



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
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TRANSCRIPT OF TRIAL PROCEEDINGS

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Case File N° 002/19-09-2007-ECCC/TC

24 January 2013

Trial Day 151

Before the Judges: NIL Nonn, Presiding
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Jean-Marc LAVERGNE
YOU Ottara
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Keith RAYNOR

For Court Management Section:

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List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
JUDGE CARTWRIGHT	English
MS. GUISSÉ	French
MR. KARNAVAS	English
MR. KOPPE	French
THE PRESIDENT (NIL NONN, Presiding)	Khmer
MR. PICH ANG	Khmer
MR. RAYNOR	English
MS. SIMONNEAU-FORT	French

1

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 Before I hand the floor over to the Prosecution, Mr. Duch Phary,

6 could you report the attendance of the parties to today's

7 proceeding?

8 [09.03.47]

9 THE GREFFIER:

10 Mr. President, for today's proceeding, all parties are present,

11 except the accused Ieng Sary, who is present in the holding cell

12 downstairs due to his health reason.

13 The other two Accused, Nuon Chea, and Khieu Samphan, are absent

14 due to health reason. However, based on document E258/2, and

15 E223/4, the two Accused waived their presence during document

16 hearing today.

17 Thank you.

18 MR. PRESIDENT:

19 Thank you.

20 The floor is now given to the Prosecution to continue making

21 their presentation on document. You may proceed.

22 MR. RAYNOR:

23 Good morning, Mr. President, Your Honours. Thank you.

24 Can I start by recapping the nature of the document that we were

25 discussing yesterday. To recap, this is document E3/781; it is a

1 Communist Party Kampuchea document, dated September 1975. And to
2 remind everyone again of the description of the document, it is
3 an examination of control and implementation of the policy line
4 on restoring the economy, and preparations to build the country
5 in every sector.

6 [09.05.52]

7 Can I start, please, by making reference to an extract at Khmer
8 ERN 00072373; French, 00543749; and English, 00523573; and the
9 Court will recall that this part of the document had been talking
10 about paddy dikes. So the extract is as follows: "Why do we make
11 these paddy dikes? Not just to hold water, and conserve soil
12 fertility. These dikes are to transform the rural countryside, to
13 improve the countryside, to improve society."

14 On the same page with Khmer and French, the English has moved on
15 to 00523574; this question is posed by the author of this
16 document: "Where must we assemble the forces of the people?"
17 Answer; or the next line: "We must do this wherever the soil is
18 good, fertile, and favourable, not where it is difficult and not
19 good."

20 The next extract, dealing now with water, Khmer ERN 00072374;
21 French, 00543750; English, 00523574: "In Battambang in 1976, we
22 must have water in every lowland sector because the majority of
23 that low-lying land has regular water sources."

24 And in the next red box on the same page, there is an extract, a
25 simple sentence which states as follows: "In 1977, we must ensure

1 three tons per hectare."

2 I move next to Khmer ERN 00072376; French, 00543752; and English,
3 00523576.

4 "Estimates are that today's labour force numbers 5 million. These
5 forces have been moved to do various work, and there now remain
6 4,700,000 people. Use some of them in producing rubber, sugar
7 cane and there still remain 4 million. We must work three million
8 hectares of land; if we expand, then 4 million."

9 The next extract is at Khmer, 00072381; French, 00543755; and
10 English, 00523579; there's a heading at this stage of the
11 document which reads: "The Utilization and Assignment of The
12 Labour Force".

13 [09.10.45]

14 "In the past, some locations have assigned their labour force
15 well. They have used it all, not to more or less than its power.
16 The division of the labour force must be done well in each
17 location. The labour force is divided into orderly teams, working
18 with plans, with team leaders, leading to an atmosphere of
19 happiness and solidarity. Doing this has been a good experience
20 of ours and is characterized as scientific labour, which we must
21 disseminate and study. Organizing forces like this also makes the
22 new group from Phnom Penh, able to work with the others. Another
23 experience has been assigning the forces of the people to go in
24 mass somewhere which had good water to work vigorously."

25 [09.12.24]

1 The next extract is at Khmer, 00072382; French, 00543755 through
2 56; and English, 00523580; the author of this document is now
3 making some comparisons between Sector 15, which was much closer
4 to Phnom Penh, and the Northwest. And this is the text: "In
5 Sector 15, we must have the goal of using 30,000 to 40,000 people
6 to work along Highway 5. At this site, we can get one ton per
7 hectare. In the Northwest, we can get 3 to 4 ton."

8 The next extract is at Khmer ERN 00072394; French, 00543764; and
9 English, 00523588.

10 "Later we will eliminate villages. We will not permit them and
11 we'll organize collectives, instead, so the village and sub
12 district committees will be inside the cooperatives; so the sub
13 districts will need no separate capital. They will use the
14 capital of the cooperatives."

15 [09.15.00]

16 The next extract, Khmer, 0072397; French, 00543766; English,
17 00523590:

18 "In the Northwest, we must add an additional force of 500,000
19 people.

20 "Preah Vihear has requested 50,000 first. In Preah Vihear there
21 is the possibility of solving food supplies. Preah Vihear has
22 70,000 old people already. So send 20,000 first as we go along.

23 "In the North, they need people to be given to Kampong Thom
24 province.

25 "The East also needs forces to be given to sectors which are

1 short of people.

2 "So each Zone must make appropriate preparations and not let
3 things sway back and forth, allocating how many to upper level
4 and moving how many to other locations."

5 [09.16.52]

6 That concludes that document. The next document is, E190.1.318;
7 Khmer ERN 00708573; French, 00780515; and English, 00005151; and
8 this is an article by the journalist, William Shawcross, that was
9 published in the Far Eastern Economic Review, on the 2nd of
10 January 1976. It's talking about the general theme, is
11 information from refugees that are now arriving in Thailand at
12 the rate of about 30 a week.

13 The first extract is as follows, and this is reference to the
14 refugees:

15 "They do, in fact, agree with Radio Phnom Penh on one point that
16 every facet of life is now secondary to the production of rice.
17 'Grow, grow everything', declares the radio. 'Particular
18 attention must be paid to rice for rice means everything; rice
19 means steel, factories, energy, fuel, and tractors'.

20 [09.19.39]

21 "The radio which provides the only source of official news of
22 Cambodia, today, admits that in some places, Preah Vihear, for
23 instance, conditions have been bad. Even so, the current crop is
24 hailed as the greatest ever, although it was planted late, at the
25 end of April and throughout May, by an unskilled and unwilling

1 labour force."

2 There's then an extract that there's not a red box for, but it's
3 on the same pages that I have already described.

4 "Ieng Sary told the Thais that Cambodia was determined to become
5 self-sufficient in rice and one of the means appears to have been
6 a second great uprooting of people. Refugees say that in the past
7 two months, up to 300,000 evacuees from Phnom Penh, have been
8 moved again, this time, to Battambang province. The journey was
9 apparently made partly by boat, and partly by train. Just enough
10 people were left behind in the provinces south and east of Phnom
11 Penh, to harvest the rice that they and their fellows had planted
12 in the early summer. The rest have been sent to the country's
13 most fertile region in order to extend the area of next year's
14 dry season crop".

15 That concludes that document.

16 [09.22.52]

17 The next document, D199/26.2.184; Khmer ERN 00548749; French,
18 00389829; English, 00519810; this is a journalistic item going
19 through the Fresh Print Press Agency. The date of the document is
20 the 21st of January 1976. The document is entitled: "Cambodia:
21 The 'New York Times' Reports New and Forced Movements with a High
22 Death Toll." The text is as follows:

23 "In a dated dispatch from the small Thai border town of
24 Aranyaprathet, the 'New York Times' reported Wednesday that
25 hundreds of thousands of Cambodians are being again moved from

1 one part of the country to another and that many of them have
2 died during these very rigorous journeys.

3 [09.24.57]

4 "Most of the people are being shifted to the sparsely populated
5 and underdeveloped province of Battambang [...]. According to one
6 refugee who escaped from his country on the 6th of January, a
7 great many of these migrants, most of whom are peasants, are
8 suffering from malaria, typhoid, cholera, and dysentery. The
9 refugee, a male nurse aged 33 years, said that 600 refugees died
10 within a month of their arrival in the region of Phnom Srok,
11 where he was staying.

12 "The daily writes that this new movement, which rivals in scale
13 to the one that occurred in Phnom Penh last April, apparently
14 began in late October or early November.

15 "According to testimonies gathered by the 'New York Times',
16 deportees are often not allowed to eat anything, other than rice
17 and are escorted by armed soldiers. Those who travel by train are
18 packed inside freight cars like 'fish inside a can', according to
19 a refugee. Other migrants travel to their new destinations on
20 foot, in ox-drawn carts or in lorries. A great many of the
21 migrants have died either of disease or of exhaustion during the
22 journey, which often lasts for many days."

23 [09.27.46]

24 The next document is E3/1181, Khmer ERN 00214486; French,
25 00612289; English, 00223175; now this is a report, it is

1 entitled: "The General View of Sector 5, Northwest Zone".
2 We've moved on in time, now though, to the 27th of June 1977. In
3 other words, this document is showing the effect of the movement
4 in terms of the numbers of population in various districts within
5 the Northwest Zone. In Sector 5, we read that the population of
6 Sector 5 is 377,500 people, and then there is a heading, "The
7 general view of individual districts", and it starts with Thma
8 Puok, and that's on Khmer, 00214488; the French, 00612290; the
9 same English ERN.

10 [09.29.42]

11 And in Thma Puok, this document states: "The majority of the
12 population was just liberated on the 1st of February 1975 and
13 most of them (almost 100 per cent) are post-17 [April] People."
14 Next - Khmer, 00214489; French, 00612290; and English, 00223176 -
15 dealing now with Sisophon district. "The [district] population is
16 50,000, almost 100 per cent of them are New People."
17 Next, Khmer, 00214490; French, 00612291; English, still the same;
18 now dealing with Phnom Srok, which I've already mentioned earlier
19 today, Phnom Srok:
20 "There is a population of 70,000.
21 "The Base people amount to approximately 300 families.
22 "Approximately 50,000 people have come from Phnom Penh.
23 "The local New People consist of more than 20,000."
24 On the same page, the next red box, we have now moved to a
25 separate district, Preah Netr Preah. "The population of Preah

1 Netr Preah prior to the 17th of April was 150 families. More than
2 70,000 have come from Phnom Penh."

3 [09.32.16]

4 And then the final Khmer red box on the same page, referring
5 still to this district: "It is the worst place of starvation,
6 which last year alone killed more than 20,000 people."

7 I move to the final document in this presentation, is one I've
8 made reference to already, it's an Amnesty International Report.
9 The E number is E3/3316. The relevant Khmer page for the extract
10 is 00591055; in French, 00607929; and in English, 00419921. The
11 text is as follows:

12 "There have been a numerous refugee accounts of many civilians
13 being taken away and subsequently not heard of again, and they
14 are believed by the refugees to have been killed. Some observers
15 had pointed out that it is possible many people became missing
16 due to forcible transfer to work in remote areas. Until recently,
17 there were reports of constant forced migration."

18 [09.34.22]

19 Mr. President, Your Honours, can I please conclude this
20 presentation. We've heard a lot about rice today, and I'd like,
21 please, with your leave, the AV Unit to play Video Number 12. The
22 E number for this video is E3/31 -- sorry, I'll say again,
23 E3/3011R. The video is entitled: "La récolte du riz".

24 Can that please be played with your leave, Mr. President?

25 MR. PRESIDENT:

10

1 The leave is granted. AV assistants are instructed to play clip
2 12, as per the request by the Prosecution.

3 (Presentation of video document)

4 [09.39.39]

5 MR. RAYNOR:

6 Mr. President, that concludes this document presentation. Thank
7 you.

8 MR. PRESIDENT:

9 Thank you, Prosecutor.

10 Now I hand over to the Lead Co-Lawyers for the civil parties to
11 supplement the documents, in addition to what the prosecutors
12 have presented, or in line with the instruction or direction by
13 the Chamber in relation to this document presentation. You may
14 proceed.

