yes, I was. I was placed under surveillance every evenings and
23 I could also note that members of other families also kept
24 disappearing every now and then. And I was also told that I had
25 to keep mum because the wall has the ears.

15

1 Q. In the second place, did people disappear?

2 A. At the second location, people disappeared, because the
3 husband of my neighbour was taken away, and also a group of
4 family members were also taken away. And later on it happened to
5 me and my husband.

6 Q. You said that your husband was a Lon Nol soldier and you
7 explain that, after the first population transfer, Yorn told you
8 to hide his profession -- to help you his profession.

9 [09.44.38]

10 Then, later -- and in particular in this second place, Kaoh Chum
11 -- did the Khmer Rouge learn what your husband was doing?

12 A. When I arrived Kaoh Chum Cooperative, I did not know why they
13 learned about my identity and that of my husband, but later on I
14 noted that the security guards of the security centre approached
15 my husband and kicked him repeatedly and asked him where he hid
16 his handgun.

17 Q. Can you tell us what happened to your husband?

18 A. At that security centre, my husband had been accused severely.
19 I am a spouse who was accompanying my husband; I only learned
20 that he was detained in detention facility, where it was a
21 complete darkness, and we were separated forever, until the day
22 when my husband was executed.

23 Q. Did you -- were you also arrested, yourself, because of him?

24 A. Yes, I was. Because my husband was implicated and accused,
25 then I had to also be brought along with my husband. However, I

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1 was not interrogated like my husband was because I only was his
2 spouse. I was allowed to work outside at the cooperatives and aid
3 there, but my husband didn't enjoy this. He only was given a full
4 ladle of porridge and only a grain of salt for each meal.

5 [09.47.48]

6 Q. And when you were arrested as well, did you notice people
7 disappearing or people being executed?

8 A. Could you tell us, please, in which location where
9 disappearance happened? Please repeat that portion.

10 Q. You said to us that your husband had been arrested and
11 executed and that you had been arrested as well and led to a
12 centre. In this centre, did you notice people disappearing or
13 people being executed?

14 A. The location was the place for execution. At that place, I was
15 pushed into a room, and I was terrified. It was incredible,
16 because the plates -- the bowls that were used for serving rice
17 were used to keep faeces -- excrement. And the stench was
18 horrible. And I was there to remain in the prison. I had to place
19 my nose close to a small hole so that I could breathe some
20 oxygen.

21 [09.49.35]

22 Then -- I then saw a soldier, a very young soldier, underage,
23 armed with a rifle, coming to ask for Comrade Kheng. He accused
24 Comrade Kheng for stealing a grilled fish. And I had to look at
25 the way this person was treated. I saw the young boy hacked the

1 person's stomach. His internal organs was coming out and he was
2 stabbed with bayonets. And I couldn't cry because I was so
3 terrified that I would end up being killed like that.
4 And I had to remain in the vicinity and I had to work every third
5 day of the week. And on that day -- those days, then a soldier
6 would be coming to ask for a group of people, for example a
7 different age group, so they could be sent to the zone. I did not
8 know what "zone" was. I was told that "zone" is the place where
9 food was plentiful, where we could have some fruit, like oranges.
10 Because we believed already that in Pursat it was plenty of rice
11 and oranges. And having heard that people could be taken to the
12 zone, I asked that I be allowed to go to the zone because I was
13 hoping that I could be offered enough food to eat. Later on,
14 indeed, they did not allow me to go with them. And it was
15 fortunate that I was not allowed to go with them, otherwise I
16 could have been executed already.
17 So, the soldiers who always brought us to work -- the soldiers
18 ended up being the prisoners themselves at a later date -- some
19 of them. And when we discussed about the execution and -- the
20 guards who turned prisoners said that, indeed, killing started
21 even in 1975, and by 1977 about -- approximately, indeed, 100,000
22 people had already been executed. And people who disappeared and
23 who believed to be sent to the zone were sent to be executed. And
24 the clothes of the people who had been executed would be brought
25 back to the remaining people to use.

1 [09.52.54]

2 So, after that, I learned that, indeed, the zone was the place
3 where execution took place, and it was a blessing for me, indeed,
4 for not being allowed to go there.

5 Q. Thank you.

6 To finish, I'm going to be asking more general questions. When
7 you were in Phnom Penh, you were told that you would return to
8 Phnom Penh three to four days later. And later on, were you told
9 why you would not return to Phnom Penh?

10 A. I was not told, and I did not ask them -- or dare not ask
11 them. Having noted anyone disappearing or someone die, we did not
12 have -- we did not dare ask them for any questions. We just
13 worked and worked.

14 [09.54.12]

15 Q. When you left Phnom Penh, you were told that it was because
16 there was a risk that the U.S. may start bombing. So you left
17 your first home and you were told that you would be taken to
18 Battambang because there's a lot of rice there, and that isn't in
19 fact where you went. You told us that the Khmer Rouge invented
20 these excuses to take you to place, and they weren't particularly
21 interested in keeping their word. But in your view, what was the
22 real reason for all of these movements?

23 A. I thought that the evacuation of the people from one place to
24 another is to temper them, because if they clearly told us that
25 we had to relocate, then we would feel very uncomfortable that we

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1 had to leave our belongings behind. For that reason, they would
2 tell us that we would leave only for three days, but we left for
3 more than that. And then we had no hope that we would return, and
4 for that reason we tried to temper ourselves to adhere ourselves
5 to the Angkar's lines. And as a result, 10 of my family members
6 died, and only two remained.

7 [09.55.49]

8 Q. So, you lived through the evacuation of Phnom Penh and the
9 first forced transfer. In the first place, you lived in the
10 conditions that you described, and then there was another forced
11 transfer. There's another place, and you described the conditions
12 of that to us as well. You've told us about the re-education
13 centre.

14 From the experiences that you lived through, would you say that
15 the evacuation of Phnom Penh and the forced transfer all belonged
16 to a broader plan or policy by the Khmer Rouge?

17 A. I made my own analysis and I came to a conclusion: that was
18 truly the policy of the Khmer Rouge; they did not value a human
19 being. As long as their lines and their Angkar would progress
20 forward, they don't care about the lives of people. Of course,
21 they had plenty of medicines and rice, but they did not provide
22 those to the people.

23 [09.57.12]

24 For us, as long as we could live together with our families, we
25 would do our best in doing the work. I tried to transform myself

20

1 and I could even compete with the Base People in transplanting
2 rice, but they did not value us. Their intention was to eradicate
3 us so that new born people would have new ideas based on the
4 their thinking and the way they act during the time.

5 MS. SIMONNEAU-FORT:

6 Thank you very much, Madam. I have no further questions to ask
7 you. And in a more general way, I would like to thank you for
8 having made this rather difficult statement which has given us
9 some particularly useful elements for our file. Thank you, Madam,
10 and thank you, Mr. President.

11 MR. PRESIDENT:

12 Thank you.

13 The floor is now given to the Prosecution. You may now proceed.

14 QUESTIONING BY MR. DE WILDE D'ESTMAEL:

15 Good morning, Mr. President. Good morning, Your Honours. Good
16 morning to all parties, and to the gallery, and to all of you,
17 and to you, Witness. We are going to put a few follow-up
18 questions to you - not many, but I believe this will take us to
19 the morning break, Mr. President.

20 [09.58.52]

21 Q. I simply would like to clarify a few things with you, starting
22 from 17 April 1975.

23 And in order to understand things better, can you give us the
24 name of your first husband -- I don't think you gave us this name
25 -- so, your husband who was an officer, who was in the Lon Nol

1 army and who later on was executed?

2 MS. LAY BONY:

3 A. My husband's name was Prak Sinath. He was born in 1948 in
4 Pursat province.

5 Q. Thank you. So, if I understood clearly what you said to us
6 yesterday, you told us that your husband, Prak Sinath, did not
7 take part in the battle against the Khmer Rouge in Phnom Penh.
8 So, aside from that, did you see or hear, on 17 April 1975,
9 fighting happening in Phnom Penh?

10 A. I did not know about that. What I knew was that the Khmer
11 Rouge arrived in Phnom Penh and the shelling stopped. And we were
12 jubilant and congratulated the victory of 17 April 1975 and that
13 we would have peace.

14 [10.00.33]

15 Q. Indeed, you said yesterday that you stepped out into the
16 street to congratulate the victors and to wave flags. So,
17 although you were delighted that the war was over, were you
18 afraid because of your husband's military past?

19 A. I was afraid because I heard that those people, during the
20 time that people were gathered to be soldiers -- and that they
21 would embowel people and take out the livers. So, when I saw them
22 dressing in black uniforms, I was afraid.

23 Q. Thank you. And you told us that people gathered in the streets
24 and they were singing and applauding. So, from the point of view
25 of the Khmer Rouge, how did the Khmer Rouge react when they saw

22

1 these crowds? Did they celebrate their victory with the crowds or
2 were they more reserved, or did they behave in a different way?

3 [10.02.04]

4 A. They were attentive and vigilant. We -- although we -- when we
5 raised our hand to congratulate them, they raised their hand
6 back. But they were in an attentive manner and they were
7 vigilant.

8 Q. Thank you.

9 Yesterday, you told us that the messages you were hearing from
10 the Khmer Rouge were broadcast by radio. Can you tell us if the
11 Khmer Rouge used loudspeakers, when you were on the street or
12 when you returned home, to give their first instructions to the
13 population?

14 A. I heard once when I was at my house, but while we were en
15 route we did not hear it. There was no announcement from
16 loudspeakers en route; we only heard the shouting that we had to
17 leave immediately.

18 Q. Thank you. And you said, regarding this, that one soldier then
19 two other soldiers came to your home and ordered you to leave the
20 city immediately. Following this, did you decide to leave the
21 city right away or did you take a bit of time to gather your
22 belongings? Or were the Khmer Rouge waiting for you before your
23 home to make sure that you would be leaving?

24 [10.03.59]

25 A. At that time, I actually had prepared my belongings already,

1 due to the shelling in the previous days. And in the morning we
2 already cooked our rice and we had just to prepare the food for
3 ourselves. And at the time that the soldiers came to our house,
4 they were quite animated. And then my husband and my relatives
5 decided that we had to leave. If we did not go, we were afraid
6 that we would be shot.

7 Q. Thank you. So, these soldiers who told you to leave, did they
8 tell you that you were leaving for three days or for a full week?
9 You said both yesterday. So, during your first contact with the
10 Khmer Rouge on 17 April, did they tell you that you would be
11 leaving for three days or for seven days?

12 A. Initially, we were told that we would leave only for three
13 days, or the longest, 7 days, and that we did not have to bring
14 much belongings. And I thought the same thing, that -- how could
15 we go to the countryside without having sufficient belongings? So
16 I believed them; I believed that we would only leave for three
17 days, and the longest, seven days. And so everybody then just
18 left.

19 [10.05.49]

20 Q. You told us that you had to travel to the countryside. And did
21 they tell you exactly where you had to go, then, or all this was
22 not clear?

23 A. No, they did not tell us specifically as where we had to go;
24 what we were told was that we had to leave Phnom Penh. And when
25 we reached Monivong Boulevard, near the Royal School of Law, it

24

1 was so crowded. But at the Kbal Khnal (phonetic) junction, there
2 were various roads leading to various other directions, and the
3 road became less crowded, but they did not tell us to -- specific
4 directions that we had to follow.

5 Q. And when they came to your home, these three Khmer Rouge
6 soldiers, did they tell you that they -- that the people would be
7 given vehicles to facilitate the evacuation?

8 A. No, they did not. They simply told us to leave by whatever
9 means we had.

10 [10.07.21]

11 Q. So they told you not to take much with you. But did they tell
12 you to take enough food, or enough medicine, or enough sleeping
13 materials for a three-to-seven-day trip?

14 A. No, they did not tell us to bring this or that belonging. It's
15 up to us to bring along the things that we use on a daily basis.
16 But for my family, I did not bring rice with us because rice was
17 heavy, and I only brought some riel currency because I believed
18 that money could be used along the way.

19 Q. But, of course, the Khmer Rouge didn't tell you that it was
20 completely useless to bring currency with you. That's what I
21 understood yesterday.

22 A. No, they did not. And while we were en route, we heard about
23 that, so we were - we became so hopeless that the money was no
24 longer used.

25 Q. Thank you.

1 You spoke about the excuse of the American bombings, and I would
2 like return to this point.

3 When the Khmer Rouge arrived at your home or when you saw other
4 Khmer Rouge soldiers along the road in Phnom Penh and later on,
5 did they come up with other excuses other than the American
6 bombings to justify this evacuation, to convince the people to
7 leave Phnom Penh quickly and without and problems?

8 [10.09.24]

9 A. No, they did not tell anything besides that the Americans
10 would bomb the city. And of course we were afraid of the
11 bombardments, so we also tried to rush ourselves to leave the
12 city.

13 Q. Thank you.

14 You also told us that the Khmer Rouge who came to your home were
15 armed, and you were frightened. And was their attitude
16 threatening? Were - did they seem threatening to you?

17 A. At that time, they did not threaten me. Actually, I was on the
18 upper floor, and my husband went downstairs to meet with them.
19 They had their guns and they were quite animated. And by seeing
20 them having guns, we were already afraid.

21 Q. You told us yesterday that the order to leave the city was
22 firm and the Khmer Rouge were determined. In the way the order
23 was given and the Khmer Rouge attitude, did they lead you to
24 believe that you had free choice and that you could stay at home
25 or that you could chose to leave instead?

1 [10.10.54]

2 A. No, I did not think like that at that time. We had to go
3 because we were so afraid of the American aerial bombardment
4 because we saw the damages from the shelling previously. So we
5 had to leave.

6 Q. Did you see along the road when you left Phnom Penh, in the
7 different quarters that you travelled through -- did you hear
8 that certain people, however, tried to discuss the orders with
9 the Khmer Rouge -- the orders to leave the city?

10 A. No, I did not witness that personally, but my family members
11 saw that. They said that we had to just proceed ahead; and if we
12 return, then we would be killed. And of course I heard gun shots.

13 Q. In the city of Phnom Penh, when you were leaving Phnom Penh,
14 did you see Khmer Rouge shoot in the air or threaten people to
15 force them to leave the city quicker, for example?

16 [10.12.33]

17 A. Yes, I did see that. I was threatened while en route. At that
18 time, I had a green colour carry bag, and I had some essential
19 belongings, including money, and I carried it with me while I was
20 sitting on the truck. It seems that the Khmer Rouge soldiers
21 really despised the Khmer - the soldiers; and when they saw that
22 green bag, they pointed a gun at me and asked me to throw away
23 the bag. I was shaken and terrified, so I pulled out my
24 belongings and placed it on a piece of scarf and I threw away
25 that bag immediately. And if I didn't do that, I would have been

1 shot. They really threatened me, at the time, to get rid of that
2 bag.

3 Q. I would like you to clarify what you said yesterday regarding
4 the Lon Nol soldiers who were in uniform. You told us that you
5 saw certain things and that other people had told you that the
6 Lon Nol soldiers had been arrested and that their hands had been
7 tied behind their backs. Can you tell us more clearly what you
8 and your husband saw or what other people told you about this?

9 A. At that time, I did not see it, but my husband and family
10 members saw them being arrested. So, from that point - from that
11 point of view, we could see that they were really enemies, the
12 Khmer Rouge soldiers and Lon Nol soldiers. If they noticed the
13 ankles had the marks of where of wearing boots, then they would
14 be -- conclude that they were the soldiers and they would be
15 arrested.

16 [10.14.56]

17 Q. Yesterday, you provided us with an example of a colonel who
18 was a member of your - who was one of your in-laws who had been
19 identified as a soldier at a checkpoint and who - and therefore
20 he was forced to return to Phnom Penh to work there. So, did you
21 learn later on what happened to this colonel who was one of your
22 in-laws, once he returned to Phnom Penh?

