



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

ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ

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អង្គជំនុំជម្រះសាលាដំបូង
Trial Chamber
Chambre de première instance

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TRANSCRIPT OF TRIAL PROCEEDINGS

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Case File N° 002/19-09-2007-ECCC/TC

4 March 2015

Trial Day 252

Before the Judges: NIL Nonn, Presiding
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Jean-Marc LAVERGNE
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YA Sokhan
Martin KAROPKIN (Reserve)
YOU Ottara (Absent)

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I N D E X

Mr. VAN Soeun alias VANN Soeun (2-TCW-847)

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Questioning by Mr. KOPPEpage 58

List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
Ms. CHET Vanly	Khmer
Mr. DE WILDE D'ESTMAEL	French
Judge FENZ	English
The GREFFIER	Khmer
Mr. KONG Sam Onn	Khmer
Mr. KOPPE	English
Ms. GUIRAUD	French
Judge LAVERGNE	French
Mr. LYSAK	English
The President (NIL Nonn)	Khmer
Mr. VAN Soeun (2-TCW-847)	Khmer

1

1 PROCEEDINGS

2 (Court opens at 0904H)

3 MR. PRESIDENT:

4 Please be seated. The Court is now in session and today the
5 Chamber will continue to hear the testimony of the witness, Van
6 Soeun.

7 Ms. Chea Sivhoang, could you report the attendance of the Parties
8 and individuals to today's proceedings?

9 THE GREFFIER:

10 Mr. President, for today's proceedings, all Parties to this case
11 are present.

12 As for Arthur Vercken, the counsel for the Accused is absent and
13 Nuon Chea is present in the holding cell downstairs as he
14 requests to waive his right to be present in the courtroom. His
15 waiver has been delivered to the greffier.

16 The witness who is to continue his testimony today, Mr. Van Soeun
17 and his duty counsel, Mam Rithea, are present in the courtroom.
18 Thank you.

19 [09.06.09]

20 MR. PRESIDENT:

21 Thank you. The Chamber now decides on the request from Nuon Chea.
22 The Chamber has received a waiver from Nuon Chea dated 4th March
23 2015. He confirms that due to his poor health condition -- that
24 is, headache, back pain, and that he cannot sit for long and in
25 order to effectively participate in the future hearings, he

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1 requests to waive his rights to participate in and be present on
2 the 4th March 2015 hearing. He has been informed by his counsel
3 about the consequence of this waiver, that in no way it can be
4 construed as a waiver of his right to be tried fairly, or to
5 challenge evidence presented or admitted to this Court at any
6 time during this trial.

7 Having seen the medical report by the duty doctor of the Accused
8 Nuon Chea at the ECCC, dated 4th March 2015, who notes that the
9 health condition of Nuon Chea is that he has back pain and
10 dizziness when he sits for long, and recommends that the Chamber
11 should grant his request so that he can follow the proceedings
12 remotely from a holding cell downstairs. Based on the above
13 information and pursuant to Rule 81.5 of the ECCC Internal Rules,
14 the Chamber grants Nuon Chea's request to follow the proceedings
15 remotely from the holding cell downstairs by an audio-visual
16 means for today's proceedings as he waives his direct presence in
17 the courtroom.

18 The AV Unit is instructed to link the proceedings to the room
19 downstairs so that Nuon Chea can participate in and follow
20 today's proceedings remotely.

21 [09.08.28]

22 The Chamber would like to provide a narrative on interpretation.
23 Before the proceedings commence, the Chamber wishes to remind the
24 Parties that every time a person speaks into a microphone in this
25 courtroom<, > it must be translated into two other languages. In

1 order to get a proper record of these proceedings and to permit
2 the interpretation professionals to do their job, it is
3 imperative that Parties speak slowly and clearly. In addition,
4 long or complex sentences and compound questions may confuse
5 individuals who are testifying and are not amenable to accurate
6 translation. Parties should therefore endeavour to use simple
7 language and avoid putting multiple questions to a witness, civil
8 party or expert simultaneously. Rather than saving time, such
9 methods create further confusion, which may prevent the orderly
10 and expeditious conduct of these proceedings.

11 [09.10.19]

12 <The Chamber has> asked the interpreters to inform the Chamber
13 when the rate of speech is not conducive to proper translation. I
14 may also direct Parties to simplify questions when they are
15 overly long, complex, or compound in nature. And the Chamber
16 would also like to remind the national colleagues <of each party
17 that when the international> counsels or lawyers <speak or put
18 the questions within the framework of the case first,> please
19 assist <those> who speak a foreign language to slow down in case
20 he or she speaks too fast <by listening the interpreted
21 language.> Second, please, from time to time, look at the Bench<,
22 if> there needs to be a signal to the Bench to request for
23 instruction to slow down the speaker. This is actually a
24 repetitive reminder to all Parties regarding the interpretation
25 as it may have an impact on the transcription. During the last

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1 few days we have some issues with transcription records <in the
2 three languages> and in order to avoid further disruption or any
3 improper record and in order to make the proceedings effectively,
4 the Parties shall be reminded of this process on the
5 interpretation because we need accurate interpretation of the
6 person who speaks -- who is on the floor.

7 And now we would like to hand the floor to the Prosecution to
8 continue putting questions to this witness.

9 [09.12.27]

10 QUESTIONING BY MR. DE WILDE D'ESTMAEL RESUMES:

11 Thank you, Mr. President. Good morning to you, Your Honours and
12 members of the Chamber and the Parties.

13 <Good morning,> Mr. Van Soeun. I <examined you already at length
14 yesterday,> and I will continue today up to <about> 11 a.m.
15 Yesterday you <told the Chamber> that you <had been> a security
16 guard <and messenger> at Krang Ta Chan as from 1975. And<, as
17 part of your work, when you were delivering> messages to the
18 districts<, you had to carry> envelopes and you explained that Ta
19 An, the chief of the security centre, wrote handwritten messages
20 on those envelopes. And you said that you could recognise Ta An's
21 handwriting <at the time>.

22 Mr. President, I would like to give the witness a document, and
23 request that that document be placed on the screen<, with your
24 authorization>. And it is <document D232/73.2>; it is a single
25 page <in all three languages>.

1 MR. PRESIDENT:

2 Yes, you may proceed.

3 [09.13.53]

4 BY MR. DE WILDE D'ESTMAEL:

5 Q. Mr. Witness, may I request you to look at the portion that is
6 in the box at the bottom of the page, and on it is written:

7 "Education Centre 105. We have so far eliminated 15,000 enemies.

8 May I request the <Party> to take note<. District Education
9 Centre 105.> Signed: <> An".

10 Are you <able today> to identify that handwriting and tell us
11 whether it is Ta An's handwriting or not?

12 MR. VAN SOEUN:

13 A. I cannot say for sure whether that is his own handwriting
14 because it's been almost 40 years<>. <I am not sure about it
15 because I don't know where it was written.>

16 Q. And regarding the signature at the bottom, when you were at
17 Krang Ta Chan, did you see Ta An's signature? And, if yes, can
18 you tell us whether you <tell us if you recognize> this signature
19 <today>?

20 A. No, I do not recognise it.

21 [09.15.48]

22 Q. Regarding the number of entries and the procedure for
23 admitting persons to Krang Ta Chan centre, you gave a few
24 figures. You particularly stated -- and I <will> quote. In <your>
25 first record of <> interview D40/23, on page Khmer <(sic)>,

6

1 00223211; in French, 00490910 -- I gave the wrong number. The
2 English is 00223211; <and> in Khmer, 00165355.