15 MS. SIMONNEAU-FORT:

16 Good morning, Mr. President. Good morning, Your Honours, and good
17 morning everyone. I will start this document presentation by the
18 civil parties. Let me point out, as we have gone on several
19 occasions that we have chosen to present documents which are
20 civil party statements contained in civil party applications.
21 They contain important factual information on the subjects that
22 we will broach. Let me also point out that I have limited myself
23 to very important documents because of the time constraints we
24 face, and in order to make sure this trial proceeds without undue
25 delay.

11

1 [09.41.27]

2 May I also point out in the interest of the 3,800 or so civil
3 parties who we have chosen only statements -- we've chosen some
4 statements, but let me say that all their statements are
5 important. There are civil party applications or civil party
6 statements that have already been heard; they have been excluded.

7 I also exclude statements that are likely to be heard from the
8 civil parties themselves, when they are called to testify.

9 I will focus particularly on security centres insofar as they
10 constitute part of the military structures, but I will not go
11 into details as to what happens in those security centres. I will
12 simply talk about the manner in which they are included in
13 military structures.

14 The first document I would like to present is document D22/100,
15 and I would like to read out an excerpt, the ERN is as follows:
16 in French it is 00850531-32; in English, the ERN is 00369510 and
17 11; in Khmer, it is as follows: 00358174 to 76. This excerpt is
18 as follows; may I request that it be placed on the screen in
19 Khmer.

20 [09.43.48]

21 This is what the civil party's states:

22 "On the 17th of April 1975, at 7 a.m., I saw Khmer Rouge soldiers
23 dressed in dark clothing on foot and in vehicles on the road
24 before me. They ordered inhabitants to leave the town of Kampong
25 Som, and ordered them not to take along many personal effects

12

1 because at their point of arrival, Angkar would feed all of them.
2 At that point, my parents started preparing or packing their bags
3 to leave.

4 "In late March 1976, my uncle came to inform my parents that
5 Angkar had arrested my parents at about 9 a.m., while they were
6 transporting earth from the dam. At 6 p.m., the soldiers and
7 heads of units, including Bong Koy, came to our home; they threw
8 me off, down the stairs where I was sitting, they tied my hands
9 and they arrested my mother. They wanted to tie her up, but my
10 siblings cried a lot and they preferred to transport her to the
11 rice distribution centre at Srae Cham commune. At the time of the
12 facts, my younger brothers and sisters were still young. They
13 trekked in the rain crying all the way.

14 [09.45.38]

15 "When they arrived at the rice distribution point, I noticed that
16 there were about nine families there. However, I did not see my
17 father there because he had already been arrested. The families
18 arrested by Angkar all belonged to the group of 17 April People.
19 In the evening, they were escorted to Prey Nob Pagoda and they
20 were kept there for two nights before they were joined by 27
21 other families at 8 p.m.

22 [09.46.18]

23 "They were transported at 8 p.m. to Ta Ney prison situated in Ta
24 Ney village, Cheung Kou commune, Prey Nob district, Kampot
25 province." This civil party adds further on in the statement that

1 in the prison, there were four huts, each housing - or, all
2 housing more than 100 prisoners.

3 The second document I would like to present -- still with regard
4 to the security centre -- has to do with Kok Kduoch security
5 centre and it is document D22186. The excerpt I would like to
6 read out is in the following documents: ERN French, 00816822 to
7 23; English, 00417896 to 97, and in Khmer, it is 00387631.

8 That civil party aged 30 in 1977, states as follows -- and I
9 quote:

10 "In 1977, my wife and myself, who had cough had been imprisoned
11 by the Khmer Rouge soldiers. They accused us of being enemies
12 because I had told them that I was a former teacher. The Khmer
13 Rouge transported us in a cart for carrying two to a military
14 camp in Bos Meas region, Sambo district, Kratie province. One
15 person - or, when we alighted from the cart, they separated my
16 wife from me. They then arrested me..."

17 Let me point out that there's a word missing here in French. I
18 supposed that word is "attaché" - that is, "tied up".

19 "They tied up my hands behind my back, blindfolded me with a
20 krama, a kind of -- a traditional Cambodian scarf and they
21 pointed their gun at me. At the detention centre, I saw a hut
22 with a bed on which about 10 people were sleeping or lying with
23 their hands and feet shackled.

24 [09.49.34]

25 "I was detained in that hut for about a week, and no reasons were

1 given to me. I was re-educated and I was asked to grow rice and
2 to carry three cubic metres of earth a day for constructing
3 dikes. My wife and myself were subsequently sent to be detained
4 with me. I observed that prisoners regularly disappeared." End of
5 quote.

6 The third document I would like to present is the third statement
7 by civil party regarding a security centre. And the civil party's
8 D22/8, and the excerpt I would like to read out is in the
9 following documents. In French, the ERN is 00343764; in English,
10 it is 00156813; in Khmer, it is 00152355. This excerpt is the
11 following;

12 [09.51.10]

13 "In early 1976, Khmer Rouge troops in dark uniforms brought
14 Comrade Hak, director of the technical school at Ruessei Keo, in
15 a jeep to an unknown destination. Thereafter, a cadre from the
16 Southwest Zone came to take over from him as director. One week
17 later, my spouse and myself, as well as many other members of
18 that technical school, were led away in trucks to cooperatives in
19 Tal Lei, in Ta Lei village, in Dangkao sub-district, in Kandal
20 province, where people were re-educated through work. I had to
21 undergo re-education work, I had to grow rice, vegetables, plant
22 trees, and so on and so forth. I had to make canoes. I had to
23 work from 6.00 to 11.00, and we ate in common. Sometimes we were
24 given rice or oatmeal with black soup. I could not join my wife
25 during meals, because men were separated from women. We could

1 only meet in the evenings.

2 "From November to December 1976 (winter), the Khmer Rouge ordered
3 my spouse and myself to go and teach drawing in the Phnom Penh
4 Fine Arts School. The Khmer Rouge led us away in a jeep. As a
5 matter of fact, they did not take us to the Fine Arts School, but
6 to the S-21 Security Centre (Tuol Sleng)." End of quote.

7 I will also present other documents which are also statements by
8 civil parties. I will not read extracts of those documents. I
9 will simply indicate the security centres referred to in those
10 statements.

11 [09.53.52]

12 Civil party D22/1370.1: This civil party talks of the Krang Ta
13 Chan Security Centre in the Southwest Zone.

14 Civil party D22/144 talks about Siem Reap prison, which we
15 referred to when one witness was being examined.

16 Civil party D22/1721A talks about the Koh Khyang Security Centre
17 in the West Zone. We also mentioned it on several occasions
18 before this Chamber.

19 Civil party D22/3280 talks about the Phnom Pros and Phnom Srei
20 Security Centres in Kampong Cham, also referred to on many
21 occasions before this Chamber.

22 Civil party D22/3828 refers to security centre Koh Khyang and the
23 S-21 Security Centre as well.

24 And, lastly, civil party D22/83 refers to the Sang Security
25 Centre in the Southwest Zone. We also refer to it on several

1 occasions before this Chamber.

2 [09.55.49]

3 I am done with the presentation of documents regarding military
4 structures.

5 Mr. President, with your leave, I will continue with
6 presentations concerning forced population movements 1 and 2, and
7 my learned friend will talk about forced population movement 2
8 and Tuol Po Chrey Security Centre.

9 Regarding forced population movements 1 and 2, I have chosen to
10 read only a few extracts. But, of course, many civil parties
11 refer to these forced population movements 1 and 2, as well as
12 Tuol Po Chrey. The first document I would like to present is
13 document D22/1240. And the extract in question, which I would
14 like to quote, is referred to under the following ERNs; in
15 French, it is 00861757 and 58; in English, it is 00840000; in
16 Khmer, it is 00523356 and 57. This civil party is aged 25 -- or
17 was aged 25 in 1975, and states as follows, and I quote -- first
18 of all, in the initial line of his statement, he states as
19 follows -- I quote: "In April 1975, all inhabitants and my family
20 were ordered by the Khmer Rouge soldiers to leave Phnom Penh."
21 And, somewhat further down the line of the document, he states as
22 follows:

23 [09.58.30]

24 "In the meantime", he states that, "the Khmer Rouge asked
25 everyone to give their names and their positions, occupations."

1 And he states, and I quote: "In 1975, my elder brother, Buth
2 Soeun, who was a teacher -- his wife and children, were executed
3 by the Khmer Rouge in Dei Edth pagoda because he interpreted a
4 song from the Sangkum Reastr Niyum regime.

5 "Still in 1975, one of my cousins, Chum Phan, a marine, his wife
6 and children were also executed in Dei Edth pagoda because the
7 Khmer Rouge discovered that he had been a government soldier. I
8 was informed of these two events by one of my cousins, Chum Son,
9 who lives in Preaek Aeng commune, Kien Svay district.

10 "In June 1975, after my husband was executed by the Khmer Rouge,
11 my daughters kept asking me where their father was, and since
12 they did not have enough to eat, they were taken ill and they
13 died at Preaek Tameak, because there was no medication.

14 [10.00.16]

15 "In early 1976, I lived and worked at Preaek Tameak for about
16 eight months. During the harvest season, the Khmer Rouge
17 evacuated my family and other inhabitants to a new base in
18 Battambang, saying that there was a lot of rice there, but that
19 it wasn't -- or there weren't enough harvesters." End of quote.

20 The second civil party statement I would like to present is
21 statement number D22/3751. I would like to read several extracts
22 whose ERNs are as follows: In French, 00865640; in English,
23 00569592; and in Khmer, 00873721 to 22. In 1975, that civil party
24 was aged six. And she says:

25 "The nightmare began after the 17th of April 1975, when the six

1 members of my family and I myself were forced to leave our dear
2 home in Phnom Penh near the Olympic market. The Khmer Rouge took
3 total control of the city and told us over the radio that we had
4 to leave the city for three days only, before the U.S. aviation
5 began bombing Phnom Penh. We were promised that, after 12 days,
6 we could come home."

7 Further down, the civil party also says:

8 [10.03.08]

9 "After that, we had to take the boat so as to get to Koh Khsach
10 Tonlea. And we stayed there for some seven or eight months before
11 the central Khmer Rouge government, known as Angkar, forced my
12 parents to go to another province called Battambang. My family
13 and myself, and a good many other innocent people like us, were
14 herded into a train like cattle, and after two or three days, we
15 reached the province of Battambang. From a town in Battambang, of
16 which I've forgotten the name, an ox-cart took us to a village
17 called Kampong Sambour. This was the beginning of 1976."

18 And the civil party also adds:

19 "A few months later, I was separated from my parents and forced
20 to live with other children who had also been taken away from
21 their parents in neighbouring villages. I lived in a little house
22 with some 30 or 40 other children, aged between six and 10. We
23 were guarded by six Khmer Rouge chiefs who tried to brainwash us
24 by telling us that we belonged to Angkar and that our parents
25 were the enemies."

1 [10.05.21]

2 The third civil party statement that I would like to present to
3 you on the subject of forced transfer is D22/3850, and that civil
4 party was 30 at the time of these facts, and three children aged
5 five, four, and six months. The extract I'd like to read out to
6 you is on the following ERNs: in French, 00860735 and 36; in
7 English, 00867203 and 04; and in Khmer, 0057056 to 58. And this
8 civil party says the following. First:

9 "When the Pol Pot clique came into Phnom Penh on the 17th of
10 April 1975, its troops were in black uniforms and they carried
11 weapons. The Khmer Rouge soldiers had hardened expressions, as if
12 they were angry, and they quickly chased the population,
13 including myself, out of our houses and they told us we had to
14 leave Phnom Penh because, as they said, the Americans were going
15 to bombard the city. We were supposed to leave Phnom Penh for
16 only three days."