23 A. At that time, the Khmer Rouge did not know that my other
24 in-law was a colonel. When he left Phnom Penh, he went to stay at
25 Preaek Aeng. At that time, there was an announcement on the

1 speaker that, for any military officers, they should return to
2 Phnom Penh to resume their work. Of course, as a human being, we
3 would have an ambition and we did not want to stay in the open.
4 So, upon hearing such an announcement, he prepared his belongings
5 and returned to Phnom Penh. However, since the day he left, he
6 disappeared, so we concluded that he was killed by the Khmer
7 Rouge.

8 [10.16.33]

9 Q. Thank you.

10 Yesterday, as well, you told us that when you left Phnom Penh, in
11 your area or in the neighbouring areas you saw bodies -- or at
12 least your husband had seen bodies in the streets. Were these
13 bodies the bodies of civilians or were they soldiers?

14 A. The bodies that I saw at Preaek Pra commune were in civilian
15 clothes. And I saw young children bodies in the hammocks. So,
16 they were simply civilians. I did not know for what reason that
17 they were killed.

18 Q. Did you see other bodies before you arrived at Preaek Pra
19 commune -- in Phnom Penh itself?

20 A. On the way, I say one or two dead bodies. And by seeing dead
21 bodies, I was afraid that if we did not follow their
22 instructions, then we would be killed by the Khmer Rouge. And we
23 were very afraid upon seeing those dead bodies.

24 [10.18.21]

25 Q. So, these one or two bodies you saw, were these the bodies of

1 soldiers or were the bodies wearing civilian clothes?

2 A. They were in civilian clothes.

3 Q. Yesterday, you said to us that there were several checkpoints
4 along the way, in particularly the one of Chheu Teal, and you
5 told us that you could no longer move ahead nor move back from
6 there. Can you tell us if you were checked at other checkpoints
7 along the way by Khmer Rouge soldiers?

8 A. At those checkpoints where we were not allowed to proceed
9 further and that we were not allowed to cross the checkpoint, we
10 tried to escape from that place so that we could reunite with my
11 parents in Khsach Kandal district of Kandal province.

12 Q. So, at the different checkpoints, did you see Khmer Rouge
13 confiscate belongings from the evacuees?

14 [10.19.56]

15 A. No, I did not see them confiscate anything. We could carry our
16 belongings, except anything belonging to soldiers or military.
17 Then they would point guns to those people and they would get rid
18 of those military stuff.

19 Q. You made a distinction between 17 April People and the Base
20 People. So, as of when did you hear this mention of 17 April
21 People? Was it already when you were travelling to your village
22 or was it later?

23 A. Since I reached Svay Prateal village, in S'ang district, and I
24 stayed there for two weeks and I contacted with the local people
25 there, and they referred to themselves as the Base People and

30

1 that we were called the 17 April People who were just evacuated
2 from Phnom Penh.

3 Q. Thank you.

4 Now I would like to turn to your departure from Khsach Kandal,
5 when the village chief told you to prepare your belongings to
6 leave to what he said would be Battambang.

7 And when this village chief named Pat asked you to prepare your
8 belongings, was this an order, or could you discuss this
9 decision?

10 [10.21.59]

11 A. It was an order. And also we thought that if we go to
12 Battambang it would be better, because in Cambodia everyone was
13 very well aware that Battambang was a rich province. So we did
14 not even have a slight idea of a protest against going to
15 Battambang.

16 Q. And during the evacuation of Phnom Penh, when you were told
17 that you would leaving for three to seven days -- and in the end
18 you were already in Khsach Kandal for a year or at least and you
19 were not allowed to return home. And when the village chief told
20 you that you would be going to Battambang, did you doubt what he
21 was saying? Did you have any questions about the truthfulness of
22 what he was telling you?

23 [10.23.00]

24 A. At that time, I did not have any suspicion because, at Khsach
25 Kandal, the communal - the commune chief told us that we should

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1 go because then the food was plentiful there, and at that
2 location there was not enough food, and there were too many
3 people, so new families could not be supported, and for that
4 reason we should leave.

5 Q. Thank you.

6 I have a last question which, in fact, is a request for
7 clarification. And you told us that all of the people who left
8 Khsach Kandal to Pursat, therefore who were taken away by
9 different vehicles, were evacuees or, in any case, 17 April
10 People. And you told us that there were about 200 people. And did
11 most of these people stay in cooperatives in Pursat or did some
12 of them keep on going with their journey to Battambang?

13 A. I did not know much about that because I only knew that when
14 we reached the Kaoh Chum Cooperative -- that's all I knew.

15 Q. Thank you.

16 And last question: When you arrived at the cooperative, were you
17 questioned about your past? Were you obliged to draft a
18 biography?

19 [10.25.00]

20 A. No, they did not question us, but we were put into various
21 groups and units, and we were asked what we did in Phnom Penh or
22 what business we were engaged in. But we were not asked to write
23 a biography.

24 Q. And there again, as you had done before, did you say that your
25 husband had been a cab driver?

1 A. Yes, I told them that my husband was a Lambretta driver.

2 MR. DE WILDE D'ESTMAEL:

3 Thank you very much, Civil Party.

4 I believe my colleague might have a few questions to put to you
5 before the morning break.

6 Thank you.

7 QUESTIONING BY MR. CHAN DARARASMEY:

8 Good morning, Mr. President, Your Honours. Good morning, Madam
9 Civil Party. I only have a few supplementary questions to put to
10 you.

11 Q. I want to know that -- when people were evacuated from Phnom
12 Penh was there any family or anyone who request not to leave
13 Phnom Penh? Did they have such a choice of not leaving Phnom
14 Penh?

15 [10.26.54]

16 MS. LAY BONY

17 A. I did not know about that at that time because I did not think
18 about other people; I was busy thinking about my family members.
19 So I did not know whether any family requested not to leave Phnom
20 Penh.

21 Q. When there were arrests of people or the former Lon Nol
22 soldiers, were business people arrested too? Was - were the
23 arrests conducted in general, for everyone?

24 A. As far as I knew, all Lon Nol soldiers would be arrested if
25 they were suspicious (sic) of being Lon Nol soldiers.

1 Q. What about ordinary civilians or business people? Were they
2 also arrested?

3 A. Let me speak a little bit on this matter.

4 As for the ordinary civilians, while I was at the tempering
5 office, I learned that not only soldiers had been arrested, but
6 civilians were also arrested, as they were alleged or being
7 capitalists or feudalist or those who sold gold at the market in
8 Phnom Penh. So, while I was in that office, I learned that from
9 all walks of life people had been arrested.

10 [10.28.48]

11 Q. Before the commencement of the evacuation of people from Phnom
12 Penh, was there an announcement on the radio or was there any
13 word from mouth to mouth regarding the planned evacuation?

14 A. No, I did not learn in advance that there would be an
15 evacuation, but they came to us promptly and that we had to leave
16 in the wake of the American bombardment.

17 Q. During the period that you stayed at the location where you
18 had been evacuated to, there were criticism meetings, as you
19 said. What was the intention of such a meeting? And who actually
20 led that meeting?

21 [10.29.53]

22 A. The criticism meeting was led by the group and deputy – the
23 group chief and deputy group chief. The purpose was for people to
24 criticize anyone who was a member of the group who made a
25 mistake. Base People would be able to deny or to protest any

1 criticism, but for us, the 17 April People, we kept silent and
2 just tried to commit ourselves, to refashion ourselves and try to
3 not make mistake again.

4 Q. When you and other people who had to serve Angkar and then
5 fell ill, how were you treated when you got sick?

6 A. If we got ill -- for example, practically, it was obvious that
7 we got diarrhoea or vomiting -- and people saw this, then we
8 could have a rest. But we couldn't afford to be sick because
9 others would say that we pretended to be sick and they would look
10 us - they would give a strange look at us when we did so.

11 Q. What did you do -- what did people do in the cooperatives?

12 [10.31.36]

13 A. At cooperatives, during dry season, we would be asked to dig
14 canals to keep water for irrigation - for paddy fields. And
15 during the rainy season and the farming season in particular, we
16 were asked to transplant rice, to build dykes, and so on and so
17 forth.

18 Q. Could you also tell the Chamber, please, concerning the
19 correction centre or the security centre where your husband was
20 detained -- for example, the Trach Kraol Correction Centre or
21 other centre? What kind of torture was being inflicted on the
22 prisoners there?

23 MR. PRESIDENT:

24 Civil Party, could you please hold on?

25 Counsel for Mr. Ieng Sary, you are on your feet. You may now

1 proceed.

2 MR. ANG UDOM:

3 Thank you, Mr. President, and thank you, Your Honours. Very good
4 morning to my learned colleagues. I take issue with this question
5 because it relates to the security centres. The security centres
6 are not relevant to document E124.

7 MR. CHAN DARARASMEY:

8 Mr. President, this morning, the civil party testified about the
9 security centre and the place where her husband was detained and
10 tortured. I would just like to ask her the techniques of
11 torturing and I would like to know more about how her husband was
12 treated under detention. I would like her to answer to this
13 question.

14 [10.33.52]

15 MR. PRESIDENT:

16 The objection is well reasoned and, therefore, sustained.
17 The National Co-prosecutor is not allowed to put questions that
18 -- straying out of the scope of the facts being at issue here. We
19 are now focusing on the immediate evacuations of Phnom Penh and
20 the city, so the questions shall always be framed to go straight
21 to these particular areas.
22 The civil party is somehow entitled with the right to express her
23 suffering in the scope of Case File 002/01, and after such
24 expression of suffering, parties will be offered the opportunity
25 to address a few points if they wish.

1 So, please, do not dwell on the same problem.

2 BY MR. CHAN DARAMASMEY:

3 Q. Since we are running out of time, I would like to ask just a
4 few final questions.

5 You talked about the hardship, the difficulties you encountered
6 during the evacuation. Can you please describe to the Chamber all
7 these hardships? Were they different?

8 [10.35.38]

9 MS. LAY BONY:

10 A. I had a lot of difficulties. I endured hardship. I used to be
11 raised in Phnom Penh, I never got used to hard labour. I had just
12 delivered my baby for a few days, and when I was evacuated I had
13 to be separated from my family members. And, again, after giving
14 a baby, my health was not good, and I could see other people had
15 to give birth mid-way. Some people had to be pushed on hospital
16 beds because they were seriously sick, and I could see elderly
17 people who had to be walking without proper destination. So,
18 everyone who left the city had a lot of difficulties, and these
19 difficulties were also shared by the people at the local area.

20 MR. CHAN DARAMASMEY:

21 Thank you very much, Civil Party, for your responses.

22 And I thank you, Mr. President and Your Honours, for this
23 opportunity.

24 MR. PRESIDENT:

25 Thank you, Counsel, and thank you, Civil Party.

1 It is now appropriate time for adjournment. The Chamber will
2 adjourn.

3 And court officer is not instructed to assist the civil party
4 during the adjournment and have her return by 11 a.m.

5 THE GREFFIER:

6 (No interpretation)

7 (Court recesses from 1037H to 1103H)

8 MR. PRESIDENT:

9 Please be seated. The Court is back in session.

10 I now hand over to the defence team for Mr. Nuon Chea to put the
11 question to the civil party in question. You may proceed.

12 QUESTIONING BY MR. SON ARUN:

13 Good Morning, Mr. President. Good morning, Your Honours, and good
14 morning to everyone. My name is a Son Arun. I have a few
15 questions to put to the civil party. I am the defence lawyer for
16 Mr. Nuon Chea. I only have a few questions for you, and then I
17 will hand over to my colleague. And my colleague does not have
18 too many questions, either. We will need approximately one hour.

19 [11.04.54]

20 Q. My question to you is as follows. In the record of interview,
21 document D246/3, that you actually received from the civil party
22 lawyer -- I would like to base my question on this record of
23 interview.

24 During the interview with the investigators of the OCIJ, there
25 was one question to you, and the question reads: "Did you ever

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1 see the execution of people at Trach Kraol."

2 And in your response you said yes, you did. At one time, one

3 prisoner was taken to the communal dining hall of the

4 cooperatives, and Angkar told the people who were present there

5 that the man who was being arrested was trying to flee the

6 cooperatives. And then after they introduced this man to the

7 crowd, and then the man was beheaded. I -- and then you said that

8 you did not see the beheading of the man, but you only saw the

9 head of the corpse fell down on the ground. So you said that you

10 saw the beheaded head on the ground.

11 So, did you see the beheaded head falling down or you merely saw

12 the head was on the ground?

13 [11.06.55]

14 MR. PRESIDENT:

15 Witness -- the Civil Party, rather, please hold on.

16 The Civil Party Lawyer, you may proceed.

17 MS. MOCH SOVANNARY:

18 I do not object to this question, Mr. President, but I would like

19 the counsel to be more precise in relation to the page number or

20 the relevant ERN number.

21 BY MR. SON ARUN:

22 Thank you. It is document D246/3; relevant ERN in Khmer --

23 rather, in English, 00379146; French, 002456--

24 MR. PRESIDENT:

25 Mr. Prosecutor, you may proceed.

1 [11.08.01]

2 MR. DE WILDE D'ESTMAEL:

3 Thank you, Mr. President. You have noticed that, in the questions
4 that were put by the civil party lawyers and by the prosecutors,
5 this aspect has not really been covered, except for a few
6 questions in -- especially because the civil party had said that
7 her husband, who had been an officer, had been identified as
8 such. And this is was why he ended up -- or both of them ended up
9 in this detention centre. All other details were silence because
10 in -- we are now in Case 002/1.

11 So, therefore, I am questioning the Defence's reasons to return
12 to these details which, of course, are interesting but do not
13 seem to us to involve directly the first trial. So the questions
14 on this centre should be more limited and should be limited to
15 the way the different Lon Nol soldiers were treated if they were
16 identified as such. And we should not go beyond this.

17 MR. SON ARUN:

18 I would like to respond to Mr. Prosecutor.

19 My question relates to the record of interview, with the
20 questions by the investigator of the OCIJ and the civil party in
21 question. So, actually, the statement was there already. I simply
22 asked for clarification by the civil party, since she is here.

23 [11.09.42]

24 MR. PRESIDENT:

25 The civil party is directed to respond to the question asked by

1 the defence lawyer for Mr. Nuon Chea.

2 MS. LAY BONY:

3 A. Thank you. In Trach Kraol Prison, it was the last re-education
4 centre I was imprisoned there.

5 Whenever there was anyone who attempted to escape the centre,
6 then they would call a rally, and during that rally they would
7 present this person. So, normally, we met at the dining hall --
8 communal dining hall, but before we finished our lunch, they
9 presented to us prisoners who were captured and they would tell
10 the people over there that this person was trying to escape, so
11 the Party would smash this kinds of person, the Party would not
12 keep this person. Then, at that time, everyone was aware that the
13 person who was presented to us was the one to be beheaded or
14 executed. So we were very worried. And then, when we were talking
15 to each other -- and then we heard the scream. And then,
16 actually, when we turned back, we saw that the person was
17 beheaded. And we saw the beheaded head on the ground.

18 [11.11.15]

19 Actually, the situation at the - at Trach Kraol Prison was very -
20 was very horrible, and we could see that horrible scene. And
21 people over there lived in a very miserable situation, and--

22 BY MR. SON ARUN:

23 Q. Well, I have to interrupt you, I'm sorry. I do not want to
24 hear too much of the detail, but I would like to ask you very
25 specifically whether or not you saw the prisoner head was

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1 beheaded. And then you used the words -- you did not see the
2 moment they decapitated him, but you saw the head of the prisoner
3 being dropped on the ground. So I just would like to know whether
4 or not you saw the beheading activity or you simply saw the head
5 of the prisoner on the ground.

6 MS. LAY BONY:

7 A. That's what I saw. I actually saw that the prisoner was about
8 to be decapitated, but I did not see the actual decapitation
9 because I was afraid; I dare not look at it.