3 I believe that your counsel still has the <records> of your
4 interviews with him. Is that correct?

5 Let me read what you stated.

6 Question: "Regarding prisoners <brought> to Krang Ta Chan centre,
7 in general, how many of them were there each time<>? When were
8 they brought in and by what means of transportation?"

9 Your answer was as follows: "They brought prisoners in two or
10 three <prisoners> at a time. There were about 20 to 25 prisoners
11 a month. They walked them in at night at about 7 or 8 o'clock."

12 Question: "Were the prisoners brought in restrained or shackled?"

13 Answer: "In general, the prisoners were brought in <with> both
14 hands tied behind them, <with two restraints,> one <> at the
15 <wrists>, and another at the <forearms>. And the <prisoners> were
16 tied <to each other> with a <rope, and they were made to walk>."

17 [09.17.53]

18 On the same page you stated that in each building there were
19 about 20 to 25 prisoners. And on the next page you pointed out
20 <that> there were three buildings housing detainees at Krang Ta
21 Chan <centre>, one of which was older than the others and wasn't
22 <used> very much<>. <With the Chamber's permission, regarding>
23 the figures you have given, I would like to show you a report,
24 Report E3/2109, given to the <Party regarding the month of>
25 November <1977>. I will request that only the first page of that

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1 report be placed on the screen <and I would like it to be
2 provided to the witness, if possible, Mr. President>.

3 MR. PRESIDENT:

4 Yes, you may proceed.

5 [09.18.56]

6 BY MR. DE WILDE D'ESTMAEL:

7 Q. <This is a> report <that was> already <corroborated earlier by
8 another witness>. I'll read <the beginning>.

9 "1. Prisoner <problems>. During <this month of> November<>, <> 75
10 <prisoners> entered. Total, 184 persons; purged, 92 persons; died
11 of illness, 6 persons; Angkar removed to <the region>, 1 person,
12 a Lieutenant Colonel. Total remaining now, 85 persons." End of
13 quote. So in this report of the Krang Ta Chan centre it is stated
14 that in <one month,> the month of November <1977,> there were 75
15 persons admitted, <for a total number of 184 prisoners, and then
16 that> 92 were purged and six died of illness. Does this refresh
17 your memory regarding the fact that <during certain months,> the
18 number of <entries and> executions was higher than the number you
19 gave the Co-Investigating Judges investigators?

20 MR. VAN SOEUN:

21 A. Regarding this point, I was not the one who made the
22 statistics <> <because I didn't know the purpose>, but yes, I
23 noticed that prisoners were brought in on a monthly basis and the
24 number varied.

25 [09.21.04]

8

1 Q. In this report it is stated that 92 persons were purged. In
2 the language used during that period, what <did> the word
3 "purged" mean?

4 A. The word "purged" means they were smashed, means executed.

5 Q. Were there periods <> which you could identify <-- or years -
6 in which there were> more entries and more executions at Krang Ta
7 Chan centre than in other years?

8 A. As I was not there on a regular basis<,> I didn't <have any
9 communication> inside <or outside> the compound. And that was in
10 addition to the fact that I was <> young<>.

11 Q. And when you say that you weren't there <on a regular basis,
12 is it because --> are you suggesting that you were outside of the
13 centre, since you were a messenger<,> that you went outside of the
14 centre?> Is that what you <mean>?

15 A. Yes.

16 [09.22.39]

17 Q. I would like to read out what Sim, your former colleague <from
18 the group of> security <guards> at Krang Ta Chan said regarding
19 the number of new entries. <It> is document D40/20. This is what
20 he stated. In Khmer, the ERN is 00165333; in French, 00524321;
21 and in English, 00433572. <So the following> question <> was put
22 to him -- and I quote:

23 "In general, how many prisoners had to be brought in each time?

24 Did the prisoners arrive <irregularly?>" Sim's> answer was as

25 follows: "Sometimes <there were 10 prisoners>, sometimes <there

1 were five of them>, sometimes <there was only one person>. Almost
2 every single day new prisoners arrived." At the hearing of the
3 19th of February, <Srei> Than, alias Duch, between 11.12 and
4 11.15, <specified> that the number of prisoners brought in <to>
5 Krang Ta Chan varied from three, four, even up to 20 prisoners
6 <depending on the> day. <Do these> two statements by Sim and
7 <Srei Than,> alias Duch, refresh your memory regarding the number
8 of new entries per day <or> per month, and the frequency with
9 which they came <to> Krang Ta Chan <centre?> Sim said they came
10 in practically every day.

11 A. The number of prisoners varied and yes, the prisoners were
12 sent in almost on a daily basis.

13 [09.25.10]

14 Q. In the extract I read out earlier, you stated that there were
15 about 20 to 25 detainees per building and <that> there were three
16 buildings. <This> is what Srei Than, alias Duch, a former
17 <typist> at Krang Ta Chan, said. He said this at the hearing of
18 the 19th of February 2015 between 11.14 and 11.16, and the
19 transcript number<, if I am not mistaken,> is E1/266.1. This is
20 what he stated: "There were two buildings at Krang Ta Chan. Each
21 building could house 50 to 60 prisoners." End of quote. <Were
22 there>, as <Little> Duch said, <> times when more than 50
23 prisoners were detained in each <detention building>?

24 A. Out of the three buildings, one building was very old <and
25 could hold only a few

10

1 prisoners>, and for the other two <new> buildings, yes, each
2 building could accommodate that number of prisoners.

3 Q. To the best of your recollection, do you remember a time that
4 was out of the ordinary when <larger groups> of prisoners --
5 approximately 100 prisoners -- <might have been brought> to Krang
6 Ta Chan in one go? Do you remember that <happening>?

7 A. No, I did not witness that.

8 [09.27.22]

9 Q. <You> were not always there, but do you recall <if sometimes
10 categories> of persons brought into Krang Ta Chan were directly
11 executed upon their arrival without having been detained and
12 without having been interrogated?

13 A. I'd like to state that the family members of Yeay Nhor, Ta Kun
14 and Boeun, were arrested, interrogated and killed just after they
15 arrived.

16 Q. Very well. I have indeed understood your testimony regarding
17 <the family of> Yeay Nhor, Kun and Boeun<>. But regarding <>
18 other <groups of prisoner>, do you have any information <or not>
19 to the effect that <some of those groups could have been> brought
20 to Krang Ta Chan <just> for the purpose of being executed and not
21 <to be detained>?

22 A. I was there; I did not see or witness such an event.

23 [09.29.02]

24 Q. <Can> you tell us who brought in the new prisoners to Krang Ta
25 Chan? Who accompanied them?

11

1 A. The people who brought them in <were> from the light
2 <offenders> prison<> <-- at the west of> Angk Roka market, <I did
3 not know where they were brought from. I only saw them after they
4 arrived>.

5 Q. You never saw militiamen accompany <prisoners> to the
6 entrance, <or to the gate,> to the external entrance of Krang Ta
7 Chan, <to bring> them to the centre?

8 A. That is correct.

9 Q. Was there any system set up when <new arrivals> would arrive
10 outside? Could the people accompanying them come into the centre,
11 or <did> they have to stay outside and <turn them over> to the
12 security guards?