17 [10.07.34]

18 Further on, the civil party goes on to say -- and I point out at
19 this stage that this is a woman:

20 "When I reached Kbal Thnol, I saw one of my elder sisters-in-law,
21 Bay Martine, whose husband was a national police commissioned in
22 Phnom Penh. Martine was with her family. I wanted to go over to
23 see her, but it was impossible, and yet she was only 10 meters
24 away. I clasped my children to me. I had to fear that they would
25 get pulled away and separated from me. It was too hot. I clasped

1 my baby to my breast and went forward step by step for several
2 days. At one point, it rained very heavily, but there was no
3 shelter. I tried to shelter my baby by bending over -- shelter
4 the child with my back and shelter the other children as well. We
5 were soaked to the skin all night. We weren't able to sleep. When
6 the sun came up in the morning, we continued the journey. We had
7 to walk for eight days in order to reach Po Traeuy Sla pagoda,
8 opposite Preaek Touch in the province of Kandal, in S'ang. My
9 baby was exposed to the sun and to the rain and fell ill.

10 [10.09.25]

11 "I decided to stop walking, because my child was really sick, and
12 I asked my friends to continue on the road without me."

13 I'd now like to read out some statements by certain civil
14 parties, all of which refer to forced transfers. D22/10 civil
15 party refers to forced transfer out of Phnom Penh and gives a
16 number of details. Civil party D22/121A also brings up the forced
17 transfers from Phnom Penh. Civil party D22/203 refers to civil --
18 to forced transfer as well. Civil party D22/216 refers to forced
19 transfer from Phnom Penh. Civil party D22/235 refers to forced
20 transfer from the town of Kampong Speu, and civil party D22/257
21 refers to forced transfer from Phnom Penh and the treatment of
22 certain groups in the course of that forced transfer. Civil party
23 D22/273 refers in particular to forced transfer number 2. Civil
24 party D22/348 refers to forced transfer from Phnom Penh. Civil
25 party D22/354 also refers to forced transfer from Phnom Penh.

21

1 That brings me to a close on my presentation of significant
2 documents that are not so much supplementary documents to those
3 presented by the Co-Prosecutors but documents that, to us, seem
4 to be complementary.

5 [10.12.37]

6 Because all of these people give factual details about events
7 that they were present during. That brings me to a close. I shall
8 now give the floor to my learned colleague, Mr. President. Thank
9 you.

10 MR. PRESIDENT:

11 Thank you. Pich Ang, the National Lead Co-Lawyer, you may
12 proceed.

13 MR. PICH ANG:

14 Good morning, Mr. President. I have 25 Victim Information Forms
15 to present at this juncture. And as informed by my colleague,
16 these are some of the forms of the civil party applicants, and
17 they are related to the facts related to the events that
18 occurred.

19 [10.13.49]

20 I have in my hand one of the civil party applicants. It's
21 D22/1999. This civil party applicant -- my apology, let me give
22 you the ERN number. In Khmer, it's 00541456. This applicant
23 stated that:

24 "Prior to 1975, I lived with my husband named Tep Sok (phonetic),
25 who was a soldier at Mondulkiri province. And, later on, my

1 husband was sent to station in Kratie province. I cannot recall
2 the village, commune, or district names. And I was told to return
3 to live in Khleang Rumsev (phon.).

4 "A fortnight later, I was about to return to see my husband in
5 Kratie province, but I was told that the boat travelling to
6 Kratie stopped going there because the Khmer Rouge force already
7 entered Kratie province. So I returned with my children. And on
8 17th April, 1975, the Khmer Rouge entered Phnom Penh and they
9 evacuated my family as well as the Phnom Penh city dwellers to
10 head to all the provinces under the pretext that Americans will
11 bombard Phnom Penh city.

12 "At that time, I separated from my three children as they ran
13 away with my mother, named Ou Sabun (phonetic), to Takeo province
14 while, I, myself, went to Urapadden (phonetic), west of Udong
15 district, Kampong Speu province. I walked on foot for two days
16 and two nights before I arrived there.

17 [10.16.36]

18 Upon the arrival, the Khmer Rouge asked the New People, or the 17
19 April People, to stay with the Base People, and I was asked by
20 Khmer Rouge to plant potatoes, to transplant rice, and I was
21 given two meals per day."

22 Another civil party applicant -- that is, document D22/525. And
23 the ERN in Khmer is 00496962. Allow me to quote from that page,
24 as follows:

25 "Before 1975, my family lived in Preaek Anhchanh commune, Mukh

1 Kampul district, Kandal province. But, during the wartime in Nol
2 Lon -- under the Lon Nol regime, we moved to live in Phnom Penh.
3 When the Lon Nol regimes were toppled by the Khmer Rouge, we were
4 evacuated from our house, as they told us that the Americans
5 would bombard the city. When they told the people to leave, some
6 refused, and the Khmer Rouge pointed their guns at them and some
7 were even shot dead.

8 [10.18.30]

9 My family were evacuated to the East, crossing the river toward
10 National Road 6A. We travelled for many days, and we rested along
11 the way, before we arrived at Ruessei Chrouy commune, Mukh Kampul
12 district, Kandal province, where the Khmer Rouge people sent us
13 to live there. At that location, the Khmer Rouge tried to get the
14 background of the New People, as they were asked to tell them the
15 previous jobs that they did. And they said that whoever used to
16 work previously would be sent to engage in that same work by
17 Angkar."

18 [10.19.25]

19 Another civil party applicant, in document D22/2953, and on the
20 page with an ERN in Khmer 00557816, who stated the following:

21 "Prior to 1975, my family was kind of wealthy, living in Dangkao
22 commune, Kandal province. And the father was a soldier. And my
23 aunt, named Saom Sim, was a staff at the National Bank.

24 When the Khmer Rouge gained victory over the Lon Nol soldiers on
25 17 April 1975, they took control of Phnom Penh and Kandal

1 province. The nine members of my family, including my father" --
2 and allow me to skip that portion. "Upon entering the city, they
3 declared that the war was over and we would enjoy peace. Those
4 black-clad soldiers cheered the victory, but, next day, the Khmer
5 Rouge ordered the people to leave the city so that they would
6 cleanse and get rid of the enemies. And we were instructed not
7 to bring much belongings, as we were to leave only for three
8 days.

9 [10.21.27]

10 "I and the neighbours left under the orders, although we were
11 wondering of -- what happened. We left at gunpoint, and those who
12 refused to abide by the orders were beaten with the gun's butt.
13 At that time, members of my family were separated, as myself and
14 my elder sister, Sam Veasna, walked along Preaek Aeng asking for
15 road to go toward Kandal province in order to return to our home
16 village. And, along the way, there was nothing to eat, and we
17 asked for rice from other travellers."

18 And, further, she stated that:

19 "In 1976, Angkar evacuated my family from Roka Khpos village,
20 together with thousand other people, to Pochentong, awaiting the
21 train. And we stayed there for three days, and Angkar distributed
22 rice to us. And when the train arrived, we were instructed to
23 board the train under the control of the Khmer Rouge soldiers.
24 The train departed, and we stayed one night. And then, in the
25 next morning, we continued until we reached Trapeang Chong

1 station, and there were several ox-carts awaiting our arrival."

2 [10.23.17]

3 Another civil party applicant in document D22/1340, on the
4 document with the ERN 00526053, who stated the following:

5 "On 17 April 1975, I lived at the Chaom Chao barracks. I was a
6 wife of a soldier. And later, one soldier named Son Chin
7 (phonetic), at 1 o'clock, told me to pack my belongings, because
8 the Khmer Rouge soldiers actually captured Phnom Penh city. So I
9 rushed to pack my belonging at night, and I left with my in-law
10 and my two children. I was pregnant with my third child. My
11 husband and I did not stay together, because actually he was on
12 guard duty at the front post on that day. I left the barrack and
13 I saw soldiers holding their guns, and they were standing on the
14 road, and the road was crowded as people were leaving the city as
15 well."

16 [10.25.00]

17 "Some had several belongings. Some children were crying and
18 shouting as they lost their family members. The situation was of
19 a terrible nature. And, along the way from the barrack, I saw
20 dead bodies who were killed by the Khmer Rouge. Some died while
21 sitting in the car, some died in the barrack, and some died along
22 the road. And I did not know the cause of the death. Because, at
23 that time, the bodies seemed to decompose quickly, and I saw a
24 house where they raise pigs, and it was empty because the owners
25 had already been evacuated by the Khmer Rouge.

1 [10.25.54]

2 "I saw pigs without food, and I saw pigs and dogs eating human
3 corpses. I walked under the eyes and guard of the Khmer Rouge
4 regime along the way, and when I arrived at Chumpu Voan Pagoda at
5 night, the Khmer Rouge did not allow me to stay there. And the
6 Khmer Rouge chased me away, and the monks were also ordered to
7 leave the pagoda. So those monks travelled together with us, and
8 we travelled, and whenever we stop at night, we would rest there.
9 Sometimes we rested under a tree, under the open sky and rain.
10 Some children cried because they lost their mothers or their
11 mothers were stampeded to death."

12 [10.27.00]

13 The information by next civil party applicant -- that is,
14 D22/1322 on the ERN page 00525684 -- who stated the following:
15 "On 18 April 1975, the Khmer Rouge evacuated my family from Phnom
16 Penh. They made an announcement on a mobile speaker in a vehicle
17 that 'Brothers and Sisters, you need to leave the city for three
18 days, because the Americans will bombard the city'. And you do
19 not need to pack a lot of belongings. You do not need to lock
20 your house. The Angkar will look after your house, and nothing
21 would be lost. And if you love Samdech Euv, please return your
22 vehicles and radios to Angkar.
23 "I heard that one Chinese locked his house, because he refused to
24 leave, and the Khmer Rouge shot the lock and later on I heard
25 that the Chinese was killed by the Khmer Rouge."

1 [10.28.30]

2 "Along the road I saw dead bodies of Lon Nol soldiers. The Khmer
3 Rouge did not tell us exactly where we should head to. It's up to
4 us. And my family planned to return to our native village in Kaoh
5 Soutin district, Kampong Cham province."

6 This civil party applicant also said that:

7 "In July, 1975, the families were evacuated by the Khmer Rouge to
8 Kampong Thom province. They called out the name, and we were
9 instructed to board a vehicle as they said that we were
10 transferred to a new location in Kampong Thom province. My
11 parents, with all my siblings and -- were to live with the Base
12 People with Yeay Yim (phonetic) in Leab Tong village, Trea
13 commune, Stoung district. I and my grandmother lived with another
14 Base People family."

15 MR. PRESIDENT:

16 Thank you, Lead Co-Lawyer.

17 The time is appropriate for a short break. We will take a
18 20-minute break and return at 10 to 11.00, so that we can resume
19 our hearing.

20 The Court is now adjourned.

21 (Court recesses from 1030H to 1057H)

22 MR. PRESIDENT:

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

24 The floor is once again given to the Lead Co-Lawyers for civil
25 parties to continue their document presentation. You may proceed.

1 MR. PICH ANG:

2 Thank you, Mr. President. Once again, good morning, Mr.
3 President, Your Honours, and everyone in and around the
4 courtroom.

5 The next document is D22/1248, at ERN in Khmer, 00523449. This
6 civil party stated that:

7 "Between 1970 and 1975, I was a student Tuol Tumpung primary
8 school in Phnom Penh, and on 17 April 1975, my family was ordered
9 by the Khmer Rouge to leave Phnom Penh. I could not recall the
10 address of my house. They made an announcement for all Phnom Penh
11 city dwellers to leave for three days, because the Khmer Rouge
12 needed to get rid of the enemy."

13 [10.59.20]

14 "The Khmer Rouge also said that, if anyone refused to leave, they
15 would be accused of being enemy and would be shot dead.

16 "My family, facing such a situation, and my father Chao Kannyut
17 took my mother and the seven children to leave town. We took the
18 road towards Steung Meanchey, we reached Chaom Chao and then we
19 head to National Road Number 3 and we stayed at Ang Ta Pruoch
20 pagoda for three months."