10 Q. I would like to move on to the next question. It is on the
11 same page of the same document.

12 The questions by the Judge: "Did you know where they dispose of
13 the corpse?"

14 And then there was another question after that: "There were a few
15 Khmer Rouge soldiers who were involved in the execution of the
16 prisoner. Those soldiers were then accused of something else, and
17 then those soldiers were also imprisoned and executed later on.
18 From 1975 to 1976 the Khmer Rouge soldiers killed some 100,000
19 prisoners, and I believe that this figure was correct."

20 [11.13.49]

21 And then you said to the Co-Investigating Judges that you think
22 that the figure was correct.

23 And what did you base your statement on -- or your belief on --
24 that within a period of a one-year span, there were up to 100
25 prisoners killed-- 100,000, rather?

1 A. It was my belief at that time, and I thought that the figure
2 was correct.

3 We worked every three days, and then we have to stop for about
4 two days. So, on every -- two-day basis, they brought up to 100
5 to 200 people for execution. And they started killing not only in
6 1976, but it started in 1975. So, if you do a little of the
7 calculation of 365 days per year, and then if they killed
8 approximately 100 to 200 prisoners every two or three days, then
9 you can imagine how many of prisoners would have been killed
10 during that period.

11 [11.15.03]

12 And the reason why I believe, because every day they sent people
13 from different cooperatives, and it was very crowded and we see
14 people being frogmarched. And we saw them only one or two days,
15 and then those people disappeared, so I thought that they must
16 have been killed. And we heard from people -- particularly those
17 who were the soldiers, those who frogmarched those prisoners out
18 -- and those people were the ones who knew this story. And they
19 were -- themselves were imprisoned as well, and some of them
20 returned, and they told that they brought those prisoners to be
21 executed.

22 Even at night, we could smell the odour, the stink -- the odour
23 of the dead bodies that were being perished.

24 Q. From 1975 through 1979, you were evacuated from one place to
25 another, according to your statement to the Office of

1 Co-Investigating Judges. You were evacuated from Phnom Penh
2 first, and then the Khmer Rouge soldiers located you in certain
3 places, and there were actually different phases of evacuation.
4 [11.17.00]

5 During the evacuation period, did you ever hear the instruction
6 -- the direct instruction from the leaders? For example, did you
7 simply go along with the crowd whenever you had to move or you
8 heard the direct instruction from the leaders?

9 A. Yes, there were several phases. I left Phnom Penh, and then I
10 went to other places. And of course it was not my desire to move
11 from one place to another, but it was the order or the
12 instruction from the superiors. I were request to move from
13 Kandal province to Kampong Chhnang and Pursat province, and then
14 I were imprisoned in different prison centres as well, including
15 Trach Kraol, Boeng Khnar, and other places. So it was the
16 direction from the leaders. It was not my desire to move around
17 across the country.

18 Q. My question really is: Did you hear the instruction directly
19 from the leader or you simply heard from members of the crowd who
20 told you that we had to move, and then you moved along with them?

21 A. I heard -- I heard from the leaders, particularly the unit
22 chief supervising crowd. And they were members of the armies and
23 they were the unit chief in charge of the prison with which we
24 were imprisoned.

25 [11.18.50]

1 Q. You told the Court earlier that you were in the prison. Were
2 you in the prison the entire period when you left Phnom Penh or
3 you were simply among the crowd and you considered this as being
4 imprisoned?

5 A. From mid-1976, when I was in Pursat province, I was being
6 imprisoned all the time. At that time, we would not live in our
7 house; we had to live in the prison camps with others. There were
8 ordinary prisons, and there dark prisons. And we had to live in
9 the prison camps for a long period of time with many, many
10 prisoners.

11 Q. When you were being imprisoned, as you put it, did the Khmer
12 Rouge soldiers at that time call it "prisons", or it was called
13 something else at that time?

14 A. No, at that time it was not called "prison" as such, but it
15 was called the re-education centre.

16 [11.20.22]

17 Q. When you saw the supervisor within your team, what was the
18 dress code of the supervisor? Were they in military uniform or
19 they were in any particular uniform?

20 A. At that time, they wore black clothes and they were all armed.
21 So, they were armed at all times. Even during lunch or mealtimes,
22 they were also armed. Whenever they frogmarched other people out,
23 they were also armed.

24 Q. When you were instructed to go out to do work, for example in
25 the field or so, did you notice the language they used? Were they

45

1 the Khmer -- did they use Khmer language or ethnic minority? Did
2 you notice the accent of those supervisors or soldiers? Were they
3 Cambodian -- the mainstream Cambodian or people from minority
4 groups?

5 A. Well, when they gave us instructions to go to work, their
6 accent were purely Cambodian. And if I recognized the accent
7 correction, they were people from Pursat province.

8 Q. In the same documents -- I move on to another question.

9 [11.22.33]

10 Just now, I asked you concerning your evacuation in several
11 phases during the entire period of the Democratic Kampuchea.
12 During this period, did you ever see any foreigners, whether they
13 be the technician or military personnel or anybody during this
14 period?

15 A. No, I never met any foreigners during that period.

16 Q. This is going to be my last question.

17 In document D246/3 -- Khmer ERN 00373256; English, 00379164;
18 French, 00422458 -- this is the question -- the last question by
19 the Co-Investigating Judges. The question reads: "As--"

20 My apology; let me check this again.

21 So, the question reads: "As a civil party, what are your
22 expectations?"

23 And in your response, you stated - quote:

24 "I want justice for those innocent people who died during the
25 Khmer Rouge regime. I want the Khmer Rouge senior leaders to be

1 held responsible and punished for the offences they committed. I
2 would also like to find those who supported, who were at the back
3 of the Khmer Rouge regime, both foreigners and Cambodians." End
4 quote.

5 [11.25.00]

6 So, on this particular portion of the interview -- particularly
7 your statement to the question by the Investigating Judges -- why
8 did you make such an appeal before the Office of Co-Investigating
9 Judges? Why did you want to bring to justice those who supported
10 the Khmer Rouge regime, both national and foreigners? What do you
11 mean by "foreigners" here? Why did you appeal to have those
12 foreigners and Cambodian nationals who supported the Khmer Rouge
13 -- to justice?

14 A. Because I was suggesting that the order -- the order that was
15 carried out during the Khmer Rouge period were in concerted and
16 systematic structure. So it was not the decision of the unit
17 chief or the cooperative chief or so; there must be people who
18 were behind the Khmer Rouge. I know that there were people who
19 were backing up the Khmer Rouge because I saw a fleet of trucks
20 -- fleet of trucks transporting items, and then those trucks, as
21 far as I knew, were the support of China. And those personnel who
22 were in the fleet of trucks carrying goods or so wore different
23 uniforms. So we have to find out who they were, and we wanted
24 this Court to find out who were behind -- who were supporting.

25 [11.26.41]

1 We know -- I, myself, am convinced that this Court will
2 definitely find justice for the victims of the Khmer Rouge
3 regime, and particularly those who are still surviving but they
4 have sustained a lot of pain and suffering to date.

5 MR. SON ARUN:

6 Thank you. Thank you, Civil Party. On behalf of the defence team
7 for Mr. Nuon Chea, I thank you for responding to my question.

8 I would like to now hand over to my colleague to put more
9 questions to you.

10 Thank you, Mr. President.

11 QUESTIONING BY MR. PAUW:

12 Good morning, Mr. President. Good morning, everyone in and around
13 the courtroom, and especially good morning to you, Ms. Lay Bony.

14 Thank you for being here with us today. As Mr. Son Arun
15 indicated, I will have about 30 more minutes of questions.

16 Q. And my first questions will relate to the situation before
17 April 1975.

18 [11.28.00]

19 You have already testified about the period leading up to April
20 1975 and you have described it as a chaotic situation. And you
21 have also spoken about the huge influx of people in Phnom Penh.
22 Can you tell us a little bit more about this huge influx of
23 people in Phnom Penh? Did you actually see those people as they
24 were entering Phnom Penh before April 1975?

25 MS. LAY BONY:

1 A. Thank you. I saw this in person. When the war was being
2 brought closer to Phnom Penh, we could see people moving in with
3 their family members, and it was crowded. Cambodiana Hotel was
4 not yet complete -- the construction was not yet complete, and it
5 was already crowded with refugees -- displaced people who took
6 refuge at the vicinity. The price of food increased, and we
7 received some American aids, and these supplied aids could then
8 be sold by the soldiers.

9 Q. Thank you. And you described that these people stayed around
10 the Cambodiana Hotel. Were there other places in the city where
11 these refugees assembled?

12 A. I saw people in other places. I only indicated with reference
13 to that particular location for example. A lot of people had to
14 remain in other areas, like rented rooms and places where they
15 could stay.

16 [11.30.39]

17 Q. And, as far as you could tell, did these refugees all have
18 shelter or did some of them have to stay out on the streets or in
19 the fields?

20 A. It is difficult to describe because, for example, for a big
21 house, we had -- when the price increased, we had to split the
22 space in the house, setting up some partition so that it could be
23 rented to refugees -- people who would come to the city to take
24 refuge -- for some income.

25 Q. So, some refugees were housed in others houses in Phnom Penh.

1 But did you also see refugees camped on the streets or in shacks,
2 for example?

3 A. During the time when Phnom Penh was about to fall, I did not
4 go out a lot because I was about to give birth to my baby. And
5 the bombings were heard dropping all across the surrounding
6 areas, so I was so scared to leave my home.

7 [11.32.42]

8 Q. And, as far as you could tell, these refugees that had moved
9 into Phnom Penh, did they have enough food, or was that
10 difficult?

11 A. It was difficult when it comes to food because Phnom Penh was
12 not expected to accommodate all these great influx of people from
13 the different places of the country. So there were a lot of
14 difficulties looking for food, earning incomes, for example. So,
15 it's really difficult.

16 Q. You have also stated yesterday that your family did not have a
17 problem with rice because soldiers were given enough rice. I
18 would like you to clarify a bit for us. Did the government give
19 you, in fact, actually rice or did they give you enough money to
20 buy rice?

21 [11.34.17]

22 A. At that time, my husband was a soldier, so he received some
23 rice from his unit.

24 Q. And, also yesterday, you testified that your family had
25 problems getting other foodstuffs -- foodstuff other than rice.

1 Could you give us some examples? What sort of foodstuffs couldn't
2 you get?

3 A. In my family, we did not have problem with food supply because
4 we dug a small hiding place where we could keep all these
5 foodstuffs, including fish paste, the salt, and other kitchen
6 needs. So we did not have a lot of problems with this.

7 Q. And the following questions are about the citizens of Phnom
8 Penh that were not refugees and that were not soldiers. So I'm
9 speaking about the normal citizens of Phnom Penh.

10 Did you witness their situation? Did they have problems acquiring
11 foodstuffs?

12 [11.36.15]

13 A. Yes, they did, as already indicated, although I did not see
14 this in person; as I had been about to give birth to my baby, I
15 remained in the house. But I heard from my neighbours, who said
16 that people had a lot of difficulties with food.

17 Q. And do you know if the normal citizens of Phnom Penh had
18 access to adequate healthcare? Were there enough doctors, enough
19 hospitals, and enough medicine?

20 A. It is not fair to say that there was shortcoming of medical
21 care because there were enough hospitals open for offering
22 medical care to people who needed such care.

23 Q. And was it difficult to get to those hospitals to receive that
24 health care?

25 A. I do not know how to respond to this because I did not

1 experience being admitted to any of the hospitals at that time.

2 So I can't say about this.

3 Q. Thank you for that answer.

4 You were -- or you have told us that you have been told that you
5 had to leave the city because of American bombardments that might
6 be coming. At that time, in 1975, did you believe that -- did you
7 believe that the Americans might be bombing Phnom Penh?

8 A. At that time, I was afraid because the message was convincing
9 already. A few days or months before that, we already noted that
10 bombs were dropped, so when having heard that the city would be
11 bombed, we were terrified already, so we had to move.

12 [11.39.11]

13 Q. Thank you.

14 You have stated that you were evacuated from Phnom Penh and then,
15 after a -- after some travels, you arrived in Anhcheaeng Leu
16 village, which is in the Puk Ruessei commune, in the Khsach
17 Kandal district -- and my apologies for the pronunciation. And
18 you have stated that over there there was enough food. Could you
19 elaborate a little bit on that for us?

20 A. In Anhcheaeng Leu of Khsach Kandal district, I could say that
21 the food was decent because by every evening we would be asked to
22 get some fish and we could also find some rice. After leaving
23 Phnom Penh, we left with silk fabrics or other clothing, and we
24 could have them traded for rice, and we also could trade these
25 items for some kind of fish or vegetables. So I could say that

1 when we evacuated to the rural area during these early days with
2 this food, I could say it was decent.

3 Q. And a bit later, after some more travels, you arrived in Kaoh
4 Chum Pagoda. And you have stated that you were given the
5 opportunity to choose a cooperative that you wanted to go to.
6 Could you tell us a little bit about that? Who provided you with
7 the opportunity to choose a cooperative?

8 [11.42.06]

9 A. At Kaoh Chum Pagoda, people were unloaded from the ox carts or
10 people were stopped at that location where ox carts would be
11 waiting for us, and we were allowed to go to any direction we
12 preferred, or if we would like to remain at the Kaoh Chum
13 Cooperative, then we would be allowed to do so.

14 And our family members who were from Pursat said that we should
15 not move elsewhere because it doesn't matter where we went, we
16 would end up being farmers doing farming, so we might as well
17 wish to remain in the location.

18 Q. And just to remind us, can you tell us from when to when you
19 stayed in the Kaoh Chum Pagoda? Could you give us an estimate of
20 the year and the months?

21 A. At Kaoh Chum Pagoda or Kaoh Chum Cooperative, I was there at
22 -- during the rainy season, after 19 -- or after the Khmer New
23 Year; it was in 1976. So, after the Khmer New Year, I had then
24 been transferred to the tempering centre all along.

25 [11.44.01]

1 Q. And you have also stated that during your time at the Kaoh
2 Chum Pagoda you never saw people die of starvation. Is that
3 correct?

4 A. Yes, it is. I never saw people die of starvation. Although the
5 rice was of short supplies at the cooperative, we could make use
6 of the rice we brought along with us and we could exchange the --
7 we could ask people who fed the pigs, you know, with food, to
8 exchange the food for human beings.

9 Q. Thank you.

10 And then, when you came back to Phnom Penh -- you stated to the
11 investigators, when you came back to Phnom Penh you lost your
12 house. Could you tell us how you lost your house?

13 A. Upon returning to Phnom Penh -- it was in 1980 because by 1979
14 I had still been in Pursat. I came to Phnom Penh in 1980 and I
15 could not recognize my house anymore because it was -- it used to
16 be located across from Long Nget hospital and it was reduced to
17 just an empty plot of land.

18 Q. Just so I understand, was your house reduced to an empty plot
19 of land or was the area in front of your house reduced to an
20 empty plot of land?

21 [11.46.38]

22 A. (Microphone not activated)

23 MR. PRESIDENT:

24 Civil Party, could you please make sure that the mic is activated
25 before you proceed with your response?

1 MS. LAY BONY:

2 A. My house was across from Lon Nget hospital, but the current
3 residence is in Tuek Thla area. It was far from -- it is far from
4 the previous home, which was on Sangkat Number 4.

5 BY MR. PAUW:

6 Q. That makes sense.

7 You have stated to the investigators of the OCIJ that when you
8 came back to your house there were officials of the Ministry of
9 Foreign Affairs living in your house. How did you find out about
10 this?

11 [11.47.40]

12 MS. LAY BONY:

13 A. I learned about this after asking other people about who
14 stayed in the house. No, actually, these people stayed at my
15 aunt's house, not at my former home. The place was still vacant.