13 A. They were brought and they were delivered to the compound
14 about one kilometre away from the detention.

15 [09.30.50]

16 Q. And how <were> the guards <or the staff of Krang Ta Chan>
17 centre, <notified> of their arrival? Was <there> any <way to
18 notify> the staff that <new arrivals were at the external
19 entrance> one kilometre <away>?

20 A. When they were brought to the point they were <directly>
21 brought in because there was no telephone, no iPhone, people
22 would travel on foot to the place.

23 Q. If there were no iPhones or phones, was there <> bell that
24 they <were supposed to> ring to say that <new people> were
25 arriving?

12

1 A. People were travelling on foot from place to place.

2 Q. I understood. <Did> the people accompanying new prisoners <and
3 delivering them to Krang Ta Chan had to> ring a bell to
4 <announce> that they had arrived?

5 A. The key and lock were at two levels, the one outside and
6 another one inside. And we would unlock the two keys to allow
7 people to bring in the prisoners.

8 [09.33.10]

9 Q. Okay, I will stop here with this topic. I'm going to get back
10 to your work as a messenger and <> about the communication
11 between the Krang Ta Chan centre and the district office. You
12 said in your second written record of interview, E319.1.33, at
13 question 230,<>which was the following:

14 <>"Did you deliver letters from the district office to the Krang
15 Ta Chan <centre>."

16 Answer: "No. Generally speaking, I would deliver letters from the
17 district office <-- to the district offices --> and then, four to
18 five days later, someone else would bring letters to the
19 <centre>." End of quote.<>

20 And in the same written record of interview, a little earlier on,
21 you said the following at question 29: "Did you know the
22 messengers <who delivered> letters from the <Tram Kak> Town Hall
23 to Krang Ta Chan?"

24 Answer: "Yes, there was a messenger <who delivered letters> from
25 the Town Hall <of the district> to Krang Ta Chan, and his name

13

1 was Horl, H-o-r-l. Many <> messengers <worked> at the district
2 <Town Hall> but only Horl would deliver the messages from the
3 district <> to Krang Ta Chan." <> You said yesterday that you
4 would go to the district office every day, or once every three
5 days. <Did this> Horl, the district messenger, <> come <as> often
6 to the Krang Ta Chan centre <> as you would go to the district
7 office?

8 [09.35.10]

9 A. Horl was always working with the district chief. He did not
10 often enter into the compound, but he would deliver letters at
11 the outside gate.

12 Q. Fine. So did he come often to the Krang Ta Chan compound to
13 bring mail? <You> said that you would bring letters to the
14 district office, <and that> four to five days later someone would
15 bring letters to the compound. <So, did he come> as often to
16 Krang Ta Chan <to deliver correspondence> as you <went> to the
17 district office to deliver <it there>?

18 [09.36.02]

19 A. I don't know that for sure <because, that day, when I
20 delivered the letter, sometimes they sent the letter back with
21 me. Sometimes they didn't,> and sometimes a day or two later<,>
22 the letter was sent <back> to the external gate of the centre<>.

23 Q. <When> you were a messenger at Krang Ta Chan, did you ever
24 meet a messenger who was also working at District 105, for Ta
25 Chim and Ta Kit, and whose name was Hy Toem, <H-Y T-O-E-M?> He

14

1 was <apparently> about 12 years old and <> he came from Cheang
2 Tong commune. Does that ring a bell?

3 A. I know only one messenger from the district office. I don't
4 know other young messengers. They were also young as me, but our
5 communication was not as friendly as other peoples, so <I just
6 delivered the letter, and then I came back,> so I did not talk to
7 them at the time.

8 Q. And I imagine you don't know the full name of <this messenger,
9 Horl, whom you mentioned? If> you know his name, <> can you tell
10 it to us?

11 A. I don't know his birthplace because I was young and he was
12 also young, I did not ask for his home village. And Horl was a
13 short guy, rather -- with rather white complexion, white skin.
14 [09.38.40]

15 Q. Fine. I <> would like to read out to you what your former
16 colleague, Sim, said to the Co-Investigating Judge. This is
17 document D40/20. <The> Khmer ERN <is> 00165332; French, 00524320;
18 English, 00433571. And the following question is put to him:

19 "<When you> were told during <meetings> that <it> was <the> day
20 <that prisoners> had to <be executed, from which region> did the
21 executioners come<>?"

22 Sim's answer -- and I'm going to use the English version here,
23 which seems to be a better translation, so Sim's answer in
24 English <is> the following:

25 "After the meetings, they had the <lists> that had been sent to

15

1 the district. When those lists were returned, I looked and saw
2 that the names lined through in red ballpoint pen, were the names
3 of those who had been taken away and killed." End of quote.

4 [09.40.25]

5 And further -- and I will switch back to French, <he also> said
6 the following: "But since <> this is <what I was told, the> names
7 of the people <that> were <underlined> in red had to be
8 liquidated."

9 "<Question:> What was the name of the person who told you that?"

10 "<Answer:> Duch, the typist; he is the one who knew it; he is the
11 one who told me." End of quote.

12 Did you also see <that the lists, the> documents in the hands of
13 the <those in charge of> Krang Ta Chan <had> annotations or names
14 that had been underlined in red <pen>?

15 A. I didn't witness anything like that.

16 [09.41.35]

17 Q. You said in your written record of interview, E319.1.33, at
18 question 54, which states:

19 "Did you notice anything strange after you had delivered letters
20 from the Krang Ta Chan Security Centre to the district office?"

21 Answer <54>: "Yes, <I noticed strange things:> there were
22 killings."

23 Question 55: "Did the executions occur before or after you
24 delivered the letters to the district office?"

25 Answer <55>: "After I delivered letters to the district, the

16

1 district would then transfer these letters to Krang Ta Chan and<,
2 finally,> they would <then> start executing people."

3 Question 56: "<These> letters were probably reports on prisoners
4 or confessions, is that so?" Your answer <56>: "Yes, that is
5 <correct>."

6 Question 57: "So<, first of all,> the Krang Ta Chan Security
7 Centre would send letters to the district, and then the district
8 would answer <Krang Ta Chan. Afterwards,> executions would <be
9 carried out. Is> that correct?"

10 You <answered>: "Yes, that is correct."

11 Question 58: "So this means that the district would take the
12 decision to execute. Is that so?"

13 "Yes, the district would make <the> decisions <on executions>."

14 End of quote.<>

15 According to your observations<, was it each time> --

16 [09.43.43]

17 MR. KOPPE:

18 Mr. President, I would like to object to this question. Not the
19 reading in itself, because that is indeed the question in
20 E319.1.33. However, the questions 54 between 58 are speculative,
21 because the witness has said also then, before the investigators,
22 that he didn't see the text or the content of the envelopes. So
23 repeating a speculative question within this document is again
24 asking for speculation. So it's asking for speculation because he
25 doesn't know what was in the envelope. So there's no connection

17

1 between the content of the envelopes and alleged executions, or
2 at least this witness cannot tell.

3 MR. DE WILDE D'ESTMAEL:

4 Mr. President, may I answer? The <questions> that <were> put by
5 the Co-Investigating Judges, or in any case by the investigators,
6 were based on prior statements of the witness<. It> was sort of a
7 summary of what the witness had already said. And<, having said
8 that,> I have not yet <asked a question, Mr. President>. I just
9 quoted from <a> record. And I was <getting> ready to put <a>
10 question, <and> I would like to be <authorized> to continue<>.