21 [11.00.02]

22 "A soldier of the Khmer Rouge -- I cannot recall the name -- told
23 my father that 'You, the 17 April People, are to be transferred
24 to live in Sector 4 by Angkar'. And, next morning, all the
25 families who had stayed at Ang Ta Pruoch pagoda gathered their

1 belongings and children and boarded the vehicle under the
2 watchful eyes of a Khmer Rouge. And we went, crossing Phnom Penh
3 along National Road Number 5, toward Kralaom Phluk area -- and I
4 cannot recall the exact names of the village and commune -- in
5 Moug district, Battambang province. The Khmer Rouge ordered my
6 family to live in a village called Cham Ro'a village in Tom Laeng
7 cooperative. Cooperative was equivalent to a commune, and it was
8 Moug district, Battambang province."

9 [11.01.10]

10 "One month after, my mother, Sou Eng (phonetic), delivered a baby
11 named Kem Thomsath (phonetic). My family was forced to eat
12 communally, to work together, and the adults were separated from
13 the children. The males were separated from the females, and the
14 female youth were separated from the male youth. And the children
15 would be left to one side. And we all had to eat separately."

16 Further down, the civil party stated that:

17 "The Khmer Rouge forced us to work hard in building dams, digging
18 dike and canals, ploughing, transplanting rice, and engage in
19 plantation for planting potato and corns, etc. They monitored the
20 activities of the New People, as they referred to us as the 17
21 April People. They monitored us every day, regardless of the time
22 of the day. Day or night."

23 [11.02.32]

24 "Often, we were asked by the Khmer Rouge about our background and
25 the living conditions became worse from day to day, as we did not

1 have sufficient food to eat, and we had to work from eight to 10
2 hours per day. During a meeting, they talked about the principle
3 of the revolutionary politics, and that we should not say
4 anything bad about Angkar, and that we should get rid ourselves
5 of the previous regimes' questions or coloured clothing, and we
6 should dress only in black."

7 The next civil party applicant -- that is, document D22/3129 --
8 on page in Khmer which is 00560829 - stated the following:

9 "In 1975, my family were evacuated from Phnom Penh and all the
10 people had to travel on foot. From that day, members of my family
11 separated to various places. In December 1975, my younger sister,
12 named Pho Samran (phonetic), whose husband was of Thai origin and
13 was a colonel, were taken and killed. That is, the husband and
14 wife were killed at Bokor Mountain, Kampot province. Also, in
15 December 1975, my mother-in-law were killed. She was accused of
16 being a feudalism in Battambang province. As for my father, named
17 Pich Sophan (phonetic) -- were killed in Chbar Mon district,
18 Kampong Speu province."

19 [11.04.48]

20 "One year later, some of my family members died. By mid-1977, my
21 elder brother's family were taken and killed by Angkar. They were
22 shot dead after they grasped their backgrounds.

23 "I would also like to clarify that my husband was a Lon Nol
24 government soldier. He bore the rank of a colonel. Five or six
25 members of his families died in a pool of blood. In late 1977, my

1 nephew, who was about 13 to 14 years old -- and there were eight
2 of them altogether -- were taken and killed. In fact, the theory
3 and the application of 'if you dig the grass, you need to clean
4 the roots' were -- turned out to be true. Although I starved; I
5 was hungry -- I tried not to allow them to know about my
6 background. I strived to work hard, engaging in all kinds of work
7 as long as I could survive."

8 [11.06.25]

9 Another civil party applicant -- that is, document D22/3787 and
10 on the Khmer ERN 00570179 -- stated the following:

11 "On 14 April 1975, the Khmer Rouge took control of Kampong Speu
12 province. At that time, I fled to Phnom Penh by a military plane
13 of the Lon Nol regime, and we paid seven chis of gold each to go
14 to Phnom Penh. I lived with my aunts and uncle near Than Suo
15 Theatre, and on 17 April 1975, the Khmer Rouge took full control
16 of Phnom Penh, and at around 2 p.m. that day the Khmer Rouge made
17 an announcement for all city dwellers to evacuate immediately in
18 order to avoid the bombardment from Americans. My family went on
19 foot day and night, and stayed along National Road Number 4 for
20 several nights before we arrived in Doun At village of unknown
21 commune, but it was located in Kampong Speu province.

22 "As a youth, the Khmer Rouge asked me to carry rice for the youth
23 who were building Doun At Dam. I stayed there for one and a half
24 months; then my family was further evacuated by train to Banteay
25 Meanchey province."

1 [11.08.26]

2 "And then the Base People brought us carts to take us to live in
3 Tean Kam village, Rohal commune, Preah Netr Preah district,
4 Banteay Meanchey province. They separated me from my family to
5 live in the children's unit to pick the rice and to build dams
6 and dikes and I receive one bowl of rice during the harvest
7 season and one ladle of porridge during the rainy season and I
8 was emaciated.

9 "Some people who made minor mistakes were accused. They were tied
10 into a line, killed, and buried in a pit and that was under the
11 pretext that they were sent for education, but in fact they had
12 been killed. They used a phrase that there is no gain in
13 keeping."

14 [11.09.37]

15 The next civil party applicant -- that is, document D22/247, and
16 on the Khmer page 0027 -- my apology, 00421489 -- stated the
17 following: "On 17 April 1975, when the Khmer Rouge entered Phnom
18 Penh, they forced all the people to leave towns and to -- and to
19 move to the countryside and if anyone refused, they would be shot
20 dead."

21 [11.10.23]

22 "As we were scared, the next day, my family forced to leave our
23 house with regret. At that time, I only -- I just delivered my
24 baby and I was about 10 days after the delivery and I could not
25 bring any belonging with me. We went toward the West along

1 National Road Number 4 toward our native village in Kampong Speu
2 province.

3 "Along the road, I met a lot of difficulties as I recently
4 delivered my baby and other children were still young. There was
5 no -- no water and there was no sufficient food. There was no
6 proper shelter for us, and often my younger children, as well as
7 other children, cried out of fatigue as they walked under the
8 heat of the sun and as they were hungry for food."

9 [11.11.32]

10 "I saw a lot of dead bodies along the road. And when I could no
11 longer move, my husband made -- made safe cart to pull us and we
12 stayed under the shade of a tree along the road.

13 "And when we reached Thnal Totueng market which is the border
14 between Kandal and Kampong Speu provinces, we headed toward the
15 North in the direction of Udong market because we had to hide our
16 -- the biography of my husband who was a military police. That's
17 why we did not want to go to our native village.

18 "When we arrived at the north of Bat Doeng market near Boeng Khna
19 pagoda in Udong district, we were asked by the Khmer Rouge to
20 stay there temporarily. We stayed there for about three months
21 and in September 1975, my family, together with other families
22 who were evacuated from Phnom Penh, were sent further by the
23 Khmer Rouge by vehicles toward Pursat province."

24 [11.12.51]

25 "And upon arrival at Pursat province, we were asked to stay in

1 Wat Loung cooperative in Bakan district.

2 "As they considered us the 17 April People, the living condition
3 was terrible. There was no proper shelter.

4 "As for the food ration, they only distributed one can of rice
5 per day for five to six people; so that in order for us to
6 survive, we had to pick leaves from the wild trees mixed with our
7 gruel. And about two months after, they asked us to eat
8 communally in the cooperative and even -- it became even more
9 pitiful because of the thin gruel and we could only have one or
10 two ladle of gruel."

11 [11.13.54]

12 "In early 1976, members of my families were separated. My husband
13 was sent to the male unit and worked far away from the
14 cooperative.

15 "And my two children, Roth Runnarith and Roth Piseth, were sent
16 to the children's unit and they had to work as adults and they
17 did not engage in any study.

18 And as for myself, since I had young children, I was allowed to
19 stay in the cooperative, but I could not go and look after my
20 children. I had to engage in the agricultural work, in building
21 dams, digging canals, and I only returned at around 9 to 10 p.m.
22 before I could see my children who were taken care of by other
23 women."

24 [11.14.50]

25 "Occasionally, I saw my husband, and around July 1976, my

1 husband's unit was transferred to work near the Wat Loung
2 cooperative where I stayed, but I did not see my husband coming
3 along.

4 "One day I saw a man whose name I cannot recall, who worked with
5 my husband, wore my husband's shirt. I asked him for my husband's
6 whereabouts. Initially, he did not dare to say anything to me,
7 but later on he whispered to me that my husband whose name was
8 Roth Horl was arrested by the militia and he was taken and killed
9 about a few days ago without any reason.

10 "Upon hearing the news, I was shocked, almost fainted, and -- but
11 I did not dare ask anything further. From that day onward, I lost
12 hope in my life, but I struggled so that I could see the faces of
13 my younger children."

14 [11.16.08]

15 "Due to insufficient food, due to lack of medicine, and without
16 proper care, about four -- in period -- in the period of about
17 four months starting - that is, from September to December 1976,
18 my six children died of malnutrition one after another until all
19 died. Sometimes two of them died in one month."

20 Further down, the civil party applicant also stated that "the
21 people in the cooperative disappeared subsequently and some died
22 of disease and when my husband and children all died, I almost
23 became crazy."

24 Another civil party applicant, in the document D22/2818, and on
25 the Khmer page 00556891, stated the following: "Before 1975, I

1 lived near Tuol Tumpung market in Phnom Penh."

2 [11.17.55]

3 And further down, it reads:

4 "On the 17 April 1975, I was at home with my seven children and
5 my husband, named Me Tom, who was still working at the PC Centre
6 near the old stadium in Phnom Penh. At that time, I heard, again,
7 fires and shelling from all directions toward Phnom Penh city and
8 to the main -- some of the main areas in Phnom Penh.

9 "As heard on the broadcast and the various other radios, I knew
10 that the Khmer Rouge clique, who dress in black with the scarf
11 around the neck, enter the city.

12 "And after it became a bit subdued, I saw the Khmer Rouge enter
13 Tuol Tumpung market. There were a lot of soldiers. There were big
14 and small vehicles. There were armoured vehicles.

15 "And later on, some Khmer Rouge walked on the road and some were
16 on vehicle making an announcement on a mobile microphone that we
17 instruct fathers, mothers, brothers, and sisters all to leave the
18 house without bringing any belonging and that they you would
19 leave only for seven days. This is to avoid the American
20 bombardment."

21 [11.19.52]

22 "The Khmer Rouge used a wooden board indicating the direction for
23 the people to -- to head to that direction and we were not
24 allowed to return. At that time, my -- I and my seven children
25 evacuated -- were evacuated by the Khmer Rouge and we separated

1 from my husband until today.

2 "We forced to leave our house and while en route, I saw the Khmer
3 Rouge kill people on the spot as those people disobeyed the order
4 to leave their houses.

5 "My seven children and myself, together with several other
6 people, walked on foot along National Road Number 1 -- that is,
7 the road leading to Neak Loeung and we cross a bridge; the bridge
8 name was Chrouy Ta Aok and we continued our journey.

9 "And while en route I saw people died on that Road Number 1. Some
10 died while sitting on a chair and some corpses were swollen."

11 [11.21.08]

12 "When we reached Chbar Ampov Theatre and Nirouth pagoda, we
13 stayed there for seven days and I saw the Khmer Rouge making an
14 announcement that whoever used to have a rank -- used to work or
15 have a role in the previous regime, so register their names with
16 Angkar and Angkar would send them to engage in their previous
17 job.

18 "There was one Khmer Krom man, whose name I cannot recall, who
19 travels together with me and because of the pitiful situation,
20 and, in fact, he had no rank or position, registered his name.

21 And also I saw another neighbour, my neighbour by the name of
22 Sruoch (phonetic), who had some rank, although I did not know
23 exactly what rank he was, rushed to register his name in order to
24 receive Samdech Euv.

25 "And after the registration, hundreds of people were ordered by

1 the Khmer Rouge to dress nicely in a queue along National Road
2 Number 1 in order to make their trip back to Phnom Penh to
3 welcome Samdech Euv."

4 [11.22.40]

5 "My seven children and myself continued our journey further with
6 other people."

7 Another civil party applicant -- that is, document D22/40, and on
8 page with Khmer ERN 00323606 -- stated the following:

9 "On 17 April 1975, we were forced to leave Phnom Penh under
10 gunpoint. The Khmer Rouge soldiers told us that the Americans
11 would drop bomb on to the city and that we had to leave for a few
12 days in order to avoid the bombardment."