16 Q. And do you know who these officials of the Ministry of Foreign
17 Affairs were? Were they Cambodians or were they Vietnamese, by
18 any chance?

19 MR. PRESIDENT:

20 Civil Party, could you please hold on?

21 And Counsel for the civil parties, you are on your feet. You may
22 proceed.

23 MS. MOCH SOVANNARY:

24 I take issue with the current questions put to my -- to the civil
25 party because it is not within the scope of the matter before us,

1 as the question is relevant to the event after 1980s.

2 MR. PAUW:

3 I would submit, Mr. President, that it is relevant. The civil
4 party has been asked what happened to her house. This is directly
5 related to the evacuation of Phnom Penh in 1975. That's when she
6 was made to leave her house, according to her testimony. It
7 matters whether she got her house back or not and it matters why
8 she did not get her house back.

9 [11.49.23]

10 It seems, from her statements to the OCIJ, that she did not get
11 her house back because the current government -- or at least the
12 government that was in place in 1980 -- did not return the house.
13 My client could not be held responsible for such a fact, so it
14 would be a mitigating factor. We need to explore if the current
15 government -- the government in 1980 -- took the house of the
16 civil party and whether or not they had returned it. So I would
17 submit that this question is relevant.

18 MR. PRESIDENT:

19 Madam Civil Party, you may respond to the question, but please be
20 more precise on the subject matter before us now. Make sure that
21 you are referring to your home or you aunt's home. So we believe
22 that your response was already clear to us, but counsel may wish
23 to hear from you again whether you are referring to your home or
24 your aunt's home again.

25 [11.50.48]

1 MS. LAY BONY:

2 A. My home was reduced to an empty plot of land. The officials
3 only came to live at my aunt's home and these people were
4 officials from the Foreign Ministry.

5 BY MR. PAUW:

6 Q. So your statement to the investigators of the Co Investigating
7 Judges on this issue is incorrect? Is that how I should
8 understand your position?

9 Maybe I will, for transparency purposes, read out to you what you
10 have stated to the investigators. And it is the document that we
11 have been speaking about all along. It is document number D246/3,
12 and the Khmer ERN is 00373255, and the English ERN is 00379164.
13 The question was: "What happened to your house in Phnom Penh?"
14 And your answer was: "I lost my house. I returned to see my house
15 in 1980, but officials of the Ministry of Foreign Affairs were
16 living in my house." End of quote.

17 [11.52.29]

18 So my question, again, is: This portion of your statement to the
19 OCIJ is incorrect; is that fair to say?

20 MS. LAY BONY:

21 A. I came to see that my house was -- or belonged to others
22 already, because at the beginning, when I came back, the plot of
23 land that used to belong to me was reduced to an empty plot of
24 land, but later on people built a home on that empty land. But
25 then next to my -- the home was my aunt's house that -- occupied

1 by officials.

2 Q. Thank you for that explanation. And it's not very important as
3 such, but I will repeat the question: Is it fair to say that your
4 statement that officials of the Ministry of Foreign Affairs were
5 living in your house was incorrect?

6 [11.54.13]

7 A. I already stated that my home was already reduced to an empty
8 plot of land and the house that was adjacent to my former home
9 was my aunt's house and it was occupied by the officials from the
10 Foreign Ministry, because there was no home, no -- there was no
11 my home again after -- when I went back to see it.

12 Q. Thank you. That clarifies things.

13 And just to be clear, you did sign this statement that you
14 delivered before the investigators of the Co Investigating Judges
15 and you confirmed its accuracy in the courtroom today. Is that
16 correct?

17 A. I did confirm that and I did state this in person before the
18 Investigating Judges.

19 MR. PAUW:

20 Thank you.

21 I have no further question, and I thank you for coming here. And
22 on behalf of the Nuon Chea defence team, I wish you a safe trip
23 back after my colleagues for the other defence teams have
24 finished their questioning. Thank you.

25 MR. PRESIDENT:

1 Thank you, Counsel.

2 We would like now to proceed to counsels for Mr. Ieng Sary to put
3 questions to the civil party if they wish to do so.

4 [11.56.20]

5 MR. ANG UDOM:

6 Thank you, Mr. President, and thank you, Your Honours. And good
7 morning, Madam Lay Bony. I am Ang Udom. With my colleague, Mr.
8 Michael Karnavas, who is sitting at the back, we are representing
9 Mr. Ieng Sary. We do not have any questions to put to you.
10 Nonetheless, on behalf of Mr. Ieng Sary we would like to thank
11 you very much for taking the stand to give your testimonies, and
12 we wish you all the best. Thank you, Mr. President.

13 MR. PRESIDENT:

14 Next, we would like to hand over to counsels for Mr. Khieu
15 Samphan to put questions to the civil party if they wish to do
16 so.

17 [11.57.13]

18 MR. KONG SAM ONN:

19 Thank you, Mr. President, and thank you, Your Honours. On behalf
20 of Mr. Khieu Samphan, we do not have any questions to put to the
21 civil party. I thank you.

22 MR. PRESIDENT:

23 Thank you.

24 As indicated already, finally, as a civil party, Madam Lay Bony,
25 you have the right to express your suffering and the injuries you

1 have suffered, if you would wish to do so.

2 MS. LAY BONY:

3 I thank you, Mr. President and Your Honours. As a civil party, I
4 am pleased, and this is the best opportunity after 30 years I
5 have been living with all the suffering. And because of the
6 Court, I am here to express my sufferings -- my suffering.

7 After 1975, April 1975, I have been living in great misery and
8 grief because I had to leave my home, left behind my family
9 members and property, and I had to walk a long distance although
10 I had just delivered my baby. I had been saving this happiness,
11 but all was destroyed by the Khmer Rouge.

12 [11.59.08]

13 We had to travel to a destination where my husband and kids were
14 all killed. I have kept this suffering in my heart for a very
15 long period of time, and I would like to thank you, the Chamber,
16 very much for giving me this opportunity to speak it out.

17 And I have had been detained in several detention facilities. I
18 was treated even worse than the way the animals were treated. I
19 do not know why my whole family, including me, were detained and
20 confined in the detention facilities although we did not commit
21 any wrongdoing.

22 A lot of people were badly treated. They were tortured, they were
23 forced to give confession when their toenails will be pulled, and
24 also some would be plunged into the full jar of water, and on one
25 occasion, a woman stated very firmly that she was happier to die

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1 rather than living this living hell, and she had been beaten.
2 People were beaten, even at work, even when eating and sleeping.
3 People who were too hungry had to pick some leaves to substitute
4 the very meagre food, but then, when they got diarrhoea of eating
5 the leaves, they were accused of doing – committing the mistake
6 and they were all beaten, and many were shackled. They were
7 forced to work and they would be tortured if they were seen
8 stealing any food.

9 [12.01.51]

10 And later on, after 100,000 people were executed, then a lot of
11 us had to be sent to work in Boeng Kol, District 23, to do
12 farming, and we transplanted about 100 hectares of paddy fields.
13 We had to work until 12 p.m., and at 3 a.m. we were again asked
14 to get up to work. At that time, we had to use the empty sack to
15 cover our body to keep us from getting cold.

16 MR. PRESIDENT:

17 Civil Party, could you please be slower? Because if you speak
18 rather fast, we are afraid your message would not be properly
19 rendered into the other languages, for example the French and
20 English, because here, before us, we have our colleagues who are
21 speaking French and English. So, please, slow down and make sure
22 that you keep good pace when making your statement.

23 You may proceed. And also wait until you see the red light.

24 [12.03.44]

25 MS. LAY BONY:

1 I am -- I will do that. I was a bit too excited about this.
2 And I -- the situation was miserable, and the food ration was
3 very small. We had only a few ladle of paltry gruel and we were
4 very exhausted every day. We had to go to the field because we
5 were fear for our life. And when we went to the field, we had to
6 carry the seedlings along with us, we had to hold a big bunch of
7 seedlings to us. And if we dropped any seedling along the way,
8 they would beat us along the way, all the way to the rice paddy.
9 So we had to go down to the field on a daily basis and we had to
10 transplant rice, and we were given a certain quotas, certain
11 areas of land to transplant the seedlings. We have to meet the
12 quotas. Otherwise, we would be sanctioned, we would be punished.
13 So we had to comply with the direction. But the food ration was
14 minimal indeed. That was -- the life was like in that situation.
15 It was very, very miserable. And later on I and my team could
16 transplant 100 hectares of rice field.
17 When they frogmarched us from Tuk Thkoul (phonetic) Prison to
18 Boeng Kol Re education Centre, there were many members in our
19 team disappeared. Then we noticed people who disappeared among
20 our teams, we noticed that they must have been executed, and then
21 we also noted that those who were given under the control of the
22 Northwest Zone authority were also killed.
23 [12.05.38]
24 So, once we have transplanted 100 hectares of rice, then we hand
25 over to the cooperative, and after that they frogmarched us to

1 Boeng Kol Re education Camp.

2 When we lived over there, it was the most miserable place I had
3 ever endured in my life. It was a very terrible situation. Those
4 who committed a small, minor, negligible wrongdoing were shackled
5 and punished. And in terms of food ration, it was very minimal.
6 And if we made any -- any minor mistake, we would be beaten all
7 the time.

8 And those who were imprisoned in that dark prison, they did not
9 have to be executed but they would die there because they had to
10 live in a small and stuffy cell, under the zinc roof and in the
11 middle of the rice field, so it was very hot. So those who were
12 in prison in that dark prison, they -- their fate would be
13 unfortunate. In other words, they would not be able to return.

14 [12.07.01]

15 And when I was over there, I was starving. I ate everything,
16 including the snail; and snail I ate it raw, it was not cooked at
17 all. We were too starving at that time. We could eat anything. We
18 did not care about the eating etiquette or anything; we just
19 simply ate anything that could fill our stomach.

20 And every morning we were escorted, we were frogmarched to the
21 workplace, and then, during the lunchtime, we would be
22 frogmarched back to our dining halls, and then we only ate for a
23 short period of time; then we would be frogmarched again to
24 transplant.

25 And I was wondering to myself, why these people were so cruel? We

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1 were made to work very hard and we were given only a short period
2 of time to sleep. Even if we had to go to work a bit early in the
3 morning, but we had to be awakened up at around 3 o'clock in the
4 morning and we had to sit there doing nothing. And why didn't
5 they allow us to have enough sleep?

6 [12.08.24]

7 And when my area -- when one of the cooperatives were flooded, we
8 were asked to build a dam in order to prevent the water from
9 flooding the rice paddy, and then they over there told us that
10 people over there, particularly the cooperative members, thought
11 that we were all thief, and the thieves were coming to their
12 cooperative, so we were very resented with their degrading
13 comments and treatment over there. So, we had to help them. And
14 after building the dam, we also went to other places to help,
15 particularly to help prevent the waters from coming in the rice
16 field. And in the cooperatives, there were cooperative members
17 and those who were working in the re education camp.

18 [12.09.30]

19 For those who worked at the education camps, they had to work but
20 they could return to their place and they had something to eat,
21 but for us, we had to work and we had to carry water and us. As
22 for cooperatives, particularly those who were in the
23 cooperatives, they had some things to eat. For me and my teams,
24 who were the newcomers, we had to work all day long, and only
25 when we came to the dining hall we were given food. But at the

1 time many people were beaten as well.
2 And we lived in a big crowd and we were considered prisoners. And
3 when people put everything together in the hall, some items were
4 missing, and then we were beaten if we were making any noise or
5 we were discussing. So we were beaten every day and every time.
6 We -- one day, we were told to build the dam, and it was a very
7 hard work. We had to work under the rain and at night. And in
8 Tonle Sap areas, the -- we had to - we had to try to prevent the
9 water from coming into the rice fields; that was our
10 responsibility. So, we had to stay in water the whole day. We
11 were very cold -- it was very cold, and we were starving as well.
12 And at one time we prayed that the dam was broken. And one day
13 one of the dams were broken by the water current, and then many
14 people died.
15 [12.11.50]
16 We were -- but during that time the -- when the water was coming,
17 they had to try to dig up the potatoes. And we were very hungry
18 -- those who were coming to this place were very hungry. So, we
19 had to take this opportunity to find the potatoes, and then we
20 ate them raw. But those who were found picking the potatoes were
21 shackled and imprisoned.
22 And during the night time, at the sleeping place, we had to sleep
23 in the hall, and we sleep everywhere and then -- we could find.
24 At that time were -- it was the flooding season, and then there
25 was earthworm everywhere, and we had to sleep along with the

1 earthworms, and every morning we could see our feet was among the
2 earthworms over there.

3 So, we were like living in the hell. We do not understand why
4 they treated us inhumanely, why they treat us in such a very
5 degrading situation. I did not know. They were also human beings.
6 Why did they have to do that to us?

7 [12.13.05]

8 And those -- the black clothed soldiers had to evacuate us from
9 one place to another, and we were wondering when we will
10 eventually settle down, because we were kept moving from one
11 place to another. And my relatives, my siblings, three of them
12 died. Only me survived this regime, so I did not dare resist
13 their orders. I had to move along with others whenever we were
14 made to move from one place to another. And then, eventually, I
15 came to Trapeang Chong commune. I came to that place.

16 Finally, I would like to -- actually, it's my suggestion, after I
17 have described the suffering I have endured. We were treated like
18 animals, we were treated very inhumanely, so I would like to have
19 a few suggestions to the Court. I made it clear in my Victim
20 Information Form. I would like to ask the Court to search for the
21 truth. I would like know who were behind these heinous crimes. I
22 would like to know whether or not there were foreigners who were
23 behind these heinous crimes, because I do not understand why a
24 human being would do these kinds of inhumane acts. So I hope that
25 the Court will be able to find justice for us.

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1 [12.14.52]

2 I know that the Court did not conduct any investigation into the
3 Kouch Thkoul (phonetic) Prison, but I think there are many other
4 prisons in the country that the Court may also consider. So I
5 would like to urge that the Court consider investigating and
6 finding the truth, and I would also like the Court to recognize
7 the day or week to pronounce the remembrance for those who died
8 in Kouch Thkoul (phonetic) Prison so that those who died during
9 the regime would feel a peace and they would rest in peace after
10 that.

11 Thank you, Your Honour.

12 MR. PRESIDENT:

13 Thank you, Madam Civil Party.

14 You already expressed your suffering, and your testimony now
15 comes to a conclusion. You are now excused.

16 [12.15.52]

17 Court officer is now instructed to assist her, along with the
18 WESU unit, to make sure that Madam Civil Party is home safe and
19 sound.

20 Madam Lay Bony, you may leave now, please.

21 (Civil Party exits courtroom)

22 And at the same time the Chamber wishes to inform the parties to
23 the proceedings that it is now appropriate time for lunch
24 adjournment. The Chamber will adjourn, and the next session will
25 commence by 1.30 p.m., where the Chamber will be hearing the

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1 testimony of TCW 362, questions to be put first by the
2 prosecutors.

3 And at the same time the Chamber will also give the opportunity
4 to counsels or parties to the proceeding who would like to make
5 any observation concerning the statement made by Madam Lay Bony a
6 moment ago.

7 Counsel for Mr. Nuon Chea, you may now proceed.

8 MR. PAUW:

9 Thank you, Mr. President. Our client, Mr. Nuon Chea, would like
10 to follow this afternoon's proceedings from his holding cell. He
11 is suffering from a headache, back pain, and a lack of
12 concentration.

13 And we have submitted the waiver.

14 [12.17.37]

15 MR. PRESIDENT:

16 The Chamber notes the request by Mr. Nuon Chea through his
17 counsel, in which he has requested that he be allowed to observe
18 the proceedings from his holding cell due to his health concern.

19 He indicated that he cannot remain seated for a long period of
20 time and that he be allowed to retire to his holding cell.