11 [09.45.12]

12 MR. PRESIDENT:

13 Yes, prosecutor, you may proceed.

14 BY MR. DE WILDE D'ESTMAEL:

15 Q. <According to your observations, each time a message was
16 delivered from District 105> to the Krang Ta Chan centre, <were
17 there> executions <that followed>?

18 MR. VAN SOEUN:

19 A. Yes.

20 Q. <Conversely>, would Ta An tell you during meetings that
21 executions <were to> take place without you having <noticed that>
22 a messenger <from the district had arrived beforehand at> Krang
23 Ta Chan?

24 A. No.

25 [09.46.27]

1 Q. Now I'm going to put to you a few questions regarding the Angk
2 Roka Detention Centre, <since> you spoke about <it> in your
3 <second> written record of interview E319.1.33. <> I'm going to
4 quote a lengthy passage and then I will put <> follow-up
5 questions to you afterwards.

6 First, answer 60<. I quote. You said>: "They would start <by>
7 arresting people in the commune and <by locking> them <up> at the
8 district hall for interrogation. Then they <would send them> to
9 Krang Ta Chan security office."

10 Question 61: "To your knowledge, who had the authority to issue
11 <orders> to arrest people?" Answer 61: "When there <were
12 conflicts in the> cooperative, the persons involved would be sent
13 to the district<, which would send them on to be interrogated.
14 Ultimately,> they would <escort them> to Krang Ta Chan."

15 Question 62: "What was the interrogation site <of> the district
16 office called?"

17 Answer 62: "I do not recall the name of <this> place<, which, in
18 any case, was located> about 300 to 400 metres west of <the> Angk
19 Roka <market>."

20 [09.48.03]

21 Question 63: "Did you ever go to that site?"

22 Answer 63: "I used to <bring> letters there."

23 Question 64: "Did you ever see any interrogations or arrests at
24 that site?"

25 Answer: "I saw <prisoners locked up> and shackled."

1 Question 65: "Was <the site where people were locked up> a
2 prison?"

3 Answer: "It was <actually> a prison <that was reserved> for light
4 offenders. Serious offenders would be <escorted> to Krang Ta Chan
5 security <centre>."

6 Question 66: "Who was responsible for interrogations <of that>
7 prison<, which was located> near Angk Roka?"

8 Answer: "Meng, <M-E-N-G, interrogated the prisoners and had
9 overall control over that prison>."

10 Question 67: "What was Meng's position?"

11 Answer: "Meng worked at the district hall but held no position.
12 He only supervised the prison."

13 [09.49.24]

14 At answer 69, you said <specifically> -- and I quote: "<It was a
15 detention site> for light offenders<.> Krang Ta Chan <brought
16 prisoners from its site to detain them at Angk Roka>."

17 Question 70: "What were the <> dimensions of the prison near Angk
18 Roka?"

19 Answer: "It was about six <by> seven metres, and it was entirely
20 made of wood."

21 Question 71: "<In your opinion>, who had the authority to <issue>
22 arrest <orders in> Tram Kak district?"

23 Answer: "<I think it was> the commune <that> issued arrest orders
24 and <that> prepared the case <files and forwarded them to the>
25 district<>."

20

1 Question 75: "How did you know that the commune <> had the right
2 to arrest people?"

3 Answer: "First, the cooperative <> reported to the commune<, then
4 the> militia <> would go arrest <> people and send them to the
5 prison near Angk Roka. <It escorted> serious offenders <> to
6 Krang Ta Chan<, but locked up> light offenders <> at Angk Roka.
7 <Someone in the> commune <> told me <about this>." End of quote.

8 [09.50.50]

9 Do you know if this prison, located close to Angk Roka, <was>
10 directly <subordinate to the security chief> of District 105, or
11 <did it depend on> Krang Ta Chan Security Centre, or <was> it was
12 linked to both? In other words, did An sometimes give direct
13 orders to Meng, who was the <chief> of Angk Roka prison?

14 A. I don't know anything based on what you quote on this matter.

15 Q. I only quoted from your record <of interview, Mr. Witness>.

16 How many times did you deliver messages to that prison, or to
17 that detention centre for light offenders at Angk Roka?

18 A. I went there <> two times.

19 Q. And you said that you saw prisoners who were locked up and
20 shackled. <Could you see about how> many prisoners were there <at
21 that time>?

22 A. The prisoners were detained there; they were accused of social
23 problems <such as rape,> or they raped young people, they stole
24 chickens or cassava for food<>.

25 [09.52.55]

1 Q. And<, at> both of these times<>, did you see Meng interrogate
2 prisoners?

3 A. I know Meng by his name, but I didn't see him when I went
4 there two times.

5 Q. You made a distinction here between light offenders who were
6 detained at Angk Roka and <serious> offenders who were
7 transferred to Krang Ta Chan. <Were the New People or the> 17
8 April People and <the civil servants> and servicemen from the Lon
9 Nol regime generally part of the <serious> offender group that
10 was transferred to Krang Ta Chan<, based on what you saw>?

11 A. During that regime, they didn't say 17 April People or 18
12 April People. What they said, "Your hair is on your head."<>

13 Q. <According> to you, there was no distinction between the Base
14 People living near Tram Kak <district> and the people who had
15 been evacuated from the cities, such as Phnom Penh or Takeo?

16 A. At that time, <at the beginning,> people were divided into 17
17 April People and 18 April People, but when anyone committed any
18 wrongdoing, they were not distinguished from the two categories,
19 <they said, "Your hair is on your head.">

20 [09.55.30]

21 Q. Do you know how long the light offenders, <so those who had
22 raped young people or> who had caused social problems <> would
23 stay at Angk Roka <prison>, and <do> you know what <happened> to
24 them in the end?

25 A. They called them to attend a <re-education> meeting, they give

1 instruction, and later they were sent back to the cooperative.

2 <>

3 BY MR. DE WILDE D'ESTMAEL:

4 Q. So, according to you, the prisoners at Angk Roka were not
5 executed. Is that what you wanted to say?

6 MR. VAN SOEUN:

7 A. Yes.

8 [09.56.40]

9 MR. DE WILDE D'ESTMAEL:

10 Q. Mr. President, with your leave, before the break, I would like
11 to show to the witness a document, which I would like to display
12 on the monitor. This is a document pertaining to <this> Angk Roka
13 Detention Centre; it's document E3/4093; <in> English, it's on
14 the first page, 00831486; <in> French, 00729674; <and in> Khmer,
15 <it's on two> pages, 00270786 <and> 87. <With> your leave, may I
16 provide this document to the witness?

17 MR. PRESIDENT:

18 Your may proceed, prosecutor.

19 (Short pause)

20 [09.57.58]

21 BY MR. DE WILDE D'ESTMAEL:

22 Q. <So this> is a message <sent> by a <certain> San. <In> the
23 French version, the name is <noted as> illegible, but in the
24 English version <it is> identified as San. <So, it's a message
25 sent by> San to Bong Chhoeun -- <C-H-H-O-E-U-N, beloved. It> is

1 dated 7 August, and there is no year mentioned<>. I'm going to
2 read this message.