13 [11.23.55]

14 "At that time, I was with my parents and my three children; age
15 ranging from eight years old to five and to four, together with
16 my younger brother and younger sister."

17 A bit further down, that civil party applicant stated that:

18 "When we arrived at the base, we were forced to engage in heavy
19 work, to engage in plantation or to clear the forest. Every day I
20 started working from the beginning until late. I was not given
21 time to rest, and we were under the watchful eyes of the Khmer
22 Rouge militia. I was afraid. Although when I was sick or fatigue,
23 I did not dare to rest."

24 Another civil party applicant in document D22/35 and on the Khmer
25 page with ERN 00323529 stated the following:

1 [11.25.34]

2 "On 17 April 1975, I lived in Phnom Penh with my five sisters and
3 three brothers and my parents near the railway station at the
4 dormitory for the railway station workers. A little bit after
5 noon, my parents told us that the Khmer Rouge soldiers ordered us
6 to leave the house temporarily because the Americans would drop
7 bombs."

8 A bit further down, she stated that:

9 "Along the road, the Khmer Rouge would instruct us on which
10 direction that we needed to head to, and the Khmer Rouge soldiers
11 who carried AK-47 rifles did not hesitate to kill anyone who were
12 travelling and who did not obey their directions or instructions.
13 I clearly recall that I saw -- I witnessed the killing in this
14 fashion."

15 [11.26.59]

16 Another civil party applicant in document D22/3751 and on Khmer
17 page with ERN-

18 My apology; I moved to another civil party applicant -- that is,
19 civil party applicant in document D22/2451 - on the page with ERN
20 in Khmer, 00551621 - who stated the following:

21 "My name [omitted], age 63 years old living in Prey Thom village,
22 Tuk commune, Banteay Meas district, Kampot province. My husband's
23 name is Kaet Lon, age 65, and we have five children.

24 "In 1970, my family lived in Phnom Penh. We were ordinary
25 workers. And in 1975, when the Khmer Rouge attacked Phnom Penh,

1 my family and I returned to our native village. And upon our
2 arrival, our family was considered the 17 April People -- that
3 is, the New People.

4 "At that time, the Khmer Rouge cadres confiscated all the
5 jewellery that we had and I did not have any means of raising my
6 children and the only means to survive was for me to exchange our
7 clothes with the Base People."

8 [11.29.25]

9 The next civil party applicants -- that is, in document D22/1794,
10 on Khmer page with ERN 00535334 -- stated the following:

11 "In 1975, the Khmer Rouge cadres evacuated my mother and my
12 relatives; namely, my aunts and uncles and nephews - seven, all
13 -- seven of them -- to Anlong Kei (phonetic) village, Trapeang
14 Sdau commune, Rumduol district, Svay Rieng province. And they
15 forced my relatives to work extremely hard and when they fell
16 sick, they did not have access to medicine and they were given
17 small ration of food because they alleged my relatives of being
18 the 17 April People."

19 Mr. President, I don't have many more civil parties to present
20 here, but the next civil party, D22/3461, relevant ERN in Khmer,
21 00566392. In this civil party form, it reads:

22 [11.31.17]

23 "Three days following the 17 of April 1975, I was forced by the
24 Khmer Rouge to leave Phnom Penh city. We had to march out of
25 Phnom Penh city along National Road Number 5 and we had to cross

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1 the river somewhere around kilometre 6. And we were not allowed
2 to bring any belongings with us because the Khmer Rouge told us
3 that we would leave for only three days in order that they could
4 reorganize the city, and those who resisted leaving the city were
5 threatened at gunpoint and some of them were also killed along
6 the street, as well, so I was forced to follow along the street."

7 [11.32.08]

8 "And I had to walk all the way to Skun and Chi Haer, and then,
9 finally, I reached Vihear Suork commune, Khsach Kandal district,
10 Kandal province and the journey took me around 15 days.

11 "When I reached Vihear Suork village, I and my sister lived with
12 our relatives by the name of Khoem Neang for five days and then
13 my relatives asked them to leave the place to Krouch Chhmar
14 district. When we reached Krouch Chhmar, they evacuated us and
15 assembled us with other 17 April People. And a few days after
16 that, they sent us to a new location by the name of Chom Mlu
17 which was widespread with malaria over there.

18 "In Chom Mlu commune, there were around 100 houses there. They
19 were full of 17 April People who had been evacuated from other
20 places.

21 "And at that time, they order my husband to clear the bamboo
22 forest for every day and I was asked to collect rice, but as for
23 the food rations, we were given only half a tin of rice and it
24 was not sufficient for us."

25 [11.33.48]

1 And the next civil party in document D22/231, relevant ERN in
2 Khmer, 00421213. This civil party stated that:

3 "Prior to the 17 of April 1975, my family had lived in Phnom Penh
4 somewhere north of Ou Ruessei market near Angkor cinema. I got
5 married to my husband by the name of Ouk Chea. He was a former
6 soldier of Lon Nol regime and I was a housewife. We had seven
7 children; five of them were males and two were females."

8 [11.34.55]

9 "Following the 17 of April 1975, the Khmer Rouge, dressed in
10 black, entered Phnom Penh. At that time, they shoot guns into the
11 airs and they pointed guns at Phnom Penh dwellers forcing them to
12 leave the city.

13 "They evacuated to the countryside on the pretext that we would
14 leave for only a few days. Because of the fear, we had to leave
15 the city in compliance with their orders, and we had to carry our
16 belongings along because we did not have any means to transport.
17 And we had to leave the city barefooted. We did not have any
18 means of transport at all.

19 "We had to march out of the city on foot and some of my young
20 kids carried some stuff belongs and we had to march out of the
21 city along with other city dwellers toward the Eastern part of
22 the country in complying with their orders."

23 [11.35.55]

24 "When we reached Neak Loeung, we went through the secondary road
25 in order to go to my husband hometown. And we, at that time,

1 hoped that we would meet our relatives in Takeo province. We had
2 to travel on foot for about two months until we reached the
3 target.

4 "We -- the journey was horrendous because I had just delivered my
5 baby for the last -- for -- for two months and we had to travel
6 barefooted for two months under the sunlight and we did not have
7 sufficient food to eat or water to drink. I felt very pity on my
8 young children because they were crying all along the way because
9 of hunger.

10 "When we reached my husband's hometown in Samraong district,
11 Takeo province -- I could not recall the exact location where we
12 were located at that time, but my family were accused of the 17
13 April People and we were discriminated by the Base People over
14 there."

15 [11.37.14]

16 "And as for my relatives from my husband's side, also
17 discriminated against us. They did not provide us the same ration
18 of food as the Base People received."

19 The next civil party -- D22/2751, relevant ERN in Khmer, 00556117
20 -- stated that:

21 "On the 17 of April 1975, my family lived in Phnom Penh city. My
22 husband was a Lon Nol soldier. On that day, the Khmer Rouge
23 liberated Phnom Penh, and three days after the liberation, they
24 started to evacuate people out of Phnom Penh city. At the time,
25 the black clothes soldiers shoot into the air, threatening people

1 almost everywhere in the city. In certain instances, they killed
2 people instantly nearby my house, saying that anyone resisted
3 their order would be killed. Then they continued to announce
4 that, those who came from any country villages had to go back to
5 those villages so that the Khmer Rouge organization would
6 reorganize the city."

7 [11.38.50]

8 "On our journey out of Phnom Penh along National Road Number 2 to
9 my home village, I witnessed a lot of swollen corpses, and it
10 smelled terrible along the way.

11 "I travelled for more than a month in order to reach the place
12 where we were supposed to be located. It was in Ou Ansa
13 (phonetic) village. My family stayed there for three days then
14 they continued to send my family to Ta Am village, Kiri Vong
15 district, Takeo province. My family stayed there for some time,
16 and then those people call us the Contemptible 17. And they
17 forced our families to work extremely hard. It was much harder
18 than the Base People, and they provided us much smaller ration of
19 food. If they were given one bowl of rice, we only got half a
20 bowl of rice -- or gruel, rather."

21 And the civil party also state that her husband were tortured
22 very harshly at Prey Rumdeng before he was brought for execution.

23 [11.40.22]

24 The next civil party document D22/519, relevant ERN in Khmer
25 00496869 -- stated that:

1 "In early 1976, after my father was killed, my families were
2 gathered by the Khmer Rouge soldier on the truck and we had to
3 leave our village and we headed for another village. The Khmer
4 Rouge brought a truck -- see -- trucks and they gathered us in
5 different trucks. The new 17 people -- April People were on
6 certain trucks and the Base People were on different trucks. And
7 normally, the 17 People trucks were crowded and crammed.

8 "And along the way on National Road Number 3 to Kampot province,
9 when we reached Bokor Valley, there were seven trucks carrying 17
10 April People and they turned into the steep valley and then they
11 dumped all the seven truck -- people on the seven trucks into the
12 valley."

13 [11.41.58]

14 "And as for the trucks carrying the Base People, there were three
15 of those trucks. And they took them to Tuk Meas district.

16 "And my family, who were among the Base People on the three
17 trucks, we were sent to Tuk Meas district, Kampot province."

18 The next civil party, D22/3623, relevant ERN in Khmer 00567828.

19 The civil party stated that:

20 "Prior to 1975, I was the Lon Nol soldier residing in Koh Thum
21 village, S'ang district, Kandal province. Up until 1975 when the
22 Khmer Rouge conquered the Lon Nol soldier, I had to give up my
23 job and I had tried to hide my identity.

24 "When the Khmer Rouge took over the power, my family were
25 evacuated, telling us that Angkar would organize the country and

1 transform the country into socialism. And they asked the people
2 to move to the Northwestern Zone of the country. So at that time,
3 our family were forced to move out on foot and we had to carry
4 our belongings by ourself without any means of transport at all.
5 And it took us several weeks in order to reach Banteay Meanchey
6 province. Back then, it was in Battambang province."

7 [11.43.54]

8 "We had to leave Koh Thom district and we had to walk along the
9 way to Kampong Chhnang. And we stopped over there for a few days,
10 and then Angkar convened a meeting of both New and Old People.
11 And one of the Khmer Rouge cadres told us that we had to abandon
12 our self-interest.

13 We had to give up our old mentality from the capitalist regime.

14 We had to get rid of the -- this mentality. Angkar would
15 reorganize the society so that we would live in a society of
16 equality. There would not be any poor or rich. We would live in a
17 clean socialism. There would not be any exploiting class or we
18 had to give our properties into the collective properties so our
19 society would not have any classes anymore."

20 [11.45.02]

21 "We had to work using our labour. We had to do it automatically.
22 We would not create any class or exploiting class or nobody would
23 be identified as rich or poor.

24 "So, Angkar divided people into two groups: one to the Southwest
25 Zone, the other group to the Northwest Zone. And we, our

1 families, were evacuated to the Northwest Zone and we were
2 located in Veal Sbov, Battambang province – now it is Banteay
3 Meanchey province.

4 "When we arrived in that village, the Base People considered us
5 as the 17 people -- 17 April People or New People, and Angkar, at
6 that time, made us work with the Base People."

7 Another civil party, D22/1414, stated that -- the relevant ERN in
8 Khmer is 00528133:

9 "During the rainy season and the transplanting season, we were
10 evacuated to Bakan district, Pursat province, and those people
11 were considered the 17 April People. They were under surveillance
12 by militia men.

13 "My family were considered the 17 April People as well. Wherever
14 we went, we were under control and they asked my relatives again
15 and again to find out what my family background was, particularly
16 what my parents did in the past regime."

17 [11.47.09]

18 And he also continued to mention that:

19 "They were very good at conducting interview or questioning
20 people. After all, many people were lured into telling the truth.
21 And the Khmer Rouge, at that time, could find out the true
22 backgrounds of people and then they would take those people out
23 in the truck away."

24 This is going to be the last civil party form concerning the
25 first and second population movement. This civil party, document

1 D22/2470, relevant ERN in Khmer 00551851. This civil party stated
2 that:

3 "Following the 17 of April 1975, the Khmer Rouge soldier
4 evacuated my father and my relatives from Phnom Penh and we were
5 located in Basedth village, Kampong Speu province, which is my
6 father's home town."