21 Counsel already made it clear that his waiver that given
22 thumbprint and signed by Mr. Nuon Chea will be submitted to the
23 Chamber in due course.

24 In light of that, the Chamber, therefore, grants such a request
25 and that -- Mr. Nuon Chea is now allowed to observe the

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1 proceedings from his holding cell. With that, Mr. Nuon Chea has
2 expressly waived his right to participate directly in the
3 courtroom.

4 And the Chamber would like to ask that counsels for Mr. Nuon Chea
5 produce this waiver given thumbprint and signed by Mr. Nuon Chea
6 in due course.

7 [12.18.41]

8 AV Unit is now instructed to ensure that the AV is well-connected
9 to Mr. Nuon Chea's holding cell so that he can observe the
10 proceedings from there for the remainder of the day.

11 Security personnel are now instructed to bring Mr. Nuon Chea and
12 Khieu Samphan to their respective holding cell and have Mr. Khieu
13 Samphan returned to the courtroom by 1.30 p.m.

14 The Court is adjourned.

15 THE GREFFIER:

16 (No interpretation)

17 (Court recesses from 1219H to 1331H)

18 MR. PRESIDENT:

19 Please be seated. The Court is now back in session.

20 During this afternoon's session, the Chamber will be hearing the
21 testimony of TCW-362, questions to be put by the prosecutors.

22 Before calling this witness, we would like to give the floor to
23 parties who would like to make any observation concerning the
24 expression of the suffering made by the civil party before lunch.

25 You may proceed.

1 [13.33.19]

2 MR. ANG UDOM:

3 Thank you, Mr. President and Your Honours. I do not have any
4 specific observation concerning any particular civil party, but I
5 have a relevant question to be put before the Chamber for
6 consideration.

7 During the time when the civil party expresses her suffering, she
8 described about the facts that fall outside the scope of Case
9 File 002/01.

10 My question is whether -- when the civil party is allowed to
11 express her suffering outside the scope of the case file, whether
12 such statement can also be used as evidence within the case file
13 or can this statement be used for future evidence when the
14 parties were not given opportunity to challenge such statement?

15 (Judges deliberate)

16 [13.34.54]

17 MR. PRESIDENT:

18 Does any other party to the proceeding wish to also make any
19 observation concerning the position by counsel for Ieng Sary?
20 Counsel for the civil parties, you may now proceed.

21 MS. SIMONNEAU-FORT:

22 Yes, Mr. President. Simply, it seems that we spoke about this
23 yesterday, and the Chamber gave us the possibility -- or gave the
24 civil party the possibility to express herself regarding Case
25 002. And the Chamber is expecting a document from us, and we are

1 drafting it right now.

2 And it seems to me that all parties took advantage of the
3 opportunity to question this civil party, in particular Nuon
4 Chea's defence, that questioned the civil party on the entire
5 scope of Case 002. So, all of the parties have been able to
6 challenge the civil party and check the credibility of what she
7 was saying, so I don't think that there are any problems here.

8 (Judges deliberate)

9 [13.37.14]

10 MR. PRESIDENT:

11 Thank you, Counsel, for this.

12 We have already discussed about this when the same issue was
13 raised concerning the facts when civil party was examined and
14 also the statement civil party is supposed to make concerning his
15 or her suffering. However, to be more precise on this, the
16 Chamber will rule in due course, upon receiving the written
17 submission made by the Lead Co-Lawyers for the civil party.
18 Counsel had already been instructed to submit such specific
19 submission so that the Chamber has ground for our ruling. We
20 already discussed this.

21 And regarding the weight of evidence, the Chamber wishes to also
22 inform the parties that during the examination, we also make it
23 clear that the facts are relevant to Case File 002/01. So, the
24 Chamber is considering, based on its discretion, the facts at
25 issue. And the Chamber is convinced that it has the ability to

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1 look into the matters relevant to Case File 002/01 for the time
2 being, and we will also consider facts relevant to Case File
3 002/02 at a later date. We also see that this is the way we are
4 proceeding.

5 Next, court officer is now instructed to call witness TCW-362.

6 (Witness enters courtroom)

7 [13.40.57]

8 The Chamber wishes to inform the public and the parties to the
9 proceedings that the Chamber is seized of the waiver by Mr. Ieng
10 Sary, the waiver in which Mr. Ieng Sary has waived his right to
11 the testimonies of 10 witnesses including the civil parties; and
12 here, TCW-362 is one among the witnesses.

13 And we also received medical report from the hospital indicating
14 that Mr. Ieng Sary is still being admitted to the hospital at the
15 Khmer-Soviet Friendship Hospital and he has requested that he has
16 waived his right to the testimony of certain civil parties and
17 witnesses due to his health concern. At the same time, Mr. Ieng
18 Sary is mentally fit, and that -- we can proceed hearing the
19 testimony of TCW-360 in the absence of Mr. Ieng Sary.

20 [13.42.19]

21 And at the same time, the Chamber wishes to also inform the
22 parties to the proceeding that the witness is assisted by a duty
23 counsel, Mr. Lim Bunheng.

24 QUESTIONING BY THE PRESIDENT:

25 Q. Good afternoon, Mr. Witness. What is your name please?

1 MR. KUNG KIM:

2 A. Good afternoon, Mr. President. I am Kung Kim. I live in Prey
3 Tang Thnong, Chieb sub-district, Tuek Phos, Kampong Chhnang. I
4 have four children.

5 Q. Apart from your full name, Kung Kim, do you have any alias?

6 A. People also call me Keu.

7 [13.43.31]

8 Q. What do you do for a living?

9 A. I am the commune councillor.

10 Q. What is your father's name?

11 A. He is Chou Long, deceased.

12 Q. What is your mother's name?

13 A. She is Leng Kea, deceased.

14 Q. What is your wife's name?

15 A. She is Teng Mut.

16 Q. Thank you, Mr. Kung Kim.

17 According to the report by the greffier of the Trial Chamber, you
18 have stated that you have no relation or connection to any of the
19 parties to the proceedings, including the accused persons, Mr.
20 Nuon Chea, Ieng Sary, and Khieu Samphan; is that statement
21 correct?

22 A. Yes, it is, Your Honour.

23 Q. Mr. Kung Kim, have you taken an oath before you take the
24 stand?

25 A. I have already taken the oath.

1 [13.45.15]

2 Q. When did you take the oath, and where?

3 A. I took the oath just a moment before I appeared before the
4 Chamber.

5 Q. Was that conducted before the Iron Genie to the east of this
6 building, in this vicinity?

7 A. Yes, it is, Your Honour.

8 Q. Thank you, Mr. Witness.

9 The Chamber would like to inform you of your rights before the
10 Chamber.

11 Mr. Kung Kim, as a witness, you can refuse to respond to any
12 questions that are self-incriminating. You enjoy the right
13 against self-incrimination of witnesses. And as a witness, you
14 shall give testimonies before this Chamber and you shall respond
15 to all questions put by the parties and the Judges of the Bench,
16 and at the same time you may refuse to respond to any questions
17 if the questions are relevant to any responses that are against
18 your -- or are self-incriminating. And at the same time you are
19 to respond to the questions based on your experiences, what you
20 saw and come across during the time -- the events.

21 [13.47.17]

22 Mr. Kung Kim, have you ever given any interviews or being
23 interviewed by any Co-Investigating Judges for the last few
24 years?

25 A. I gave an interview to an Investigating -- to Co-Investigating

1 Judges at my home.

2 Q. Do you remember when was it?

3 A. I'm afraid I do not remember the exact date of the interview.

4 Q. Before you appear before the Chamber, Mr. Kung Kim, have you
5 reviewed the written record of your interview that you gave
6 before the Investigating Judge to refresh your memory?

7 A. Yes, Your Honour, I have read the written record, the
8 questions and answers that conducted by the Co-Investigating
9 Judges and I, myself.

10 [13.48.40]

11 Q. According to your best recollection, is the account in the
12 written record consistent to the interview you gave to the
13 investigators previously?

14 A. Yes, it is. The account is consistent to the one I gave before
15 the Co-Investigating Judge.

16 MR. PRESIDENT:

17 Thank you, Mr. Witness.

18 Now, to the Prosecution, the Chamber would like to inform you
19 that you were allotted -- you will be allotted the time and
20 opportunity to put questions to this witness before the other
21 parties.

22 You may now proceed.

23 MR. VENG HUOT:

24 Good afternoon, Mr. President. Good afternoon, Your Honours, and
25 good afternoon, Mr. Witness and parties to the proceeding who are

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1 in the courtroom today. I am from the Office of the
2 Co-Prosecutors. I have a few questions to be put to you.

3 [13.50.34]

4 And before I proceed with the questions, with Mr. President's
5 leave, I would like to hand over the record of the interview he
6 gave to the Investigating Judge before the – before, and the
7 reason I would like to hand this over to the witness because I
8 would like to make sure that he has access to the document and to
9 ease our time in questioning him.

10 MR. PRESIDENT:

11 Could you please identify the document first?

12 MR. VENG HUOT:

13 Mr. President, this document is D166/76.

14 MR. PRESIDENT:

15 Can you repeat that? Is it 26 or 24?

16 MR. VENG HUOT:

17 It is D166/76. My sincere apologies, Mr. President and Your
18 Honours; indeed, it is D166/74.

19 MR. PRESIDENT:

20 You may proceed.

21 [13.52.11]

22 And court officer is now instructed to hand over the document to
23 the witness.

24 QUESTIONING BY MR. VENG HUOT:

25 Q. Mr. Kung Kim, perhaps it is not yet an appropriate time for

1 you to look at the record of the interview as yet. I would like
2 to proceed with a few questions first before we refer to the
3 document.

4 Can you please tell the Chamber when you joined the army?

5 MR. KUNG KIM:

6 A. I joined the army in 1974.

7 Q. How old were you at that time?

8 A. I was 15 years old.

9 [13.53.26]

10 Q. Can you please describe the military structure concerning the
11 North Zone Division 310 and your roles before 1975; indeed, your
12 roles before April 1975?

13 A. I joined the army in 1974, as stated, in Kampong Thom. Later
14 on I was transferred to the North Zone Military Complex, and by
15 early 1975 I was again transferred to Preaek Kdam location to
16 fight a battle that leads to Phnom Penh.

17 Q. Prior to the 17th of April 1975, had you attended any military
18 meetings when you were in the army?

19 A. I attended meetings, but at the level of the battalion and the
20 company and the sub-group. I never attended any meetings at the
21 regiment level. I was rather young at that time. I was very
22 young.

23 Q. Do you recall who led such meetings?

24 A. During the meetings, Pon, who was the head of the platoon,
25 would be leading the meeting, and another group leader by the

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1 name of Lam (phonetic) also chaired the meetings.

2 [13.56.04]

3 Q. Do you still remember the contents or the agenda of the
4 meeting?

5 A. During the meetings, we would be lectured on the plan to
6 attack Phnom Penh. It was the military tactics, how to be
7 prepared to attack the city.

8 Q. What kind of instructions or orders were you given at that
9 time?

10 A. I was receiving order to join the forces to attack Phnom Penh
11 through Preaek Pnov battlefields, Phum Krong An (phonetic), and
12 other battlefields leading to Phnom Penh.

13 Q. Can you please look at the copy I just handed over to you and
14 look at question and answer number 3?

15 [13.57.54]

16 I would like to read the ERN numbers of the document in Khmer
17 which is 00270163, English ERN 00278681, French ERN 00486096.

18 I would like to read from the statement as follows: "At the same
19 time, I received orders to shoot and kill right away any soldiers
20 or anyone dressed as a soldier."

21 My question to you is: From whom did you receive this order?

22 A. I received from the head of the platoon, Comrade Pon, and the
23 order was rendered from the company. And as a young soldier, I
24 did not attend such meeting where the order was rendered, but as
25 a person in the platoon, I had to receive order from Upper

1 Echelon.

2 Q. How was the order rendered? Is it -- was it the way the
3 instructions could have been delivered? And were the orders or
4 instructions rendered through meetings or through other means?

5 A. Orders normally rendered through meetings and also
6 instructions could be given at the battlefields. And we were
7 instructed that if we saw any civilian facing us in the opposite
8 direction then we had to shoot them.

9 [14.00.28]

10 Q. You said just now, as long as you met the people who blocked
11 your soldiers or if you found any soldiers blocking you or in
12 front of your soldiers, you would shoot them; is that what you
13 are telling the Court?

14 A. Yes. We were ordered to shoot, but as I said, we were the
15 Khmer Rouge soldiers and the soldiers that we were supposed to
16 attack were the Lon Nol soldiers, and they were considered
17 external soldiers.

18 Q. You then received this order, but did you carry out this order
19 against the civilian, as well, or you only shoot the Lon Nol
20 soldier? Did you -- in other words, did you comply with the
21 order?

22 A. Upon receiving the order, I was in both the rear and the
23 battlefields. I never met civilians. I only encounter soldiers.
24 We clashed with the soldiers. We never saw civilians in the
25 battlefields.

1 [14.02.18]

2 Q. I would like to expand a bit further on this point. Your squad
3 killed civilians as well as Lon Nol soldiers. I would like to
4 know before people or civilians or Lon Nol soldiers were killed
5 or shot, did they, for example, raise any white flag to surrender
6 or retreat? If you look at question and answer 17 on -- no,
7 rather, question 7 -- question-answer--

8 MR. PRESIDENT:

9 Witness, please hold on. The national defence counsel for Mr.
10 Khieu Samphan is on his feet.

11 You may proceed, Counsel.

12 MR. KONG SAM ONN:

13 Thank you, Mr. President. Just now, the national prosecutor said
14 that it was the statement of the witness before us that his
15 soldiers in his squad would kill civilians even if they raise a
16 white flag to retreat, but actually, it was not the statement
17 from the mouth of the witness. The witness did not state that,
18 Mr. President.

19 MR. VENG HUOT:

20 In question -- in the question I mentioned, the investigator of
21 the OCIJ asked the witness that when they were advancing on the
22 offensive to Phnom Penh, did his squad kill or shoot any
23 civilian. And at that time, he mentioned in his statement that
24 during the shooting, it was usual that certain people were
25 killed, but those were not the target of the soldiers. So I would

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1 like to ask him to explain when he was shooting the soldier and
2 the civilians whether or not those people had raised white flag
3 or so and then you still killed them.

4 [14.04.32]

5 MR. PRESIDENT:

6 Prosecutor, can you please base your question on a very precise
7 portion of the witness statement? If I look at this witness
8 statement, it does not come in the order you indicated to the
9 witness, so it is advisable that you refer to a specific question
10 in the written record of interview. Particularly, you should make
11 mention the relevant ERN number for other parties to refer to the
12 relevant portion of this. That's why there was a question raised
13 by the defence counsel for Mr. Khieu Samphan.

14 MR. VENG HUOT:

15 Thank you, Mr. President.

16 If you look at question 7, I put the order in this written record
17 of interview; in Khmer, 00220164; French, 00486097; English,
18 00278682.

19 [14.06.05]

20 MR. PRESIDENT:

21 Could you please rephrase your last question? And the question
22 should be based on a -- the substance of the written record of
23 interview of this witness. You have to be precise on the basis on
24 which you ask the question because it seems that you base on
25 something very new and then you said that there were question 7

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1 -- you were referring to question 7 or so, but other parties
2 might not be aware of the order of questions in the written
3 record of interview.

4 BY MR. VENG HUOT:

5 Thank you, Mr. President. I would like to put my question again.

6 [14.06.48]

7 Q. You said in your statement that when I fired I must have hit
8 and killed some, but I never first capture or shot and kill any
9 of them. So my question to him whether or not there were
10 exchanges of fire with those people or soldiers or did you shoot
11 them even if they had already wave or raise their white flag.

12 [14.07.17]

13 MR. PRESIDENT:

14 I note the defence counsel -- international defence counsel for
15 Mr. Nuon Chea is on his feet. You may proceed, Counsel.