3 "<Dear> Beloved <Bong> Chhoeun: With regard to prisoners from
4 Cheang Tong commune, <I> request <permission from you to take>
5 children that <are still attached to> their mothers. <If the
6 children were big, they should be sent> to the mobile <unit and
7 to the> children's unit<. Once they have arrived, they must wait
8 there. Only the mother will be taken. If these> children cannot
9 be separated from their mothers, <quite simply, they must be
10 brought in, as well. Once the> interrogation <> is finished,
11 <everything must be swept clean, everything must be thoroughly
12 purged>.

13 As for the widows from Trapeang <Thum> North<, they> are
14 currently staying at <> Comrade <Meng's place. I> request <you>
15 to sweep <everything clean, to thoroughly purge everything>.<>
16 San, 7th August." End of quote.

17 Witness, <is> this San<, who is> requesting <that> the <> mothers
18 <and their young children thoroughly purged>, <> the same person
19 as the chief of Tram Kak district<?>

20 MR. VAN SOEUN:

21 A. Yes, that name was the name of the district chief.

22 [10.00.30]

23 Q. Do you know that person called Bong Chhoeun to whom San
24 addressed <this> message?

25 A. Yes, I do.

1 Q. Can you tell us who he was and what his <job was>?

2 A. Chhoeun was also at Krang Ta Chan and he was one of the six
3 Party members there.

4 Q. And in that message<,> San <addresses> one of the <six> Party
5 members <and> says that they should <purge> or sweep clean <the>
6 widows from Trapeang Thum <North> who <are> in Comrade Meng's
7 home. These persons, who, according to the district head, had to
8 be <purged or> swept clean, were they executed <near> Angk Roka
9 Detention Centre or at Krang Ta Chan?

10 MR. PRESIDENT:

11 Counsel Victor Koppe, you have the floor.

12 [10.02.10]

13 MR. KOPPE:

14 Thank you, Mr. President. Maybe I missed it, maybe something went
15 wrong in translation, but what exactly did the Prosecution say
16 about the illegibility of the name on the Khmer document? I think
17 I heard him say that we can read the name San in English. But of
18 course, that's not a point of reference -- the point of reference
19 is the original -- or the copy of the original version of this
20 document. So, I'm not quite sure exactly what the Prosecution
21 said, whether we can read the name San on the Khmer document.

22 [10.02.51]

23 MR. DE WILDE D'ESTMAEL:

24 Mr. President, what I said <is> different. What I said <is> that
25 <there was an original in Khmer, that> the French translators

25

1 were not able to read the name of the person who <had> signed
2 that message<. However,> the English translators were able to
3 decipher the name, and it was, indeed, San. <So, there> is no
4 doubt <about> the original. The doubt has to do with the
5 <translations, that there> was a distinction that was made<, and
6 we know that this sometimes happens in this court. May> I resume
7 my examination of this witness, Mr. President?

8 MR. PRESIDENT:

9 Yes, prosecutor, you may continue.

10 BY MR. DE WILDE D'ESTMAEL:

11 Thank you. So we have a message <that you have> identified as a
12 message written by San addressed to a member of the Krang Ta Chan
13 leadership, and <the last part of this message specifies that,
14 regarding the> widows from Trapeang Thum <North who are at Meng's
15 place>, San <asks Chhoeun to sweep everything, to purge
16 everything thoroughly>.

17 Q. So my question <> is whether <you know if> there were
18 executions carried out near Angk Roka <detention> centre, or
19 whether those executions were carried out at Krang Ta Chan?

20 MR. VAN SOEUN

21 A. I did not know about that.

22 [10.04.38]

23 Q. The term "to sweep<>", <which is used here,> is this <a>
24 synonym <for purge? Earlier you said that to purge> meant to
25 <smash or to execute, I think>.

1 A. The words "to sweep clean" means to execute, but I did not
2 know about the widows or the women with the children.

3 MR. DE WILDE D'ESTMAEL:

4 Very well. I will show you another document. <It> is E3/4099<.
5 It> is a report to Angkar by a person called Meng.

6 Mr. President, may I request your leave to <provide> this
7 document <to the witness> and to have it <displayed> on the
8 screen?

9 MR. PRESIDENT:

10 Yes, Prosecutor, you may proceed.

11 [10.06.11]

12 BY MR. DE WILDE D'ESTMAEL:

13 In Khmer it is <page> 00270976, and I believe it goes onto the
14 second page. In French it is 00858037; and in English, 00322122.
15 To sum up, this is a report to Angkar sent by Meng dated the 10th
16 of January 1977, and Meng is requesting Angkar to consider the
17 case of four persons sent by the <communes,> to interrogate them,
18 and to monitor them. Among <these> four persons, <> the first is
19 called Thach Ang, Thach is <spelled: T-H-A-C-H and Ang: A-N-G>,
20 and it is stated that it is a Khmer from Kampuchea Krom, who was
21 a soldier with the rank of <corporal, and who had stolen
22 potatoes.>

23 Another person is called Sao <Phan>, Sao written as <S-A-O, Phan
24 P-H-A-N, who> was a <staff> sergeant <> who <had> boasted that he
25 had <> 10,000 <riels> and <a> forged <laissez-passer>.

1 <Is this> Meng, <the author of this document, the Meng> who
2 headed the Angk Roka prison?

3 [10.08.12]

4 MR. VAN SOEUN:

5 A. I did not know about this.

6 Q. In the report, mention is made of <> former Lon Nol <soldiers.

7 I will ask you the> question <again>:

8 <At Krang Ta Chan, did you learn that> there were former Lon Nol
9 soldiers or <former Lon Nol civil servants who were> imprisoned
10 <there>?

11 A. Regarding this matter, I can say that I was part of the guard
12 unit so I did not know where those people had been or from where
13 they came.

14 Q. Very well. Perhaps this will be my last line of questioning
15 before the break.

16 Regarding the description of the buildings and <sites> at Krang
17 Ta Chan, <you first mentioned an arsenal;> let me quote what you
18 stated. It is <the record of interview E319.1.33>:

19 Question 172: "Were you armed when <you were> guarding
20 prisoners?"

21 Your answer was: "No. I guarded the soldiers but I was not armed
22 because the weapons had to be kept in the <arsenal> during the
23 day." End of quote.

24 [10.10.06]

25 I don't know how you translate "arsenal" in Khmer, but <it is a

1 place> where weapons are kept. Can you tell us where the arsenal
2 at Krang Ta Chan centre was in relation to Ta An's office or in
3 relation to the <> detention buildings?

4 A. Regarding the weapons in the warehouse, in fact at night-time
5 we were given a firearm each and by morning they would be
6 collected and locked in a warehouse.

7 Q. Very well; how about <at> night? What <kind> of weapons <were
8 you given>? Were they <> firearms <or knives>?

9 A. It was AK47 and M16 rifles.

10 [10.11.23]

11 Q. You stated in the same record of interview <in> answer 177 <--
12 first, the question:

13 "Did you hear any noises when> prisoners were being executed,?"

14 Answer: "I heard the sounds of people being beaten <to death>,
15 but I did not hear <any> screams <because> the prisoners <had
16 become> too weak <to scream>. They killed people by striking them
17 with the backs of hoes and bamboo clubs."