7 [11.48.44]

8 "When I got to the home town, the cadres of the Khmer Rouge
9 gathered the 17 April People in one village, that village known
10 as new village or Phum Thmei, and it was in Pursat district of
11 Pursat province.

12 "This new village was created named specifically for the 17 April
13 People. And up until the -- up until November 1976, the Khmer
14 Rouge cadre summoned my father at around 6 o'clock in the
15 evening, including other 17 April People. They wanted him and
16 other 17 April People to plant potatoes. So they sent the group
17 to plant the potato until 10 p.m. at night. And following the
18 planting of potatoes, they arrested my father and torture my
19 father.

20 "They cut open my father's stomach and took his liver and cooked
21 them. And after that, they appointed other militiamen in the
22 village to follow my family members.

23 "They told our families that we were from the previous regimes
24 and they actually treated us very badly. And in 1976, they
25 arrested my mother, my brothers and myself, and they detained all

1 of us in Chrei Au Phnov, which was known as the region location.
2 And they forced my relatives, my mother, to work very hard. And
3 they never gave us sufficient food."

4 [11.51.12]

5 "And when we were sick, we were not given any proper medicine
6 other than the rabbit dung medicine. And they beat us and we
7 never had proper shelter to stay in. And they forced us to work
8 extremely hard."

9 And I still have four more civil party forms relating to the
10 situation at Tuol Po Chrey.

11 Civil party D22/1079, Khmer ERN--

12 (Short pause)

13 [11.52.29]

14 MR. PICH ANG:

15 --00518541. The civil party stated that:

16 "In April 1975, the Khmer Rouge soldier took control of Pursat
17 provincial town and they made an announcement in loudspeaker to
18 order people to evacuate the city. And they also announced for
19 the former officials of the previous regime and doctors and
20 teachers also. And they would ask those -- they asked those
21 people to identify themselves and came up to see them."

22 [11.53.13]

23 The father of the civil party was summoned to a meeting in Pursat
24 provincial hall, and then when he went there, he was taken on a
25 truck and he disappeared. And as for the wife of this victim --

1 were also killed along with her children in early 1977.

2 Another civil party, D22/1529, relevant ERN in Khmer, 00530043 --
3 this civil party stated that:

4 "In early April 1975, the Khmer Rouge took control of Pursat
5 province and they announced the civil -- they announced for the
6 civil servant to show up. And those civil servants who show up
7 were taken on a truck at around 10 o'clock in the morning, and
8 those officials were eventually killed at Tuol Po Chrey. And many
9 witnesses saw many dead bodies over there."

10 [11.54.49]

11 Another civil party, D22/2011, relevant ERN in Khmer 00541770.

12 This civil party also stated that:

13 "On the 18 of April 1975, the black clothes soldiers carrying
14 arms ordered the people to leave their homes for three days in
15 order to welcome the Prince. And as for the former officers,
16 would be taken away for education.

17 "Those who signed up in the registration form of the Khmer Rouge
18 were taken away in the trucks and they were eventually killed
19 because there were so many dead bodies found at Tuol Po Chrey in
20 Bakan district, Pursat province."

21 The next civil party, D22/1557. The civil party mentioned in the
22 Victim Information Form on the relevant ERN page 00530391:

23 "In 1975, he was a former commando soldier living in Bakan
24 district, Pursat province. When the Khmer Rouge took over, he
25 surrender and he were asked to leave the village. And we were, at

1 that time, divided into two groups. One was the 17 April People;
2 the other was the Base People. And we were constantly asked to
3 tell Angkar whether or not they were the officers of the previous
4 regimes."

5 [11.57.28]

6 "One of his brother was a former captain of the soldier, were
7 taken away to Tuol Po Chrey and he was executed over there."

8 I would like to now raise another civil party which I have not
9 mentioned before, civil party D22/32, ERN 00279757, the civil
10 party stated that:

11 "Prior to 1975, my family lived in Orussey -- around Orussey
12 market. When the Khmer Rouge entered Phnom Penh, the Khmer Rouge
13 evacuated my family to somewhere around Borei Khnang, in
14 Pochentong.

15 "In late 19..." - it is not clear - "my family were again
16 evacuated to -- from Pochentong to Bakan district, Pursat
17 province. In Bakan district, my elder sister was killed by the
18 Khmer Rouge soldier. As for my younger sister, she was -- she
19 died because of disease. I saw the dead body of my sister, and
20 her body was swollen.

21 "And in 1978, my mother (sic) had to steal the food for the pig
22 to give to my mother and my father was then found stealing this
23 and he was called for re-education. But then he was released. And
24 then he went there again to steal this food. And then, when he
25 was caught again, he were frogmarched, my father and my mother,

1 for execution."

2 [11.59.52]

3 "Before they killed my father, they asked my father to kneel down
4 in front of a pit before they killed him. And in -- before they
5 were killed, one of the Khmer Rouge soldier asked their petitions
6 that they would -- he would kill my father. And my -- at that
7 time, my mother asked me to stay away from the Khmer Rouge, and
8 they -- my mother did not want me to stay around. But then I
9 could not help watching. And my -- and eventually, I was raped by
10 all the Khmer Rouge soldiers. And then, when I went back, one of
11 the militia men in my village asked me to run away and join other
12 co-operatives."

13 [12.01.00]

14 "And then I could -- I decided to escape to another
15 co-operatives, but then they found out that I was living with
16 other co-operatives and one of the militiamen went to find me in
17 that co-operatives. And then they threatened me for my life. And
18 then they continued to stay with me and -- all along, the
19 period."

20 Mr. President, that is all for the victims, civil parties, whose
21 statement was recorded in the victim information form. Of course,
22 we have many other civil parties, but I don't think that the time
23 permits me to raise all of those civil parties for the proceeding
24 before us now.

25 MR. PRESIDENT:

1 Thank you.

2 The time is now appropriate for the lunch adjournment. The

3 Chamber will adjourn now and resumes at 1.30 this afternoon.

4 And this afternoon, the Chamber will hand over to the defence

5 teams, beginning with the defence team for Mr. Nuon Chea, to make

6 observation or objection to the key documents presented by the

7 prosecutors as well as the Lead Co-Lawyers for the civil parties

8 who have presented numbers of documents concerning the population

9 movement, phase 1 and phase 2, as well as the execution site at

10 Tuol Po Chrey, and also the document concerning the military

11 structure of the Democratic Kampuchea presented by the Lead

12 Co-Lawyer for the civil parties this morning.

13 And the Chamber may grant the opportunity for the defence team to

14 raise other documents as well as indicated in memo of the TC,

15 E223/3, paragraph 4, as well as the document concerning -- as for

16 the document concerning the JCE, that will be heard at an

17 appropriate time in the future.

18 The Court is now adjourned.

19 (Court recesses from 1203H to 1338H)

20 MR. PRESIDENT:

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

22 I notice the Prosecution is on his feet, you may proceed.

23 [13.38.59]

24 MR. RAYNOR:

25 Mr. President, thank you.

1 Mr. President, you kindly indicated before lunch that the Trial
2 Chamber had determined that the document presentation on joint
3 criminal enterprise would take place at a later stage. Can I
4 please respectfully inquire whether the Trial Chamber is able to
5 give guidance to me to pass on to my colleagues in the OCP as to
6 whether the Chamber has made a decision about the document
7 presentation on the roles of the Accused? That was the
8 presentation where I had asked if this was to go ahead next week,
9 the OCP was asking for it to take place at the earliest next
10 Wednesday. We all still continue to appreciate the uncertainty
11 about next week in terms of the health of the Accused but I
12 wonder Mr. President whether the Trial Chamber can give us any
13 guidance on this point given that work is being carried out on a
14 number of fronts concurrently today, we would very much be
15 assisted by any guidance that you can provide at this stage.
16 Thank you.

17 (Judges deliberate)

18 [13.40.47]

19 MR. PRESIDENT:

20 After the Bench has deliberated, it is the Chambers intention
21 that next week the Chamber will set the schedule on hearing the
22 testimony of TCW-565 on Monday if the accused Nuon Chea waives
23 his presence in the hearing of that testimony. That is the first
24 point.

25 And regarding the document submissions on the roles of the

1 Accused, the Chamber will determine the scheduling of that
2 hearing and that will be held on Wednesday, next week. However,
3 this is tentative depending on the health of the accused Nuon
4 Chea and his defence team. And, of course, we will communicate
5 that information to all parties by email tomorrow afternoon once
6 we receive further information regarding this matter.

7 MR. RAYNOR:

8 Mr. President, I am grateful. Thank you.

9 MR. PICH ANG:

10 Mr. President, before our lunch adjournment you mentioned about
11 the scheduling of the document presentation on the roles of the
12 Accused and the joint criminal enterprise. And now you indicated
13 that the document presentation regarding the roles of the Accused
14 will go ahead next week rather. And I'd like to inquire further:
15 what will be the tentative schedule on the document hearing
16 regarding the joint criminal enterprise? Whether it will be done
17 after the roles of the Accused document presentation?

18 [13.44.57]

19 MR. PRESIDENT:

20 Thank you for your inquiry.

21 As the Chamber indicated, it is unlikely that we can proceed with
22 the document hearing on the two facts or things -- that is, the
23 roles of the Accused and the joint criminal enterprise. But after
24 the break, we received information from the Prosecution that they
25 are able to proceed with the document presentation regarding the

1 roles of the Accused, and that they can make that presentation on
2 Wednesday next week. So that's the new development, in order to
3 expedite the proceedings in this case.

4 Regarding the joint criminal enterprise policy, we will not set
5 the scheduling on this matter yet. The Chamber will decide in due
6 course on the appropriate time for the documentation hearing on
7 this particular fact. And, of course, we will inform the parties
8 prior to the scheduling so that you can prepare the document. So
9 that fact is separate from the documentation presentation
10 regarding the roles of the Accused. And the document hearing on
11 Wednesday next week is only related to the roles of the Accused.

12 [13.47.05]

13 I notice the national counsel -- defence counsel for Khieu
14 Samphan on her feet, you may proceed.

15 MS. GUISSÉ:

16 Yes, thank you, Mr. President. Good morning to everyone in the
17 courtroom, and to the parties and Your Honours.

18 I would like to make sure, Mr. President, that, as part of the
19 medical information, I would like to know whether the situation
20 of my client is also taken into account. The last certificate
21 dated the 22nd of January is the document we have in hand. It is
22 important for us to know how to proceed next week. All I have is
23 that medical certificate dated between the 22nd of January.

24 So I'd like to know what is the position of the Chamber regarding
25 next week's hearings. I am not sure that my client will be able

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1 to attend next week's hearings so I wanted to be sure that you
2 are taking into account his health status.

3 [13.48.14]

4 MR. PRESIDENT:

5 Thank you, Counsel, for the inquiry.

6 The Chamber received information regarding the health of the
7 accused, Khieu Samphan, and the Chamber expects that Khieu
8 Samphan will be discharged from the hospital, likely by this
9 weekend. And, if he is to be continually hospitalized, the
10 Chamber will inform the parties as well, because that is going to
11 be contradictory to the expectation of the Chamber regarding next
12 week scheduling. And we set that scheduling based on the
13 information and development of the health -- of his health. And
14 the doctor expects that he may be discharged this weekend.
15 However, we still adhere to the principle of conducting the
16 hearing in the presence of the Accused, pursuant to relevant
17 Internal Rules applicable before this Chamber.
18 And, if there is new development, of course, the Chamber will
19 inform all the parties.

20 [13.49.57]

21 I would like now to give the floor to the defence teams, starting
22 from Nuon Chea's defence, so that you have the opportunity to
23 comment or to express objections to the key documents presented
24 by the Prosecution and the Lead Co-Lawyers. Those documents are
25 related to the facts, as I mentioned this morning, additionally,

1 regarding the documents related to the military structure, as
2 presented by the Lead Co-Lawyers.
3 Defence teams, in addition, may also present further documents
4 related to these facts as I mentioned in E223/3 paragraph 4 --
5 that is, those documents related to those paragraphs except the
6 roles of the Accused and the joint criminal enterprise.