16 MR. PAUW:

17 Thank you, Mr. President. I think it would be clear if -- clearer
18 if the Cambodian prosecutor would also read out the question that
19 is asked just before the answer that he just read out.

20 The question that was asked was: "During the attack on Phnom

21 Penh, did you or your squad shoot any soldiers or civilians?"

22 And then the answer is: "When I fired, I must have hit and killed
23 some, but I never first captured and then shot and killed any of
24 them."

25 [14.08.00]

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1 I think that makes clearer -- more clear to the witness that the
2 question related to shooting either soldiers or civilians and the
3 witness has just stated that he never saw any civilians while in
4 combat, so I think it will be fair to the witness to read out the
5 entirety of the question and answer segment.

6 MR. PRESIDENT:

7 Thank you.

8 Prosecutor, please be reminded that you have limited time to put
9 the question to the witness and your first --- and the question
10 is not clear and there has been comments by other parties, so
11 please try to make sure that your question is precise and clear.

12 [14.08.56]

13 And, in addition, the questions that you phrase, just now, was a
14 bit different from the statement that he provided to the
15 investigator of the OCIJ and you asked the question -- a literal
16 question that whether this witness had shoot and killed any
17 civilians or soldiers. This question is incriminatory in nature
18 to this witness.

19 BY MR. VENG HUOT:

20 Thank you, Mr. President. I would like to now rephrase the
21 question.

22 Q. In the same question, you told the investigators that, "When I
23 fired, I must have hit and killed some, but I never first --
24 that's what you said in that".

25 And I would -- my question that I would like to expand on this:

1 When you shoot or hit those soldiers, did you shoot at them when
2 they actually fire back at you or when they had already wave or
3 raise the white flag? That's my question I would like to ask for
4 you to enlighten the Court.

5 Mr. Witness, did you understand my question? Otherwise, I will
6 try to simplify it.

7 [14.10.51]

8 MR. KUNG KIM:

9 A. On this particular point, as per the order I received, we had
10 to attack them, but the killing and shooting against the soldiers
11 and civilian that was the time when we were advancing on the
12 offensive to Phnom Penh and at that time, we hit and kill,
13 including civilians. But in Phnom Penh, there were fires
14 everywhere, so we could not be a hundred per cent sure that those
15 people had raised their white flag because there were people who
16 surrendered and retreated, but there were others who were among
17 them as well. So we were not sure, so we had to shoot those who
18 were there.

19 [14.11.46]

20 Q. So, in document -- in Khmer, 00270125; English, 00278683; in
21 French, 00886097; in the question -- question order 11, in the
22 witness written record of interview -- and I would like to read
23 out this portion.

24 Answer: "I saw bodies floating in the water. I saw a few bodies
25 of Lon Nol soldiers and continuously saw many bodies of people

1 who had died along the streets and some were blood-stained and
2 some were in the roads and had been run over by our vehicles from
3 Kilometre 6 all the way to Chrouy Changva Bridge."

4 On this particular statement, you saw those dead bodies. Why
5 didn't you carry those dead bodies? Why did you drive over those
6 dead bodies; was it because there were too many bodies scattered
7 everywhere along the street and you could not avoid running over
8 them?

9 A. On the day when we attacked Phnom Penh, we were on the trucks,
10 and at that time the trucks did not transport the ordinary
11 civilians; we transported soldiers. So the soldiers had to be
12 reinforced into the city in order to capture the city. So we were
13 -- we had our mission so we had to drive over there. And at that
14 time our soldiers were lost in terms of geographical location of
15 the city. What we had to do at that time, we had to come and
16 assemble at the specific target that we were supposed to station
17 and that was it.

18 [14.14.18]

19 Q. I just wanted to know, why didn't you just drive away from the
20 dead bodies? Why did you have to run over those dead bodies?

21 A. As I said in my statement, at that time the situation was
22 chaotic and everything was in a rush and the dead bodies were
23 scattered everywhere from one place to another. I will not -- I
24 was not the driver. I was on the truck. There was another driver.
25 We tried to avoid running over those dead bodies, but we could

1 not always avoid running over those dead bodies because it was
2 everywhere.

3 Q. Thank you. I move on, then.

4 [14.15.08]

5 When you were leading your squad and your forces to Phnom Penh
6 and then you finally captured Phnom Penh, were you promoted to a
7 higher position in command?

8 A. When we were fighting to capture Phnom Penh, I was not holding
9 any position. I was an ordinary rank and file combatant.

10 Q. I would like ERN 00270164 in Khmer; and ERN in French,
11 00278682; and French (sic), 00486097. You said that when you
12 first got to the city, you went to drive the people out of their
13 houses and you went to search in every house in the city and then
14 drive people away. I would like to know, when you went to carry
15 out this mission, did you receive any order from anyone and if
16 so, who were they?

17 A. When I got to Phnom Penh, we had to station at a particular
18 target we were assigned to. So at first, the forces were not
19 mobilized to search the house. We had to control our own
20 respective force. And in Phnom Penh, at that time, the situation
21 was chaotic. There were still soldiers of Lon Nol's and Khmer
22 Rouge soldiers. So first of all, when we got into Phnom Penh, we
23 had to control our own force and after that, there were
24 instructions from the platoon.

25 [14.17.15]

1 The platoon received order from the company and battalions, also,
2 and there was another special force which were tasked to evict
3 people out of the city. However, there were people who remained
4 in the houses; particularly, those who live in the upper storey
5 building. So those who were -- those soldiers who were stationed
6 in Phnom Penh had to conduct the final search in the house in
7 order to ensure that everyone was evicted and left their houses.

8 Q. Thank you. So did you receive any particular order against
9 those who resisted leaving their home? What was the instruction
10 from the superior?

11 A. There was a plan to evacuate people out of Phnom Penh. The
12 large majority of people left the city. There were only a small
13 minority of people left in the houses and soldiers were task to
14 conduct the final search. And when we conducted the search, we
15 encountered soldiers and we exchanged fires and we killed some of
16 them.

17 [14.18.40]

18 But as for civilians, we had to bring them down and then we had
19 to order them to leave. And these were done by the battalions or
20 companies or platoons and I was under the instruction of Oeun,
21 who was the commander attached to my squad and section.

22 Q. In the same document, in English 00270165 -- that is in Khmer;
23 in English, 00278683; and French, 00486097; for your convenience,
24 in your document it is question order 12.

25 The question by the investigator was: "Were there really orders

1 from the people to leave, and if they did not leave they were to
2 be killed?"

3 And then you responded: "Yes, those were the orders; they came
4 through Ta Yim, as always."

5 Do you stand by this statement?

6 [14.20.10]

7 A. Yim -- Yim, he was the commander of a battalion. When the
8 first wave of people in the city were evacuated, then there was
9 another order to search every house to find those who resist
10 leaving and those people were accused of being enemies. So there
11 were orders all the way through the regiments, battalions, as
12 well as company and platoons to ensure that there were no any
13 other people other than our soldiers to remain in the city.
14 As for others who were not our soldiers were considered enemy,
15 but in reality, I, myself, had never captured any one of them and
16 I had never killed anyone of them, but we did receive orders.

17 Q. Because -- due to the urgency of the evacuation of people out
18 of Phnom Penh, what did you tell the civilian when you order the
19 civilian to leave their homes? What the real order you handed
20 down to them?

21 A. Upon receiving the orders and plan of evacuation, actually, my
22 squad was not tasked to evacuate the people. Actually, there were
23 special forces tasked to evacuate the people out of the city. As
24 for my forces, were to be stationed in one specific target in
25 order to defend our target. So, once the people were evacuated,

1 there were minority people who stay behind, so we had to ensure
2 that those people left the city as well.

3 Q. Thank you.

4 [14.22.24]

5 So I move on to my next question.

6 You say there were people who left later than others and your
7 task was to make sure that they left. And how about in the
8 hospital; did you go to the hospital? Were there any patients or
9 people in the hospital who left behind?

10 A. When I got to Phnom Penh, I received the instruction to defend
11 my target. I had to station in the target.

12 And for myself, I did not know. I never went to the hospital. We
13 were instructed to station in a specific location, so we had to
14 defend our target. So we were not allowed to travel anywhere at
15 our own will, so we have to be stationed exactly as what we
16 instructed to do.

17 [14.23.34]

18 Q. I have only one final question for you: In relation to the
19 evacuation of people, did you ever see the children group who
20 were waiting for their parents, for their fathers or mother, and
21 they did not want to leave because they insisted that they had to
22 wait for their parents? Did you ever encounter this situation?

23 A. When the plan to evacuate people were executed, the city
24 streets were crowded with people marching out of the city and the
25 situation were chaotic. We never saw any separate groups of

1 children loitering on the street or so.

2 [14.24.40]

3 MR. VENG HUOT:

4 Thank you, Mr. Kung Kim, for responding to my questions. I thank
5 you very much for your time.

6 And, Mr. President, that is all for me, and I would like to hand
7 over to my international colleague to continue our lines of
8 questioning. Thank you, Mr. President.

9 (Short pause)

10 QUESTIONING BY MR. ABDULHAK:

11 Good afternoon, Your Honours, and good afternoon, Counsel, and
12 good afternoon, Mr. Kung Kim. Thank you for coming to assist the
13 Court in searching for the truth and answering my colleague's
14 questions. I'm going to follow up with some of these areas that
15 you've already discussed.

16 Q. And if I can start with the order -- or the orders that were
17 given to members of your division -- and you've already told my
18 colleague about some of these orders -- what I'd like to look at
19 is how the orders were communicated.

20 In your statement, D166/74, there is a relevant passage and this
21 is at Khmer ERN 00270164; French, 00486096; and English,
22 00278682; and this is the passage question: "Did your superiors
23 tell you how to handle prisoners and the people?"

24 Answer: "At the time, I received orders not to take prisoners;
25 anyone in the vicinity of the city's defensive belt was to be

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1 shot right away; no matter where the soldiers were, they were to
2 be shot at once. These orders came from Division Chairman Oeun,
3 through Regimental Chairman Song and Battalion Chairman Yim, all
4 the way down to me."

5 [14.27.36]

6 My first question is -- you mentioned earlier -- I think you
7 mentioned the individual Oeun. Can you confirm for us that it was
8 the divisional commander who issued the order and that the order
9 came down to you to be implemented to not take any prisoners?

10 MR. KUNG KIM:

11 A. Upon receiving the orders -- I did not receive orders from the
12 Upper Echelon. I knew that Oeun was the commander and Song was
13 from the regiment when Yim -- Yim from the battalion. And these
14 orders were rendered from them and I never attended any meetings
15 with the regiment or battalion. I only attended meetings at the
16 platoon.

17 [14.29.09]

18 Q. Thank you. Because in your statement you indicate that the
19 order had come from the division chairman, Oeun, could you tell
20 us how you knew that orders would be coming from a division
21 chairman?

22 A. I learned this through the plan of the company who said that
23 the orders were rendered from division and that the lower level
24 of the military structure had to implement such order.

25 Q. Thank you. And was that common as part of your military

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1 duties? Did you normally receive orders coming from the division
2 level? Was that something that was done in the ordinary course of
3 battles or was it -- was it only on this occasion?

4 A. During the fighting, we never met in person with the head of
5 divisions or regiments or the battalion. We only met with -- or
6 receive orders from the head of the platoon or the company. We
7 never faced -- met them face to face and we had our different
8 groups where orders could be rendered through them to us.

9 [14.31.15]

10 Q. Thank you. Am I correct in understanding -- and please correct
11 me if I'm wrong -- that all military operations in your division
12 were commanded by Oeun -- by Ta Oeun?

13 A. Yes, it is correct.

14 Q. Thank you. And do you know who Ta Oeun reported to?

15 A. As already indicated, I know no one from battalion level up to
16 the division because I am familiar with only the persons who were
17 in charge of the platoon or company, no more than that.

18 Q. Thank you. We might come back to Oeun in a little bit -- a
19 little bit later.

20 [14.32.48]

21 If we look at your statement again -- and this is at Khmer
22 00270164, towards the bottom of that page; in French, 00486097;
23 and in English, 00278682 -- you described there that your squad
24 was based in and controlled the north section of the city. I'm
25 interested in the next passage -- quote:

1 "We had to conduct searches and drive the people away, and there
2 were no rules at all against shooting the people. I never saw
3 anyone who had shot [them] be punished for having done so. Some
4 had morals and did not fire; those who had no morals did fire."

5 Can you tell us how it was that you knew that some of the
6 soldiers were firing at the people in the city?

7 A. At different target location, there was no rule or regulation
8 on not shooting people rendered to us. And during operations,
9 sometimes we encountered with the remaining soldiers, the
10 soldiers who could exchange fire with us, and the casualties were
11 not avoided, and sometimes the fires were exchanged when the
12 people were caught across the -- in between and that also led to
13 some civilian casualties.

14 [14.35.12]

15 Q. Moving on with that -- in that same statement, the next
16 passage, so immediately below the section we just read, you say
17 the following:

18 "As for driving the people out, that was difficult because some
19 remaining Lon Nol soldiers were throwing grenades from up above
20 and killing Khmer Rouge soldiers, and some of the people up above
21 refused to leave. Therefore, we received orders to cut-off the
22 water and electricity for a half-month; then we captured the
23 people who came down and sent them to our superiors."

24 Can I ask you, how long after the 17th of April was it that you
25 were ordered to cut off water supply in order to drive the

1 remaining people out?

2 A. After Phnom Penh liberation and after noting that it is not
3 easy to evacuate the remaining people who living up above who
4 still could cook their rice because there was still running water
5 available to them, so upon orders, it was the plan by the
6 division to our platoon to cut off water supply so that people
7 could no longer access to such water supply. And soldiers would
8 be able to use the water that could have been stored in a
9 reservoir or tanks, but there was no longer running water, but I
10 -- that was the order.

11 [14.37.30]

12 Q. Thank you.

13 In order to explore some of these areas further, I want to ask
14 you about another interview that we have a record of. Do you
15 recall being interviewed by people from the Documentation Center
16 of Cambodia in July of 2002?

17 A. Yes, I do.

18 MR. ABDULHAK:

19 Your Honours, we have on the case file a transcription of this
20 interview. It is document 19.96. It runs into well over 50 pages
21 in Khmer. With your leave, I would hand it to the witness and ask
22 him some more questions.

23 MR. PRESIDENT:

24 You may proceed.

25 [14.38.43]

1 Court officer is now instructed to bring the document from the
2 prosecutor to the witness for examination.

3 BY MR. ABDULHAK:

4 Thank you, Your Honours.

5 Q. Mr. Kung Kim, I'm not sure whether you have seen this document
6 before. It appears to be a transcription of a -- of a taped
7 interview. Can I ask you first if you have seen it before?

8 MR. KUNG KIM:

9 A. The document I'm holding now, I have never seen it.

10 [14.39.43]

11 MR. PRESIDENT:

12 Court officer is now instructed to retrieve the document from the
13 witness.

14 BY MR. ABDULHAK:

15 Q. Just to confirm, Mr. Kung Kim, you've just told us that you do
16 recall this particular interview and it does look like a
17 transcription that might have been made following the interview,
18 so I'm not surprised that you haven't necessarily seen it. In
19 this document, you discussed the same topics that we're
20 discussing today and I want to ask you a few questions to see if
21 we can elaborate in a bit more detail.

22 [14.40.42]

23 And this is a section that deals with the problem of Khmer Rouge
24 -- rather, Khmer Republic soldiers who were encountered. And you
25 -- you -- according to this transcript, you said the following:

1 "The soldiers of my unit--"

2 And I will give the ERNs first, I apologize. The Khmer ERN is
3 00054834; French, 00403350; and English, 00633874. And this is
4 the section:

5 "The soldiers of my unit just arrived from the forests were
6 wearing the uniform made from polyester material. Our uniform was
7 thin and in green colour. Our cap was sewed with different kind
8 of thread. Some of our soldiers who had arrived in town earlier
9 became overexcited. When they found the Lon Nol soldiers'
10 uniforms were still new, they put them on. Then, when the next
11 wave of troops arrived, they misidentified them, so they shot at
12 each other, killing many of our own troops during that
13 confusion."