18 Were the <backs of> hoes and bamboo clubs used for killing
19 prisoners also kept in the <arsenal>?

20 A. No, they were kept outside the warehouse.

21 Q. Did you see these backs of hoes and bamboo clubs, <and> how
22 did you know that these were the weapons that were used <during
23 the executions>?

24 A. I did not see them as I only guarded and worked outside.

25 [10.13.05]

1 Q. And yet you told the Co-Investigating Judges that <it was with
2 the backs of hoes and bamboo clubs that> people were being
3 killed<>. Were <swords> also kept in the arsenal or outside <of
4 the arsenal>, for purposes of executing people?

5 A. No, I did not see them.

6 MR. PRESIDENT:

7 It is now convenient to have a short break. We will take a break
8 now and we will resume at 10.30 to continue our hearing of the
9 testimony.

10 And Court officer please assist the witness during this break,
11 and invite him as well as his duty counsel to the courtroom at
12 10.30 this morning.

13 The Court is now in recess.

14 (Court recesses from 1014H to 1033H)

15 MR. PRESIDENT:

16 Please be seated. The Court is now in session and before handing
17 the floor to the Co-Prosecutor, the Trial Chamber wishes to
18 confirm that the instruction for putting simple <and less
19 complicated questions>, but we found that still there were some
20 -- so many questions are complicated<,> so the Parties should
21 keep <their lines> of questioning simple <in order to get
22 accurate answers. So> that we can be sure to ascertaining <> the
23 truth.

24 The floor is now given to the Co-Prosecutor. Now you may proceed.

25 [10.34.54]

1 BY MR. DE WILDE D'ESTMAEL:

2 I will pay particular attention to that, Mr. President.

3 Q. Before the break, witness, we were speaking about the arsenal
4 where the weapons were stored during the day. If I'm not
5 mistaken, you still haven't told me <exactly> where this arsenal
6 was located and maybe you could tell us where it was in relation
7 to Ta An's office? Was it far from Ta An's office?

8 MR. VAN SOEUN:

9 A. I would like to confirm that the arsenal -- it was not a large
10 warehouse for weapons, it was just a wooden box where they
11 <could> lock those rifles inside <in the morning>.

12 [10.35.52]

13 Q. And where was this wooden box located? Was it in a home, in an
14 office?

15 A. It was kept inside the compound.

16 Q. Fine, but that's not very precise. Was it Ta An who was
17 <keeping> these weapons or was it someone else?

18 A. He was in charge of everything inside the compound.

19 Q. Fine. You also said in your record <of interview>, D40/23; in
20 Khmer it's at ERN <00165354> to 55; <in> French, 00490909; <and
21 in> English, 00223210 -- and I quote: "I saw <that> the prisoners
22 <were> being shackled and that they beat them to force <them> to
23 answer during the interrogations." And later you said: "The
24 <prisoners> were beaten during the interrogations with <sticks
25 and> with rattan whips." End of quote.<>

31

1 Where were these <sticks> and rattan whips stored that were used
2 <on prisoners> during the interrogations? Was it in this arsenal
3 or was it elsewhere?

4 A. They were not kept together<. The weapons were kept in the
5 arsenal, and> the clubs and whips were kept at the place of the
6 interrogation.

7 [10.38.31]

8 Q. And regarding this place, where <was the interrogation site>
9 in relation to Ta An's office and in relation to <the detention
10 buildings>? Was <> it to the north, <to the south,> to the east,
11 <or> to the west of Ta An's office?

12 A. It was inside the compound. It was about 30 metres away from
13 his office.

14 Q. Thank you. And in which direction? North, south, east, <or>
15 west?

16 A. It was to the south of his office.

17 Q. Was there a kitchen <that was> very close <> to <the site>
18 where <people> were interrogated?

19 A. Yes. The kitchen was to the east of the interrogation place.

20 [10.40.06]

21 Q. <Were these interrogation sites> in a closed building or were
22 there several <sides> that would allow you to see what was
23 happening inside?

24 A. The <walls> of the interrogation hut <were> not covered all<.
25 They only covered half of it>.

1 Q. I'm going to quote <to you now> what Sim said, your former
2 colleague. In his record, D40/20 at Khmer page 00165334; <in>
3 French, 00524322; <and in> English, 0044 -- I think I have an
4 extra number here<, so I'm not sure> -- 3357 <, I believe>.

5 Question put to Sim: "Do you know how <the> prisoners <that were
6 taken> were interrogated<>?"

7 Answer: "When I would cook rice next to that place, I would
8 always take advantage to look at what was happening secretly<. So
9 I was able to see> that prisoners were being beaten during the
10 interrogation. Sometimes their heads were covered with plastic <>
11 and they were beaten while being asked questions.<> Some
12 prisoners were beaten to death and they would die right <at the
13 interrogation site>." End of quote. <>

14 [10.42.13]

15 Do you agree with Sim? Did you observe that during the
16 interrogations, plastic bags or plastic <sheeting> was used
17 against the prisoners?

18 A. Yes. I went into the kitchen three or four times. I witnessed
19 the same as Sim did.

20 Q. Did you hear members of the Krang Ta Chan leadership speak
21 about cold methods <and> hot methods that would be used during
22 the interrogations?

23 A. No, I didn't hear that.

24 Q. <Well,> I know that you said that you did not personally
25 attend any executions because you were told to guard <the

1 external grounds of Krang Ta Chan> during the executions, but do
2 you know, <nevertheless>, where the prisoners were executed and
3 then buried? For example, if you can place the interrogation
4 <site>, was it to the south, to the east, to the west<, or to the
5 north> of the place where people were buried after having been
6 executed?

7 A. In the compound of the centre<>.

8 [10.44.35]

9 Q. Fine. Were there several places? Would the places change over
10 time? And can you tell us where the bodies were buried in
11 relation to the place of interrogation? To the north, to the
12 south, to the east or to the west?

13 A. It was to the south of the kitchen.

14 Q. Fine. In another excerpt of your first record <of interview,>
15 D40/23, <on> Khmer page 00165353; <in> French, 00490907; <and in>
16 English, 00223209. And the following question is put to you --
17 and I quote:

18 "Aside from the tasks you <have just mentioned>, do you remember
19 <being assigned other tasks>?"

20 Answer: "They had me guard outside when they killed prisoners <at
21 the Centre>."

22 Question: "<Since you were on duty outside, how could> you know
23 that <> they <were killing> prisoners?"

24 Answer: "I <found out during a> meeting." End of quote.

25 Who would call and chair over the meetings each time executions

1 were to happen?

2 A. It was Ta An who did that.

3 [10.46.55]

4 Q. And what would Ta An say during these meetings regarding these
5 executions?

6 A. After the meeting of the Party members and then they told to
7 the guard outside to be careful with the guard and do not allow
8 anyone to escape.

9 Q. You said in your second record, E319.1.33, at answer 212 --
10 the question was:

11 "Were <the> children also <executed>."

12 Answer: "Sometimes they were killed and sometimes they were
13 released with their mothers." End of quote.

14 When you said <that> "sometimes they were killed and sometimes
15 they were released with their mothers", were there more mothers
16 with their children who were killed at Krang Ta Chan <than> those
17 who were released?

18 A. I don't recall this very well.

19 [10.48.48]

20 Q. <When> you refer <> to children who were released with their
21 mothers, do you have any specific examples in mind? Any names,
22 for example, of prisoners who may have been released?