7 You may proceed.

8 MR. KOPPE:

9 Thank you, Mr. President. Your Honours, good afternoon. As
10 indicated earlier, we would like to give our observations and/or
11 objections by means of written submissions, and, after having
12 received instructions from our client, so no submissions at this
13 stage. Thank you.

14 [13.51.52]

15 MR. PRESIDENT:

16 Thank you, Counsel.

17 The floor is now given to Ieng Sary's defence. You may proceed.

18 MR. KARNAVAS:

19 Good morning, Mr. President. Good morning, Your Honours. Good
20 morning to everyone - I mean, good afternoon, I should say, to
21 everyone in and around the courtroom.

22 First, I have some preliminary remarks that shouldn't take more
23 than a couple of minutes. And then I have approximately five
24 minutes of remarks concerning the documents.

25 [13.52.26]

1 I profoundly regret having to again raise my client's health, but
2 I am compelled to do so in light of what I've learned as of the
3 lunch period. Dr. Kem Samsan, who is on duty today has indeed
4 indicated to us, to our case manager, Mr. So Mosseny that he is
5 not able to assess whether our client is capable of following the
6 proceedings even when our client is awake. Today he has been
7 mostly asleep because he was exhausted not having slept all last
8 night. And that can be verified with the doctor.

9 When Mr. So Mosseny asked the doctor to put this in the report --
10 that is that he was not sufficiently competent, given his
11 speciality, to make a medical finding as to whether our client
12 was capable of following the proceedings, he indicated that he
13 could not do so; he could not put that in the report unless he
14 contacted the board and was instructed by the board as to what to
15 put into the report because that is what is normally done.

16 [13.53.54]

17 Now, I find this rather interesting because exactly the same
18 thing was told to us yesterday, yet in the afternoon, we had a
19 report saying that our client can follow the proceedings from
20 downstairs.

21 If a doctor is not in a capacity to indicate whether our client
22 is able to follow the proceedings, how can they then make a
23 report saying that from down there they are following the
24 proceedings?

25 And why would a doctor who is on call to examine our client would

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1 then need instructions from the board which is not located in
2 this institution, on the premises, as to what he should put in
3 the report? In other words, it would appear, Your Honours, that
4 you are being misled by the doctors when they say that he can --
5 that Mr. Ieng Sary can follow the proceedings. Because if a
6 doctor is not professionally trained to make an observation then
7 they cannot; and such observations are nothing other than pure
8 mendacity.

9 [13.55.17]

10 Now, I understand your position -- we heard from the Prosecution
11 yesterday and we would chime in. We need to get doctors who are
12 actually able to make such assessments otherwise we should
13 dispense with this sort of daily report which, in fact, is
14 misleading. And it's our position that our client is not capable
15 of following the proceedings and he hasn't waived his rights. I
16 leave it to you, Your Honours, to decide what to do. Those are my
17 observations concerning my client's health.

18 With respect to the documents, I have three points to make. And
19 in making these points, let me begin by saying that I incorporate
20 all of my comments, all of my observations I have made -- we have
21 made previously as to documentary evidence of the sort that has
22 been presented here today, and therefore, I will not go into in
23 any great detail as to which document should be excluded. Because
24 we have talked about the sorts of categories, such as articles,
25 government documents -- government generated documents and what

1 have you. But for illustrative purposes, with respect to the
2 Prosecution's document, I would like to make reference to two in
3 particular.

4 [13.56.52]

5 One is the -- it's D199/26.2.132 which is also been numbered as
6 E3/2666, and this is the document that was drafted by a Mr.
7 Jean-Louis Toffin, the Ambassador of France to Thailand and
8 yesterday there was a lengthy presentation by the Prosecution
9 reading copious amounts of the document that was produced by the
10 Ambassador, wherein the Ambassador recounts what a general, Sor
11 Buon, had indicated to him.

12 And furthermore, the Ambassador's opinion and insight as to the
13 legitimacy or the veracity, I should say, of the information that
14 was provided to him by the general. So -- and this was produced
15 back in 23 June 1975. So we have a hearsay from hearsay, and now
16 it's being introduced in a very dramatic manner, well read,
17 perfect -- perfectly accenting the portions that the Prosecution
18 wishes to bring to the Trial Chambers attention.

19 [13.58.38]

20 To what extent can the Defence test the validity of this
21 information where neither the general nor the Ambassador will be
22 coming in to give evidence, or at least I'm unaware of? And, to
23 that extent, we would respectfully request that these sorts of
24 documents should not be considered by the Trial Chamber. They may
25 be informative in some respects but where there is no ability to

1 test the validity, where the Accused do not have the ability to
2 confront the witnesses, where you have a document that contains
3 hearsay, and the document itself is hearsay itself, the Trial
4 Chamber should simply disregard it, however well read into the
5 record by the Prosecution.

6 [13.59.47]

7 And I fully understand the procedure and so I will end it by
8 saying that, should you be tempted to rely on this document and
9 documents such as this one, to do so with great circumspection
10 and to certainly not give it any weight unless it can be
11 independently verified through other witnesses that do, in fact,
12 come in and give evidence.

13 The second piece of evidence -- documentary evidence that I wish
14 to comment on is actually the video that we saw yesterday. I
15 think it's the twelfth played -- video number 12 and that is
16 E186.1R, and if I am wrong, we hope the Prosecution will correct
17 us. I believe it began at 01.22-20.58.

18 [14.01.04]

19 Now, first of all, let me begin by commenting the videographer
20 for making the video. If anything, it -- perhaps is a lesson to
21 the Co-Investigating Judges and perhaps even the Prosecution on
22 how an investigation should actually be done; going out there,
23 meeting with the witnesses, getting testimony. Which begs the
24 question: why hasn't that been done? And instead, why is the
25 Prosecution relying on videos by a video maker and presenting it

1 as evidence and asking you, Your Honours, to accept that as
2 evidence? Would it not be more prudent to bring in any witnesses
3 who are actually either seen in the video or who may be available
4 to come and give evidence and to be subjected to
5 cross-examination and confrontation as all of the Accused are
6 entitled to a right guaranteed by the Cambodian Constitution.
7 So, again, when considering this sort of documentary evidence, we
8 would ask that you disregard it unless the witnesses come in --
9 the witnesses who are appearing in the video; not the video maker
10 but the witnesses who actually have something to say can come in,
11 be put under oath and provide evidence.

12 [14.02.29]

13 The alternative, of course, if you are tempted to simply accept
14 that, as it would appear the Prosecution has and the OCIJ has,
15 since it doesn't appear that the OCIJ actually did any real
16 credible investigation of its own other than relying on such
17 footage as this and DC-Cam investigation. Then, of course, give
18 little or no weight to it unless independently verified.

19 And, lastly, just briefly to comment on the civil party
20 statements that were right into the record, suffice it to say
21 that these are unsworn statements, unless they come in to give
22 evidence, they should be taken for what they are worth and to be
23 given the appropriate weight as provided by the Rules of
24 Procedure.

25 Thank you. I have nothing further to add and we have nothing - no

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1 documentary evidence to present at this point in time. Thank you
2 very much, Your Honours.

3 [14.03.39]

4 MR. PRESIDENT:

5 Thank you.

6 Now, I hand over to the counsel for Mr. Khieu Samphan. You may
7 proceed.

8 MS. GUISSÉ:

9 Excuse me, I won't take up too much of your time I have some
10 comments presented by the Prosecution and the civil parties. But,
11 at this initial stage, I would like to rectify a mistake that
12 came into the record to which my attention was drawn. And I have
13 to excuse - apologize to the interpreters because I am aware that
14 the mistakes that I intend to correct here are due to the fact on
15 Wednesday, the 22nd of January, I was speaking a little too fast.
16 So it will teach me to make an effort to speak slightly slower
17 and so that my statement of that 22nd of January should be clear
18 for all, rather than just Judge Lavergne. I will make it quite
19 clear what I said in French to the hearing of the 22nd of
20 January.

21 [14.05.12]

22 Slightly after 3.38 and 40 seconds, I'm looking at the draft
23 version here in French where I referred to memo E170 and the fact
24 that paragraph 4 of that memo says that there is no time planned
25 for the parties to reply to the documents presented. And what I

1 said in French about the Khieu Samphan team's position was that
2 is how we always envisaged these hearings -- document hearings
3 and that is why, so far, we have held the position that we have,
4 and it continued.

5 On the other hand, I have to point out that I had indicated this
6 morning that we have fully understood that the comments were open
7 for the Accused themselves but not for their defence lawyers. And
8 that is why I wanted to add this information in order to lend
9 understanding to the confusion so far. But that is what was said
10 in the memo, so do allow us to apologize for paying too much
11 attention to it.

12 [14.06.35]

13 Now, I believe I understood in English it seemed to be saying
14 that we hadn't read the Chambers memo and we hadn't paid
15 attention to it. Quite the contrary, it's important what we
16 understood in the memo was understood in fact, I think, by all of
17 the parties taking account of the email exchanges with the Senior
18 Legal Officer on the subject.

19 And, once again, I'm being asked to slow down; it's a very bad
20 habit I have here, but I must say that in this hearing of the
21 22nd of January 2013 at 3.41 answering Judge Lavergne on the
22 present position of the Chamber, taking account of the decision
23 handed down by Judge Cartwright, I answered, of course. Today
24 it's much clearer and now it's completely different to what we
25 read in the memo. I wanted for this version to be clear for the

1 entire procedure in English and in French. And having made this
2 remark, I'd like to come to my comments on the documents
3 presented by the Co-Prosecutors and the civil party Lead
4 Co-Lawyers.

5 [14.08.03]

6 My first point is that, clearly, the remarks made by my
7 colleague, counsel Karnavas, are entirely correct about the
8 documents he was talking about and we would endorse those
9 comments. I refer you to your decision 97/7, in which you refer
10 to the weight that you would give to this kind of document when
11 they are documents emanating from individuals who are not going
12 to come and testify, and I would ask you to apply your decisions
13 in that area.

14 Second, I would point out that in his presentation, the
15 prosecutor very skilfully – and we salute the work that was done
16 – sometimes at points where he was quoting certain documents --
17 inserted some video extracts. And I would like to make a comment
18 on that procedure which, if it is certainly very skilful and
19 requires a lot of work, it does also pose a problem in the way it
20 comes across in probative terms because the prosecutor quoted
21 documents with dates and, if I understood correctly, was
22 illustrating his comments with video extracts.

23 [14.09.38]

24 But, again, these were video extracts where we don't know exactly
25 where and when they were filmed and where the connection with

1 what is said in the statements is not always entirely clear. And
2 if such a montage can be accepted in a documentary, it may be
3 okay, but as a way of presenting something in a court of law it's
4 not acceptable because you are inserting elements that are
5 subjective ones depending on who was doing the filming and which
6 refer to certain circumstances that prevailed when the video was
7 being shot and which was not necessarily available to all of the
8 parties.

9 [14.10.27]

10 For example, when you see bodies stretched across the ground in
11 these pictures and you don't know the circumstances in which they
12 were killed -- and I do acknowledge the prosecutor's wish not to
13 put the commentary on a number of these videos because it might
14 have been not impartial -- but you don't know the date, you don't
15 the circumstances, you don't know who is lying there dead on the
16 ground, and the impression is therefore given that these videos
17 are directly connected to what was being read out.

18 To me, this is problematic when we discuss it in probative terms.
19 We have discussed these kinds of issues and we do need to draw
20 attention to this as it was done by the Co-Prosecutors.

21 The matter of the videos was also brought up by my learned
22 colleague, Mr. Karnavas, and in one particular video, "A Day in
23 Tuol Po Chrey" by Thet Sambath, which was broadcast on 23 January
24 - or, rather, shown here on 23 January in the afternoon.

25 [14.11.58]

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1 Again, this raises the issue of the statements raised by people,
2 made by people who are not going to come and testify here; it
3 isn't a question of adversarial procedures and respect for them.
4 Even if the journalistic work is of a very high quality,
5 nevertheless you cannot ask questions in a courtroom on some of
6 the contents. And there are matters that can be described as
7 speculative.