14 [14.42.25]

15 And let me ask you about that first. Do you recall that situation
16 of some of your soldiers or some of the Khmer Rouge soldiers
17 putting on uniforms of Lon Nol troops and being shot following
18 the fall of Phnom Penh?

19 A. When we were entering Phnom Penh, we noted the chaotic
20 situation. The people also were confused and the soldiers were,
21 at time -- at the same time, confused. First, people were
22 scattered. Our forces was not properly managed, and the soldiers
23 who were ill-disciplined, when they saw the uniforms -- the
24 military uniform, took them on. And at that time, people were
25 misidentified and fire were exchanged. And some soldiers who were

1 from the jungle were too overjoyed with the victory; when they
2 came to Phnom Penh, they drove the car so fast that they crashed
3 and killed themselves, as well.

4 [14.44.05]

5 MR. PRESIDENT:

6 Thank you, Counsel. Thank you, the parties.

7 We now should adjourn briefly, and the Court will adjourn for 20
8 minutes.

9 Court officer is instructed to assist the witness during the
10 adjournment.

11 And the Court will adjourn now and resume by 3 o'clock.

12 (Court recesses from 1444H to 1503H)

13 MR. PRESIDENT:

14 Please be seated. The Court is now back in session.

15 And we would like to now hand over to the prosecutor to continue
16 putting questions to the witness.

17 MR. ABDULHAK:

18 Thank you, Mr. President.

19 And if I can just seek some directions from the Chamber about the
20 issue of time -- we started a little bit late with this witness,
21 about 1.49 this afternoon. We were -- we have been allocated half
22 a day. I do note that -- at least our understanding is that the
23 Chamber intends to sit tomorrow as well, and I want to enquire as
24 to whether or not we and the civil parties may be able to
25 continue questioning the witness in the morning or if you expect

1 us to finish earlier.

2 (Judges deliberate)

3 [15.05.48]

4 MR. PRESIDENT:

5 May we know how much time the Lead Co-Lawyers would like to have
6 for putting questions to this witness, please?

7 MR. PICH ANG:

8 Mr. President, civil parties would like one hour for putting
9 questions to this witness.

10 MR. PRESIDENT:

11 Co-Prosecutor, you may proceed.

12 And your request is granted. For -- you should finish putting
13 questions, and for the whole afternoon and tomorrow's session,
14 the Chamber will give one hour for the civil parties.

15 BY MR. ABDULHAK:

16 Thank you, Mr. President. I'm very grateful for that
17 accommodation.

18 [15.06.56]

19 Q. Mr. Kung Kim, you've heard the President; we have one more
20 hour, so we're going to try and cover as many areas as possible.

21 Before the break, we discussed the issue of how civilians were
22 forced to leave their houses and how water was cut. In that same
23 interview with DC-Cam, there is a -- there is a segment which
24 relates to those events. This is at Khmer ERN 0054836; French ERN
25 00403351; and English, 00633875. And I will read just a couple of

1 relevant portions.

2 "Did you or someone else make the report about the incidents to
3 the upper echelon?"

4 Answer: "Yes, I reported, and so did the others, but we discussed
5 with each other within the group before making the reports."

6 And then, further down, there's a question: "What level did you
7 report to?"

8 And the answer you gave was: "The battalion level, which was
9 directly above us."

10 Is that -- is that correct, Mr. Kung Kim, that you were
11 submitting reports about the progress of evacuation to the
12 battalion?

13 [15.08.55]

14 MR. PRESIDENT:

15 Witness, could you please hold on?

16 Counsel for Mr. Ieng Sary, you may proceed.

17 MR. ANG UDOM:

18 Thank you, Mr. President. I'm not really on -- am on my feet to
19 take issue with this, but the President already ordered that the
20 document be withdrawn from the witness. However, the document is
21 still put up on the screen. Can it -- can it also be requested to
22 be removed?

23 MR. ABDULHAK:

24 Mr. President, I don't believe the document is being shown to the
25 witness. We're not asking for it to be shown. If it is

1 inadvertently being put up, we will -- we will immediately remove
2 it. I can simply read the excerpts.

3 [15.09.48]

4 MR. PRESIDENT:

5 Indeed, it shall be removed.

6 BY MR. ABDULHAK:

7 Thank you, Mr. President.

8 Q. So, just returning, Mr. Kung Kim, to that issue of reports, is
9 that correct that you were submitting reports to the battalion
10 commander as to the progress--

11 Oh no, we have another objection.

12 MR. PRESIDENT:

13 Witness, could you please hold on?

14 Counsel for Mr. Nuon Chea, you may proceed.

15 [15.10.21]

16 MR. PAUW:

17 Thank you, Mr. President. Again, to be fair to the witness, I
18 think the prosecutor should also read out the paragraph before
19 that question because it is not simply reporting on the progress
20 of the evacuation; it is reports about specific incidents that
21 the witness describes in the question -- or in the answer to the
22 question just before. So, just to give the witness a
23 comprehensive picture as to what he's answering to, I would
24 request the prosecutor to also read out the prior portion.

25 MR. ABDULHAK:

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1 Mr. President, can I respond as follows? In our submission, these
2 objections and interventions should be rejected.

3 It is entirely open to my learned friend to go back to these
4 passages and contextualize them in any way he wants. This is a
5 51-page document. It is a very long portion that I'm reading
6 from, and I am asking the witness to clarify. The witness is
7 perfectly capable of giving the full picture as to the facts that
8 he was reporting on.

9 So we would submit the objection should be rejected.

10 [15.11.34]

11 MR. PRESIDENT:

12 The objection is not sustained.

13 Witness is now instructed to respond to the question put by the
14 prosecutor currently.

15 BY MR. ABDULHAK:

16 Q. Mr. Kim, would you like me to repeat the question?

17 MR. KUNG KIM:

18 A. Yes, please.

19 Q. My question was simply: Was it correct that you were
20 submitting reports to the battalion level in relation to the
21 progress of the evacuation?

22 A. At that time, I was a young person and I did not report to the
23 battalion, I only knew people in charge of the company and the
24 platoon. So the reports could only be sent to the highest level
25 -- was the company.

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1 [15.12.59]

2 Q. Thank you. Was your group informing the company level about
3 the progress of evacuations?

4 A. The big force had already evacuated the population from the
5 city, and at our location we noted that some people still
6 remained, so we had to take them and to be handled by the
7 company.

8 Q. Thank you.

9 Now, looking at your position, in your OCIJ statement, the very
10 first question and answer, you were asked to describe your
11 history prior to 1975 and you said: "I was a soldier in Division
12 310 in the North Zone. I was a squad leader at the time. Each
13 squad had 12 members, and there were three squads subordinate to
14 each platoon."

15 Did you continue to hold that position as squad leader during the
16 evacuation of Phnom Penh?

17 A. Before we attacked Phnom Penh, I was not yet promoted as the
18 chief or head of the squad. But when Phnom Penh was captured, I
19 was installed as the head of the squad.

20 [15.15.09]

21 Q. Now, if we can look at what -- what your -- what the units
22 were doing during the evacuation or what the civilians were being
23 told, returning to that statement given to DC-Cam -- the relevant
24 ERNs: in Khmer, 00054839; in French, 00403355; and in English,
25 00633879 -- the question you were asked is as follows: "What did

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1 they say to the people when they saw them inside the house? What
2 did they tell them?"

3 And your answer is as follows:

4 "We told them the commander ordered them to leave. If they
5 resisted, they would be shot to dead. We used the power to shoot
6 them to dead. We did not say that they were being sent to do this
7 or that. We told them that and we left. If they did not come out
8 of the house after we had called them, we would shoot them to
9 dead. And if they resisted when we were arriving, we would shoot
10 them immediately. That was what we were used for. We were not
11 involved with where to take them or what to do with them."

12 [15.16.43]

13 Is that an accurate summary of your -- of your statement and of
14 what was happening in April '75, that if people were refusing to
15 leave -- that they would be shot dead?

16 A. After a lot of people had been evacuated, there was not yet
17 any order to shot them dead, but the order was rendered when
18 there was still remaining soldiers mingled with the civilians,
19 because we noted that some soldiers attacked our soldiers, and
20 for that, we were ordered to kill anyone who remained, because
21 these people could have been regarded as the enemy already, as
22 they contested the evacuation plan. And we made efforts to tell
23 people who remained to come down from up above so that they could
24 be evacuated, and those who did not comply with the order had to
25 be shot. And fires were exchanged, and, indeed, such orders were

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1 rendered.

2 Q. Thank you. Now, on that same topic, if we look at Khmer ERN
3 0054834; French ERN 00403350; and English, 00633874, the question
4 was: "What caused the death to those bodies?"

5 [15.19.15]

6 And the answer that you gave is as follows -- quote:

7 "When we arrived in town, if we wanted to shoot people, we just
8 did it. The people life had no value. If we wanted to shoot the
9 people, we could do it except to shoot at our soldiers. As with
10 the people, if we wanted to shoot them, we just did it; and we
11 would not be punished for doing that because they were our enemy.
12 At that time the tractor dragged all the bodies [into the river].
13 From Kilometre [...] 6 onward, there were many dead bodies along
14 the road."

15 So, looking at that segment, Mr. Kim, is it - is it correct, as
16 you stated there, that if Khmer Rouge troops wanted to shoot
17 civilians or people in the city, they could just do so and there
18 was no punishment?

19 MR. PRESIDENT:

20 Witness, could you please hold on?

21 International Co-Counsel for Mr. Nuon Chea, you may now proceed.

22 [15.20.33]

23 MR. PAUW:

24 Thank you, Mr. President. I think this question is asking the
25 witness to speculate. This witness cannot testify as to the Khmer

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1 Rouge soldier; he can testify as to what he, himself, saw and
2 experienced, and that's what his testimony should be confined to.
3 So the question could be rephrased, and otherwise we object.

4 MR. ABDULHAK:

5 Mr. President, I would disagree with my learned friend that a
6 squad leader cannot comment on what Khmer Rouge soldiers were
7 permitted to do. I think that the question is entirely proper. He
8 was at the right place at the right time. He was a member of
9 these forces. He had received the orders, and the question, in
10 our submission, is entirely appropriate.

11 (Judges deliberate)

12 [15.22.00]

13 MR. PRESIDENT:

14 The objection by international co-counsel by (sic) Mr. Nuon Chea
15 is not sustained.

16 Witness is now directed to respond to the question by the
17 Co-Prosecutor.

18 MR. KUNG KIM:

19 A. With regard to the corpses at the riverbank, I saw the corpses
20 floating at the -- in the river but I did not know whether they
21 were shot at or not. But the corpses that lie on the roads could
22 have been dead -- or killed by gunfire. And soldiers were
23 supposed to clear the road of the corpses. That's why the tractor
24 would be used to pull or push all the dead bodies into the river.

25 BY MR. ABDULHAK:

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1 Q. Mr. Kim, you're not quite answering my question there.

2 [15.23.14]

3 My question is -- looking at the statement that you gave, that
4 your forces had the right to shoot the people, my question is: Is
5 that an accurate statement that you made, that your forces -- the
6 Khmer Rouge forces -- had the power, the authority to kill people
7 in the city and that there was no punishment if killings took
8 place?

9 MR. KUNG KIM:

10 A. I should say that this happened only before we entered Phnom
11 Penh, because there were fighting days and nights, and at that
12 moment people who were seen in the front of the battlefields had
13 to be shot to death. But when we entered Phnom Penh, we were not
14 ordered to shoot. People had already been killed, perhaps by
15 other stray bullets or by other bombardments or rocket-propelled
16 grenades that dropped from far distance -- we don't know.

17 Q. Let me see if we can refresh your memory a little bit more on
18 that particular issue -- same document, this time Khmer ERN
19 00054840; French, 00403355; and English, 00633879.

20 [15.25.02]

21 And the question posed to you was: "Was there any plan telling
22 that if you saw the pagoda, you had to destroy it?"

23 Your answer is as follows:

24 "During the first step, there was no plan to destroy the pagoda.

25 The only thing we had to do when entering Phnom Penh was to force

1 people out included the monks. The people and monks were
2 considered the same, they must be kicked out. To speak in
3 general, we had the right to shoot them and to force them out."

4 Is that correct, Mr. Kung Kim, when you said, "To speak in
5 general, we had the right to shoot them and to force them out"?

6 Is it correct that you had the power, the right to shoot people
7 in order to force them out?

8 [15.26.07]

9 A. The reality is that when the people were being evacuated, if
10 there was no exchange fire from the other opponents or soldiers,
11 then people would not be shot at. But if there fire from among
12 the civilians, then there would be soldiers inside, and we would
13 be ordered to shot at them. But if there were only pure
14 civilians, then we were not ordered to shoot them.

15 And the pagoda was not ordered to be destroyed, since the pagodas
16 remain intact.

17 Q. In a passage we looked at earlier, I read to you the following
18 quote: "We told them the commander ordered them to leave. If they
19 resisted, they would be shot to dead."

20 Is that something you were telling the civilians in order to
21 force them to leave? Did you tell them that if they resisted they
22 would be killed?

23 A. My squad was at our target. There was another special squad
24 for evacuating the people. They would be holding loudspeakers to
25 make some announcement to the people to come from up above so

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1 that they could be evacuated immediately.

2 And after the majority of the population had been evacuated,
3 special groups and the remaining squads had to deal with the
4 remaining people, and there was order that these remaining people
5 should be treated as adversary and that they could be shot dead
6 if opportunity arrived.

7 [15.28.25]

8 Q. Thank you for clarifying that.

9 Now, just to look at the structure of -- and nature of your
10 particular unit, again, in that DC-Cam interview -- at Khmer ERN
11 00054836; French, 00403352; and English, 00633876 -- there is the
12 following segment which I wish to look at.

13 Question: "To any direction?"

14 Answer: "Yes, any direction. And then it was up to the others
15 where to send these people to. [My work] was to only push them
16 out of the city."

17 And a little bit further down - question: "Didn't you escort
18 them?"

19 "No, I did not. There were different groups [of soldiers]
20 stationing along the road to tell them where to go. I was in the
21 dragging group, so my work was to go first into the house to drag
22 them out."

23 Question: "Were you the one who dragged them out of the house?"

24 Answer: "Yes, to drag them out, and sent them to the other
25 group."

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1 [15.29.57]

2 This is just for absolute clarity: Was it the task of your group
3 to remove the people from the houses and then send them along the
4 road, where other units would direct them further?

5 A. People were not evacuated arbitrarily, and we were supposed to
6 only evacuate people at our target area because, as soldiers, we
7 had to clear the area of people so that soldiers could come and
8 station there. So I only -- our group only evacuated people at
9 the location where we stationed.

10 Q. Thank you for being specific with your answers.

11 Just a couple more questions on this period.

12 We were discussing earlier the clashes with Khmer Republic forces
13 and the treatment of Khmer Republic forces. In that DC-Cam
14 interview, there is the following segment -- this is at Khmer ERN
15 00054839; French, 00403354; and English, 00633878:

16 [15.31.55]

17 Question: "What happened to the monks in the pagoda?"

18 Answer - quote: "Everyone had to leave, including the soldiers of
19 [the previous regime]. As for the soldiers, if they took off
20 their uniform, they would have a chance to live longer, but if
21 they did not take off the uniform and resisted, they would be
22 shot to dead."