23 A. <There> were <> Yeay Nhor <and Yeay Rath,> and <Yeay Nhor's
24 children>, including Kha, Khom, and so on. And later Bei, the
25 child of Yeay Rath. That's all I can recall.

1 Q. So if I <> sum <> up <the names you remember, or the people
2 for whom children were released with the mothers, it amounts to>
3 a few people<. Is it> fewer than 10 people?

4 A. Yes, you are correct.

5 Q. Your former colleague, Srei Than alias Duch alias Sarat, said
6 the following in his written record of interview D232/93. <The>
7 question put to him <is> question 53<>:

8 "Would the prisoners sometimes released?"

9 Answer: "Some were released <so> they <could> go home, but 99 per
10 cent of the prisoners were liquidated." End of quote.

11 Do you agree with Duch regarding the fact that the <overwhelming>
12 majority of prisoners were liquidated on site?

13 A. Yes, I agree with this statement.

14 [10.51.25]

15 Q. <Regarding> the <> small percentage that remained<>, were
16 these people released or were <> some transferred elsewhere? For
17 example, to Meng's prison? <Do you know if this occurred?>

18 A. When they were released<,> they were sent to their home
19 villages.

20 Q. Do you know if Sen, whom you <met> there -- <so,> Say Sen --
21 and other prisoners <> were asked to make palm wine from what
22 they would pick from the sugar palms?

23 A. Yes, I know him.

24 Q. I did not understand your answer. <Do you confirm that they>
25 would <> make palm wine<,> or liquor -- alcohol -- during that

1 period for the Krang Ta Chan staff?

2 A. Yes. <They produced> a bottle or sack of sour sugar palm.

3 Because I was young, I did not drink those kinds of sour sugar
4 palm.

5 [10.53.32]

6 Q. Fine. <Did> the six members of the Party of the leadership
7 unit at Krang Ta Chan <> drink alcohol on a regular basis?

8 A. I saw only three people, Sim, Moeun and <Cheng> who would
9 drink this kind of alcohol.

10 Q. Do you know if human <organs>, such as gallbladders, were
11 taken from <> prisoners to be added to <this alcohol>?

12 A. <> I didn't know about this.

13 [10.54.52]

14 Q. I'm going to <> finish with the detention conditions at Krang
15 Ta Chan between '75 and '79. You <> described these conditions <>
16 in the places where the prisoners were detained <in great detail>
17 in your <first> record <of interview,> D40/23; in Khmer, it's at
18 pages 00165355 to 57; in French, at 00490910 to 11; and <in>
19 English, 00223211 to 12<. In particular,> you said:

20 "When the prisoners were brought to the compound, the prisoners
21 were placed into detention <sites, with> both feet shackled<.

22 Then,> a metal rod <> was inserted <underneath the ankles>

23 through the shackle rings. There were about 10 prisoners shackled

24 to each other per row and there were two rows in the buildings

25 detaining the prisoners."

1 And later, you said<:> "Sometimes the prisoners would be
2 handcuffed by their wrists and<, at the time,> the handcuffs were
3 called automatic handcuffs <and> 8-shaped handcuffs<. These>
4 8-shaped handcuffs were used to handcuff a prisoner by his two
5 wrists. <As for> the automatic handcuffs<, we> used <them> to tie
6 two prisoners together, each by <one> wrist."

7 [10.56.58]

8 At the following answer, you said: "When the prisoners wanted to
9 relieve themselves, they called out for us -- the guards -- and
10 <we went to take off> the <> handcuffs <from one wrist, while
11 another wrist was attached by handcuffs> to another prisoner."

12 <We> will skip a question<, then ask again:> "So <after> the
13 prisoner <> had relieved himself, did he not get to clean up?"

14 <You> answered: "No, <he was not able to> clean <himself>."

15 Four questions later: "In each detention building, did any
16 prisoners die? <If, yes of what>?"

17 "Yes, some died of hunger <and from torture used> to get
18 confessions<. When> a prisoner had been <struck too hard>, he
19 would die when he would return to the detention building. There
20 were also prisoners who died because of insect bites, but
21 especially they died of hunger."

22 And finally, you said at the question: "When <> prisoners fell
23 ill, <> what <was done>?"

24 <> You answered: "There was no <medical staff> there. <Prisoners>
25 who were sick just lay there moaning and <then> died. <>" End of

1 quote.

2 Do you know why the prisoners were treated in this way<? Because>
3 they <did not have enough> water, <you also said elsewhere that>
4 they <did not have enough> food and also <that> there was no
5 medical care<.What was the point of keeping them> in such
6 conditions?

7 A. I don't know the reason why, nor did I know their plan for
8 doing so.

9 [10.59.28]

10 Q. When a prisoner died <in a house --> of illness, or as a
11 result of beatings received during interrogations <>, who <was in
12 charge of removing> them from <the detention> building? Were they
13 taken out by guards, like yourself, or <by> other prisoners <who
14 worked in the prison>?

15 A. That was carried out by the people who worked inside the
16 compound.

17 Q. When you say people working within the centres, do you mean
18 prisoners or staff members working at Krang Ta Chan <>?

19 A. They organised people; for example, in the case of Sen. So
20 they used the internal force there to carry out that task.

21 Q. Very well. Apart from Sen, was <there> a person called Ta
22 <Chin who was> also responsible for taking out bodies for burial?
23 <Chin is spelt as C-H-I-N or sometimes C-H-E-N.>

24 A. There was one person by the name of Ta <Chin> but he died.

25 [11.01.28]

1 Q. Last question, witness, before I give the floor to the civil
2 parties.

3 <In hindsight, are the memories you have now of the period during
4 which you worked at> Krang Ta Chan <> painful <memories? And,> if
5 yes, can you explain <> to us <why>?

6 A. <To this day,> I feel <> pain because four of my uncles were
7 detained there and they all died. And one of my aunts also
8 detained -- was detained and died there.

9 Q. Did they die there before you got there or while you were
10 already there?

11 A. They died before I was assigned to work there.

12 MR. DE WILDE D'ESTMAEL:

13 Very well. Thank you, witness, for your patience and for your
14 answers. <With your authorization, Mr. President,> I will now
15 give the floor to the civil parties.<>

16 [11.03.04]

17 MR. PRESIDENT:

18 Thank you, Prosecutor. And the Chamber would like now to give the
19 floor to the Lead Co-Lawyers for civil parties. You can proceed.

20 QUESTIONING BY MS. VANLY:

21 Thank you, Mr. President. And good morning, Mr. President, Your
22 Honours, and good morning everyone in and around the courtroom.
23 My name is Chet Vanly. I am a lawyer for civil parties. And good
24 morning, Mr. Witness, Van Soeun. Yesterday <> and this morning,
25 you have testified on many points to the Chamber and that would

1 shed light on justice for this Court. And I'd like you to do the
2 same for certain questions that I will pose to you to supplement
3 all those points that you have responded so far and in the
4 interests of time, allow me to begin my questioning.

5 Q. In your statement -- that is, D40/23; Khmer, ERN is 00165353;
6 and in English, 00223209; and in French, 00490907; you stated
7 that you were assigned to guard<, > and <they said that, "If <>
8 people escaped,> we would <be there."> Can you explain to the
9 Court what you meant by that?