8 For example, yesterday at 15.42 we saw a young man who supposed
9 that there may well have been rapes. And there I think we're
10 really bordering the limits of the utility of such documents in a
11 court of law because, as I said, if there is not a witness who's
12 going to come into these hearings so as to be confronted by the
13 different parties' questioning, then these kind of documentary
14 pieces of evidence have to be very, very carefully and cautiously
15 treated. If you have a young man who is talking about his
16 memories of when he was aged 10 or 12, then problems do arise
17 when you are conducting a criminal trial.

18 [14.13.14]

19 That's what I wanted to say today on that particular subject, and
20 I reserve the right to make any further comments that my client,
21 who is absent today, may wish to add.

22 And I, once again, apologize to those in the interpretation booth
23 for occasionally speaking too fast. Thank you very much.

24 MR. PRESIDENT:

25 Thank you.

1 I hand over to the prosecutor. You may proceed.

2 MR. RAYNOR:

3 Mr. President, just a few points, please.

4 I'd first like to thank my -- counsel from the other side of the
5 Court, but for the Defence, for describing the presentation as
6 skilful and well-delivered. Certainly as far as the clips are
7 concerned, I felt they weren't Steven Spielberg but they would
8 nevertheless inform the Chamber.

9 I agree entirely with the representations or submissions that are
10 made regarding admissibility and weight being entirely different.

11 All this material is admissible.

12 As Her Honour Judge Cartwright made plain yesterday,
13 admissibility and weight are two entirely different legal
14 concepts, and we know that the Trial Chamber will take this
15 material in terms of assessing its weight.

16 [14.14.44]

17 And so that means with the extract from "The Brigadier", we
18 appreciate of course that you will look to other evidence in
19 terms of whether that is useful and whether it's corroborated by
20 any other accounts.

21 If I can pick up on one point raised by my learned friend, Mr.
22 Michael Karnavas, who poses the question: Will there be evidence
23 to corroborate evidence that was shown in the presentation? And
24 to give but one example, the Trial Chamber may have well in mind
25 an image that is shown on one of the video clips of a group of

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1 Lon Nol civil servants stood in a courtyard on 17 April. That was
2 a photograph taken by Al Rockoff. It may be, in due course, if Al
3 Rockoff appears as a witness, he may be able to tell the Court
4 what happened to those people. Thank you.

5 [14.15.53]

6 MR. PRESIDENT:

7 The National Lead Co-Lawyer for the civil party, you may proceed.

8 MR. PICH ANG:

9 Good afternoon, Mr. President, and good afternoon, Your Honours,
10 and good afternoon to everyone. I have two points to make in
11 relation to the observation by Mr. Michael Karnavas, the defence
12 counsel for Mr. Ieng Sary.

13 He mentioned about the professionalism of the medical doctor and
14 I would like probably to ask the Court to clarify the
15 qualification of the doctor as well as his professional
16 experience. I don't know whether or not the remarks by the
17 defence team for Mr. Ieng Sary is appropriate in relation to the
18 qualification of the assigned doctor.

19 My second point -- the point raised by counsel for Ieng Sary as
20 well as for -- and counsel for Khieu Samphan -- they mention that
21 in the series of videos played contain some of the witnesses and
22 they consider those video that they do not have any probative
23 values if the witnesses were not summoned to testify in person in
24 Court. I would like to make my observation on this particular
25 point.

1 [14.17.46]

2 Of course, there should be a possibility for the defence counsel
3 to request the summon of these potential witnesses to testify in
4 Court if the Accused -- the counsel for the Accused wishes to
5 ask. And if the defence counsel wants some of the civil parties
6 to come to testify in this Court, of course, those civil parties
7 would be happy to testify in this Court.

8 And I hand over to my international colleague to add to this.

9 MS. SIMONNEAU-FORT:

10 Just a few further words to respond to the Defence, in particular
11 the defence of Ieng Sary, concerning the documents that were
12 presented by the civil parties.

13 Firstly, generally speaking, I'm wondering if there is a way or
14 some form of rule or discipline in this Court for us not to come
15 systematically to debates that have already taken place on points
16 that have already been debated, particularly where decisions have
17 already been made. I am referring to civil party oaths and we
18 have exchanged memoranda on the subjects and the Chamber has
19 already given a decision on these oaths.

20 [14.19.15]

21 I would also point out that it is quite incorrect to suggest that
22 because the civil parties may not take oaths, what they say does
23 not have probative value. It's not because they do not take an
24 oath that those near 4,000 people are lying or at least have
25 somewhat exaggerated imaginative powers. And after you listen to

1 witnesses who do take oaths and civil parties who do not, after
2 listening to both for quite a few weeks, I think you can have a
3 certain idea about the honesty of the civil parties who do not
4 take oaths.

5 I would also point out that the Internal Rules, contrary to what
6 my learned colleague may have thought, do not say that you have
7 to give appropriate weight to statements by civil parties because
8 they do not take oaths. On the contrary, the fact that civil
9 parties don't take oaths is simply a part of civil law as it is
10 practiced here, and I'm sorry to have to repeat this fact.

11 I regret that we have to deal with hearsay about hearsay, but let
12 me simply say that with civil parties you have the statements by
13 people who were there between '75 and '79, who saw and who heard
14 and who lived situations very directly, and it's certainly not a
15 matter of hearsay about hearsay.

16 Thank you, Mr. President.

17 MR. PRESIDENT:

18 I note Counsel Karnavas is on his feet. You may proceed.

19 [14.21.16]

20 MR. KARNAVAS:

21 Thank you, Mr. President.

22 With respect to the doctor, we would invite the Trial Chamber to
23 invite the doctor to come and give evidence as to his
24 qualifications, if that is a question that troubles the civil
25 party lawyer.

1 With respect to the one comment made by the national lead lawyer
2 for the civil parties, that the Defence ought to call these
3 witnesses, including the civil parties, let me remind the
4 gentleman that the Defence does not have a burden of proof. This
5 is sort of a universal principle that is applied everywhere,
6 including in Cambodia and in - before this tribunal. It is not up
7 to us to call witnesses.

8 [14.22.03]

9 If, however, the Prosecution wishes or the civil party wishes to
10 rely on a particular statement, it is our position that the
11 better practice - recognizing the procedure, the better practice
12 is to have the witness come and give evidence and to be subjected
13 to cross-examination.

14 We're not suggesting that nothing comes in that has been taken as
15 a statement, but we do recognize and we do submit that those
16 statements do have limitations when it comes to the probative
17 value. And I take the point made by the prosecutor, that there is
18 a vast difference between admissibility and the probative value
19 to be given to a particular piece of evidence, especially since
20 we're dealing with professional judges.

21 With respect to the civil parties, first of all, we are entitled
22 to make comments; we were - we were asked to make comments. I
23 don't see why they get all worked-up, when we are merely doing
24 our job.

25 I think it is a fact of life and it is a fact to say that, when

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1 someone provides evidence that is not under oath, it
2 automatically should have less probative value because it is not
3 under oath. The reason we put witnesses under oath is because
4 then they are subject to the penalty should they lie under oath -
5 and it's called perjury.

6 [14.23.40]

7 An accused does not take an oath in a civil law system, as
8 opposed to the Common Law system, because a civil - because an
9 accused in the civil party (sic) is entitled to defend himself or
10 herself by any means, which means they can lie with impunity
11 because it is up to the judges to find the material truth. It is
12 not recommended, but in essence, that's what it is.

13 And we have never suggested - and let me be very clear to the
14 madam, that we have never suggested that the civil parties are
15 lying; we have never suggested that their statements have no
16 value; but we are pointing a fact, that: one, those statements
17 were provided without having taken an oath; and, two, when the
18 civil party is not here to be questioned at least, that even puts
19 the Defence at an even greater disadvantage because their
20 testimony cannot be challenged or cannot be examined.

21 [14.24.44]

22 Be that as it may - let me be very, very clear on behalf of the
23 Ieng Sary defence - we recognize the vital role of the civil
24 parties, we recognize that they are entitled to give statements
25 that are not under oath, and we do recognize that the Trial

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1 Chamber is perfectly permitted to consider their statements along
2 with all other evidence and to provide the appropriate weight
3 that those statements should be given.

4 And I shall continue, as my colleague Mr. Ang Udom will continue,
5 to make submissions when called upon to do so. Thank you.

6 (Judges deliberate)

7 [14.30.10]

8 MR. PRESIDENT:

9 In order to clarify the matter regarding the treating doctor of
10 the Accused at the detention facility and as indicated repeatedly
11 by the defence counsel for Mr. Ieng Sary, and the Chamber has
12 issued a rule on a number of occasions, including in writing.
13 And another matter in regards to the civil parties who are going
14 to be -- to testify before this Chamber and whether they would
15 need to swear, and that matter has been also ruled. We are here
16 practicing the civil law system and based on the Code of the
17 Criminal Procedure of the Kingdom of Cambodia as well as the
18 applicable Internal Rules of the ECCC.

19 [14.31.17]

20 And in order to clarify the matter further, I'd like to hand the
21 floor to Judge Cartwright to add more clarity to these matters.

22 You may proceed, Judge Cartwright.

23 JUDGE CARTWRIGHT:

24 Thank you, President.

25 Relating to the comments that counsel for Ieng Sary made about

1 his client's current state of health, the first issue is this --
2 and I repeat what the Trial Chamber has ruled clearly on at least
3 two occasions in the past -- the treating doctor is to report
4 directly to the Trial Chamber on any substantial changes in the
5 health of any of the Accused.

6 It is unhelpful for medically unqualified staff or lawyers to
7 press the treating doctor because he is clear that his report
8 must be direct to the Trial Chamber.

9 Finally, and because certainly my Khmer-speaking colleagues did
10 not understand the meaning of the word "mendacious", that is an
11 English word which means that the doctor is lying. That, of
12 course, is an inappropriate statement to make in court or
13 anywhere for that matter.

14 [14.32.58]

15 As to the discussion about whether or not civil parties should
16 take the oath and the consequences of that, we have had this
17 discussion on many occasions, and the Chamber is fully aware of
18 the responsibilities that it has and we do not wish to have this
19 argument repeated ad nauseam - or frequently, to omit the Latin.
20 Now, President, I think there was one final matter about the
21 scheduling for next week which you were going to indicate or do
22 you wish me to indicate that now?

23 [14.33.43]

24 Well, as to the scheduling for next week, we have given
25 indications that subject to the state of health of the accused,

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1 Nuon Chea, and to his willingness to waive his right to
2 participate, we will be hearing the witness whose pseudonym was
3 read out earlier, on Monday. The indications that we have had are
4 that Khieu Samphan will be discharged from hospital and will
5 therefore be fit to continue to participate next week.

6 We will return to the document hearing on Wednesday with the next
7 part of the presentation by the prosecutors on the roles of the
8 Accused.

9 And we will, of course, be adjourning tomorrow and, of course,
10 next Friday which is a national holiday.

11 I hope that that is sufficiently clear for your purposes,
12 President, and for the parties.

13 [14.35.20]

14 MR. PRESIDENT:

15 Thank you, Judge Cartwright, for the clarification and for
16 informing the parties and the general public in details regarding
17 the issues that have been faced by the Chamber and that the
18 Chamber has resolved.

19 As for us, the scheduling for next week's hearing.

20 The schedule for today's proceeding has come to a conclusion. The
21 Chamber will adjourn today's proceeding now, and we will resume
22 next Monday -- that is, 28 January 2013, commencing from 9 a.m.

23 [14.36.29]

24 And depending on the health of the Accused and another Accused
25 who is being hospitalized at the hospital currently, whether he

1 is willing to waive his direct presence, and that we would urge
2 Nuon Chea's counsel to notify the Chamber as soon as possible or
3 tomorrow regarding this matter and the scheduling for Monday next
4 week.

5 We will adjourn now.

6 And security guards, you are instructed to take the accused Ieng
7 Sary back to the detention facility.

8 The Court is now adjourned.

9 (Court adjourns at 1437H)

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