23 Is that a correct statement, that those who remained in the Khmer
24 Republic uniforms would be shot to death?

25 A. When we got to the - to Phnom Penh, soldiers who did not

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1 resist and agreed to go along with the people being evacuated,
2 they were spared, but those who resisted, particularly those who
3 -- those soldier who were within the group, they did not retreat,
4 so we had to shoot them.

5 [15.33.09]

6 So, at that time, the clash and fire exchange took place when
7 they encounter those soldiers in uniforms.

8 Q. Thank you.

9 Now, in your interview with the investigators you discussed the
10 destruction of a church in Phnom Penh and you also discussed that
11 matter in your DC-Cam interview. We have limited time, so I don't
12 want to enter into a lot of detail about the destruction of the
13 church. There's one aspect of that that I would like to ask you
14 about, and this is at -- in that DC-Cam interview, at 00054856 in
15 Khmer, 00403369 in French, and 00633892 in English.

16 MR. PRESIDENT:

17 International Prosecutor, could you please repeat the ERN
18 numbers?

19 [15.34.51]

20 BY MR. ABDULHAK:

21 Of course, Mr. President: Khmer, 00054856; French, 00403369; and
22 English, 00633892.

23 Q. Again, I don't want to discuss extensively the destruction of
24 the church; there's one aspect of that event that I wish to ask
25 you about.

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1 You were asked the following question: "How did you know that the
2 materials such as explosive and transportation equipments used
3 for blowing it up were from the Central? How did you know that
4 they belonged to the Central?"

5 And your answer is as follows:

6 "Because they brought in the equipments such as trucks and
7 bulldozers they used at that time to work place. The division did
8 not have those equipments. After the fall of Phnom Penh, the
9 division did not even have any trucks. There was no truck in any
10 division."

11 [15.36.08]

12 So my question is: Where you're discussing the trucks belonging
13 to the Centre, which body are you referring to, there, as "the
14 Centre"?

15 MR. KUNG KIM:

16 A. After evacuation of people out of Phnom Penh, Phnom Penh was
17 empty and quiet and there was an instruction that we demolished
18 the church -- Catholic church -- and I receive order from the
19 company, and we were the one who were tasked to detonate the
20 bombs, and we demolish it; it collapsed after that.

21 And we actually -- our force belonged to the central soldiers,
22 central armies as well, because when we arrived in Phnom Penh, we
23 were no longer zone military, but we belonged to the Centre. So,
24 those -- the trucks did not belong to the division because when I
25 got to Phnom -- when we were in the division, we did not see any

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1 trucks, but when we got to Phnom Penh, we saw a fleet of trucks
2 taking rubbish and debris around -- away. So I did not know where
3 they took those debris to, but our task was mainly to detonate
4 the bombs to demolish the church.

5 [15.37.46]

6 Q. Thank you. In that same passage that we were looking at, you
7 said that it took about three months to destroy the church. Is
8 that an accurate recording of your statement? Did it take that
9 long to destroy it, three months?

10 A. It was three months. We actually did not mobilize many forces.
11 There was -- only one squad was tasked to demolish the church.
12 So, at that time, we were asked to detonate the bombs in
13 different places. We had to detonate the bombs once after another
14 as was instructed by the superior, until we completely demolished
15 the building.

16 Q. Thank you. Did you know who was commanding the divisions of
17 the Centre? You said your division became a division of the
18 Centre. Do you know who was the authority above the divisions of
19 the Centre?

20 [15.39.27]

21 A. I received the order from the company commander. And when we
22 were detonating the bombs, there was the commanders by the name
23 of Song and Chet, from the platoon, who -- from the battalion,
24 who oversaw the detonating and demolition of the building. And
25 there were other peoples as well, whom - who were greeted by

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1 peoples over there, but I did not know their exact position in
2 the rank of command.

3 Q. Thank you.

4 We have limited time, so we're going to move on to another
5 location where you worked, by way of exploring the authority
6 structure within your division and how the structure changed, if
7 it did.

8 In your OCIJ statement, D166/74, you discussed a prison at which
9 you were assigned to work as a guard. This is at -- the section
10 begins at Khmer ERN 00270166 - or, rather, 165; French, 00486098;
11 and English, 00278683. You stated the following:

12 "In late 1975 or early 1976, I was assigned to guard a prison
13 north of Wat Phnom. That prison was the division's prison. There
14 were 32 of us guarding that prison. As for the interrogations,
15 other people did that. The prisoners included Sector Coms and
16 District Coms."

17 [15.41.50]

18 Now, I'm going to ask you a very specific question, and if you
19 could please be very precise in your answer: When was that prison
20 of Division 310 established?

21 A. I received the direction from the battalion and regiment to
22 stand guard this prison. I was attached there in late 1975 and
23 early 1976.

24 The task of my -- in the platoon -- there were different squads,
25 and there was one commander in the platoon who oversaw the

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1 function of the other three squads, and I controlled one of the
2 squads.

3 And this prison was not recently built; actually, it left behind
4 from the previous regime.

5 And I was sent there to stand guard this prison, and our main
6 task was to provide security protection to this prison.

7 And one day I saw a truck carrying the prisoners, who were all
8 blindfolded, and those prisoners were taken off the trucks and
9 admitted to this prison.

10 And this prison were divided into different section. There were
11 one in the underground -- the dark underground prison -- and
12 there were other two sections as well.

13 [15.43.41]

14 Q. Thank you; you've given us a very comprehensive answer.

15 I'm just going to repeat my previous question, and if you don't
16 know the answer just tell us "I don't know".

17 When was the prison established? Was it immediately following the
18 evacuation of Phnom Penh -- the prison that was run by Division
19 310?

20 I know it was -- and I'll just clarify -- because I do understand
21 it was a building that had been used as a prison.

22 My question is: When did Division 310 start to use that compound
23 as a prison?

24 A. As I said, it was used as a prison in late 1975 or early 1976.
25 They started making use of this building as the prison.

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1 Q. Thank you very much.

2 [15.44.38]

3 Do you know -- and tell us if you don't -- who gave the order for
4 that place to be used as a prison?

5 A. I did not know. I did not know the person who ordered the
6 establishment of this prison, but I only receive the order to
7 stand guard of this prison premise.

8 Q. Thank you. Who was it that gave you the order to stand guard
9 inside that prison? Was it one of your superiors within Division
10 310?

11 A. My direct supervisor was the commander of the company by the
12 name of Ren. And there was Song, who was the commander of the
13 regiment, and Yim, who was the commander of the battalion. So I
14 received, actually, the direct orders from Ren, who was commander
15 of the company.

16 Q. Thank you.

17 If we look at the -- some of the prisoners in that previous
18 section, we -- that I read to you, you said that "the prisoners
19 included Sector Coms and District Coms". And then, further down,
20 you say the following, at Khmer ERN 00270167 - or, rather,
21 00270166; French ERN 00486098; and English, 00278684 -- you say
22 the following:

23 "Later on, my own commander, that is, Division Commander Oeun,
24 was arrested; I saw them place him in chains. Aside from him,
25 Regimental Chairman Song, Battalion Chairman Yim, and Company

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1 Commander Pho were also arrested and put in that prison."

2 [15.47.27]

3 Can you tell us where it was that you saw commander Oeun being
4 arrested?

5 A. My task was to stand guard the prison, but later on, in early
6 1976, I saw the senior -- the leaders were arrested, both the
7 commander of the division, the regiment, and battalions, and I
8 recognized their faces, and I saw them arrested and admitted to
9 the hospital (sic). And then, once I -- they noted that those
10 people were my leaders and then they transfer me out of that
11 prison, so I was no longer stationed at that prison.

12 Q. Moving along, in the interests of time, in your DC-Cam
13 interview, which -- we'll look at a specific section: Khmer ERN
14 00054850; French, 00403363; and English, 00633887. You discuss
15 the interrogation of prisoners in that prison. I'm only
16 interested in the authority structure.

17 Question: "Were those in charge of interrogation, arresting, and
18 taking prisoner out also from the Division 310 or from the other
19 units?"

20 Answer: "No, they were not [from 310]. They were called the
21 General Staff of the Central. They were from the Central."

22 Can you tell us what you meant by "General Staff of the Central"?
23 Who - who was that? What body was that?

24 [15.49.50]

25 A. As the guards providing security at the prison, we noted that

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1 the interrogators were not members of our division; those were
2 the members of the General Staff and they were in a higher
3 command than our division. And our task was to stand guard over
4 there, and we only witnessed prisoners being admitted to the
5 prison and the torture being inflicted to the prisoners.

6 Q. Now, returning to the statement and just looking at General
7 Staff in a bit more detail again -- Khmer ERN 00054844; French
8 ERN 00403358; and English, 00633882 -- you were discussing a
9 meeting which took place following the arrest of the senior
10 Division 310 cadres, and looking at the following section -
11 question: "When they held the meeting to tell you, who was that
12 person who said that your commander was the traitor?"

13 Answer: "I did not know the name. They came to hold the meeting
14 and told us that our division commander was arrested because he
15 was the traitor, so they would change a new leader for us."

16 Question: "But which unit that held the meeting to tell you?"

17 Answer: "They were from the Central. They were called the General
18 Staff of the Central."

19 [15.52.00]

20 Is that the same body -- the General Staff which convened this
21 meeting, is that the same body that you were describing earlier
22 as people responsible for arrests?

23 A. When they arrested the commanders from the company up to the
24 division commander, then, in 1976 - early 1976 -- they removed
25 us, actually, they transferred us to the airfield in Kampong

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1 Chhngang. At that time, the airfield were to be constructed, and
2 we were supposed to help construct the building. At that time,
3 the commander supervising us was Pon. And there was the General
4 Staff, who were people from the Southwest, who were the close aid
5 of the Centre. So, the soldiers from the Southwest were tasked to
6 supervise our forces because we were considered the combatant
7 forces. So, following the arrest of my commanders, they dispersed
8 our forces, so they just transferred us under the supervision of
9 soldiers from the Southwest and they accused my superiors -- my
10 previous superiors -- as traitors.

11 [15.53.42]

12 Q. I just want to make sure I understood you correctly. Were you
13 telling us that it was the General Staff of the Centre that had
14 assigned the Southwest Zone cadres to take over your division?

15 A. At the time, the - my forces did not have leaders anymore
16 because - anymore because they were all arrested, so they
17 assigned the leaders from the Southwest to control our forces.

18 Q. Thank you. Now, just exploring that topic -- you mentioned a
19 lot of people being arrested -- I just want to clarify or ask you
20 about one passage in your interview with DC-Cam -- at Khmer,
21 00054843; French, 00403357 to 58; and 00633881 for English. You
22 said the following -- quote-

23 MR. PRESIDENT:

24 Mr. Prosecutor, please repeat your ERN numbers again. Please be
25 more slowly, please.

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1 BY MR. ABDULHAK:

2 Thank you, Mr. President; my apologies. The ERNs are: for Khmer,
3 00054843; French, 00403357 to 8; and English, 00633881.

4 [15.55.57]

5 Q. There is a long answer here; I'm just going to read the
6 relevant part for our present purposes -- quote:

7 "They said that those who had been arrested were the traitors.
8 They educated me, the guard, that my leader was arrested because
9 he had been in the string network. Then the arrested persons
10 implicated others, leading to more arrests of the regiment
11 commanders."

12 Can you explain for us just a little bit what is meant by the
13 concept of a "string network"?

14 MR. KUNG KIM:

15 A. At the time, my understanding was that they accused my leaders
16 of being the enemies and traitors, and I did not know; I did not
17 understand why they were characterized as enemies, because they
18 were leaders in their rank, and I did not know what happened up
19 there. But what I noted, generally, was that the commanders in
20 the regiments and division commander were all arrested, but those
21 who were lower in the rank were not arrested. And I heard from
22 others that those who were arrested were accused of being the
23 enemy.

24 [15.57.31]

25 Q. Thank you.

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1 We have only a few minutes remaining. Returning to your interview
2 with the investigators -- at Khmer ERN 00270166; French,
3 00486098; and English, 00278683 -- I just wish to read one
4 sentence to you. You're describing the people being held at the
5 prison, here, and you say: "Those prisoners were only at my
6 location for two or three nights before they were taken to Tuol
7 Sleng."

8 Could you tell the Court how you learned that these prisoners
9 were being removed and taken to Tuol Sleng?

10 MR. PRESIDENT:

11 Witness, please hold on.

12 The National Defence Counsel for Mr. Ieng Sary, you may proceed.
13 [15.58.46]

14 MR. ANG UDOM:

15 May it please the Court, I actually should have raised this
16 matter earlier, but I hoped that the prosecutor would not move
17 with his question.

18 If we look at the order issued by the Chamber, document E124, the
19 prosecutor is deviating from this instruction because he is now
20 referring to the prison. And according to this order, we are not
21 supposed to discuss the location of prisons or security centres.
22 Because I'm afraid the prosecutor is being deviating from the
23 scope of the trial before us now.

24 Thank you, Mr. President.

25 MR. ABDULHAK:

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1 Mr. President, if I can respond briefly, my friend is, I'm
2 afraid, entirely wrong.

3 The issues to be covered in this trial include the military
4 structure and the role of the Revolutionary Army of Kampuchea in
5 purges. That is at paragraphs 146 to 149 of the Closing Order and
6 it is listed in the document to which my friend is referring.
7 Now, I'm being very careful not to enter into extensive
8 examination of the crime base; I'm simply eliciting evidence in
9 relation to the changing structure of the division and to how the
10 purges affected the senior cadres. That's why I didn't ask any
11 questions about the prison of Division 310. And, in my respectful
12 submission, it's entirely appropriate to elicit a limited amount
13 of evidence about the changing structure and the removals of
14 senior commanders within this division.

15 (Judges deliberate)

16 [16.02.12]

17 MR. PRESIDENT:

18 The Chamber notes that the question that -- put by the
19 Co-Prosecutor just now was not relevant directly to the facts.
20 And since it is most likely the last question by the prosecutor
21 already, the Chamber allows the witness to respond.

22 MR. KUNG KIM:

23 A. The reason I knew that they were sent to Tuol Sleng, because
24 the guards who were with me were engaged in escorting them there.
25 When they returned, they told me about this.

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1 MR. ABDULHAK:

2 Thank you, Mr. Kung Kim, for your answers and for coming to the
3 Court to assist us.

4 [16.03.15]

5 I'll just indicate that the case file contains the confession of
6 Sbauv Him, alias Oeun; this is document number IS 5.89. It is the
7 S-21 confession of the Division Commander of Division 310.

8 We've run out of time. I thank Your Honours for the extra time,
9 and we will stop here. Thank you.

10 MR. PRESIDENT:

11 Thank you.

12 Lead Co-Lawyer for the civil parties, you may now proceed.

13 MR. PICH ANG:

14 Thank you, Mr. President. Since tomorrow I will be absent,
15 co-counsels for the civil parties will be putting questions to
16 this witness. Ms. Chet Vanly and Counsel Beini Ye will be putting
17 the questions, for your information.

18 MR. PRESIDENT:

19 Thank you, Counsel, and thank you, Witness.

20 Since it is now appropriate time for today adjournment, the
21 Chamber will adjourn, and the next sessions will be resumed by
22 tomorrow, at 9 a.m.

23 [16.04.35]

24 During tomorrow's sessions, the Chamber continues to hear the
25 testimonies of Mr. Kung Kim.

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1 Mr. Kung Kim, your testimonies are not yet complete, so we would
2 like to ask that you come back to the Court tomorrow to give the
3 testimonies.

4 Court officer is now instructed to assist, with the WESU unit, to
5 make sure that Mr. Kung Kim is properly accommodated and that he
6 is returned to the courtroom by 9 a.m.

7 Security personnel are now instructed to bring Mr. Nuon Chea and
8 Khieu Samphan to the detention facility and have them return to
9 the courtroom by tomorrow, before 9 a.m.

10 The Court is adjourned.

11 THE GREFFIER:

12 (No interpretation)

13 (Court adjourns at 1605H)

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