10 MR. VAN SOEUN:

11 A. Yes, I <would like to clarify> that. What I stated in the
12 statement<, "If they escaped, we would be there,"> means if a
13 prisoner escaped, it means we -- the guards -- would be <> in
14 <the prison instead. No one would need to arrest us. We would be
15 in prison instead.> And that's what they said at the time.

16 [11.05.14]

17 Q. Thank you. So you had a serious burden on your shoulder --
18 that is, to guard that security centre. Am I right?

19 A. For us who stood guard outside -- yes, the burden fell on our
20 shoulder. <It was true that "if they escaped, we would be
21 there."> It means we <did> not need to be arrested, we <would be
22 in> the prison <instead. And that's what they said.>

23 Q. Thank you. In performing your duty as a guard with <five>
24 other members of your unit, and as you stated yesterday to this
25 Chamber, your main duty was to guard outside. Can you also tell

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1 the Court, in term of the assignment to guard, what were the
2 details of the duty that you had to perform?

3 A. We were instructed to pay particular attention to the
4 prisoners <> to make them confess<,> and to <question them>
5 properly. But as for us, we did not engage in those work. We only
6 <engaged> in the working in the rice fields or to carry <the soil
7 of termite> mound<. In the rainy season, we did rice farming. In
8 the dry season, we carried the soil of termite mound> or the
9 earth from the bottom of the pond <to put in the paddy fields.
10 That's all.>

11 [11.07.00]

12 Q. Out of your six member unit, can you tell the Court the
13 specific duty for each member?

14 A. Yes. We were assigned different work but I did not know the
15 details of the assignment and I was <> young<, so I was ordered
16 to work outside before them>.

17 Q. Thank you. Also in your response <175> and <176> in document
18 E319.1.33, you stated that you were told for you the outside
19 guard, it means you guard -- you would stand guard outside and
20 for the staff working inside, they deal with the business inside
21 the compound. Can you elaborate a bit further on this point?

22 A. <I would like to clarify this phrase, "Those who guarded
23 outside had to guard outside the compound, and those who guarded
24 inside had to guard inside the compound." It means that it was
25 when they smashed the prisoners. I want to emphasize this.>

1 [11.08.28]

2 Q. Thank you. Does it mean when you were assigned to guard
3 outside, it was the time that they were executing prisoners; is
4 this correct?

5 A. Yes.

6 Q. Thank you. During the execution, do you know who were the
7 executioners?

8 A. They were the six Party members.

9 Q. Can you tell the Court the names of those members -- Party
10 members?

11 A. They were An, Penh, Chhen, Moeun, Chheang and Chhoeun.

12 Q. Thank you. Have you come across <the names> Khorn <and> Ruos?

13 A. Before 1975 <when> I arrived there, <I heard> these two
14 <names, Khorn and Ruos,> but I did not meet them<>.

15 [11.10.05]

16 Q. Did you know of their roles or positions at the Krang Ta Chan
17 office?

18 A. No. I did not know their background. I only heard that Khorn
19 <was> from Vietnam.

20 Q. Was he also a perpetrator <of the killing>?

21 A. I did not know about that.

22 Q. I'd like to read an extract from your statement before the
23 office of OCIJ, based on document E319.1.33. In question/answer
24 193, "To your knowledge" -- which reads:

25 "To your knowledge, did you know only Khorn and Ruos were the

1 <perpetrators of the killing>?"

2 Answer: "There were five Party members who were perpetrators of
3 the killing: Chhieng, Penh, Moeun, Ruos and Khorn. I met Penh 10
4 years ago. Now he's dead. As for the rest, I do not know."

5 Question/answer 191: "How do you know that Khorn and Ruos were
6 the <> perpetrators?" Answer: "In fact one of my uncles was
7 detained there at Krang Ta Chan office and he was killed there.
8 My <father> had asked me to search for him and asked people about
9 this and later they told me not to talk about it again."

10 Are these your statements? Can you tell the Court whether Khorn
11 and Ruos were the perpetrators of the killing at Krang Ta Chan
12 office?

13 [11.12.24]

14 A. My statements are correct. However, in that statement, <> it
15 refers to what I spoke with Ta Chhen<. I asked him that> because
16 <he> had been at Krang Ta Chan office <for a long time. I did not
17 speak with Ta Khorn and Ruos>.

18 Q. Thank you. Did you yourself participate in any interrogation
19 process of prisoners <> at the Krang Ta Chan office?

20 A. No I did not.

21 Q. Did you ever see or hear about the interrogation process?

22 A. During the interrogation process, I mostly was not there. I
23 was sent to water vegetables or to plant vegetables <outside the
24 compound. I mostly watered the vegetables.>

25 [11.13.40]

1 Q. Mr. Van Soeun, among the six members of your guard unit, did
2 you ever hear them talking about the interrogation process, that
3 prisoners were beaten and the materials used to beat those
4 prisoners?

5 A. Yes, there was torture during the interrogation because there
6 were clubs, rattan whips and bamboo clubs, et cetera. In
7 addition, and most importantly, they would suffocate those
8 prisoners with plastic bags during the interrogation process.

9 Q. Thank you. Can you also tell the Court about some points that
10 I will put to you? Before prisoners were killed, was there a
11 meeting held that staff or guards were given specific
12 assignments?

13 A. During -- before the interrogation -- the execution took
14 place, we were assigned to guard outside and we were warned not
15 to allow any prisoners escape. <That was what they told us.>
16 [11.15.14]

17 Q. Did you hear or did you know that they assigned people to dig
18 pits or to force prisoners to dig pits or to prepare a certain
19 specific period of the day for the execution of prisoners? <Did
20 you ever see or hear that?>

21 A. That was the business for the internal people working inside
22 the compound and I was not aware of it.

23 Q. Thank you. I'd like now to move on to another subject.
24 Yesterday, you testified before the Chamber that you were a
25 district soldier and you were assigned to Trapeang Pou village

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1 for one month to wait and arrest any CIA agent. Can you also tell
2 the Court, before you were assigned to go there, was -- were you
3 given any specific instructions before you were sent out to catch
4 or arrest those CIA agents?

5 A. Before I was sent out on the assignment to catch CIA agents, I
6 was not given any specific details. However, only when I was
7 there, I was told that we were there in order to catch CIA agents
8 but during the more than one month period that I was there, there
9 was no sign of any CIA agent.

10 [11.17.06]

11 Q. Thank you. Can you tell the Court what you mean by CIA or CIA
12 agents? How they identified CIA or CIA agents? Were they
13 considered enemy? Please provide explanation to the Court. Who
14 were considered CIA or who were considered enemy?

15 A. CIA was those who were considered to infiltrate into the rank.

16 Q. What about the term "enemy"?

17 A. The term "enemy" referred to traitors.

18 Q. Can you also tell the Court in terms of the word "enemy", was
19 "enemy" applied only to Base People, to New People, or the 17
20 April People, or the 18 April People, or the former civil
21 servants of the Lon Nol regime?

22 A. The word "enemy" was determined for those who stole chicken or
23 potatoes or <broke or lost> cooking utilities in the cooperative
24 <in that regime>. Those people were considered enemy.

25 [11.18.57]

1 Q. Thank you. While you were a district soldier, did you ever go
2 to lend hand to the people working in the rice fields at the
3 cooperative?

4 A. While I was a district soldier, I did assist the people in the
5 rice farming, in particular during the rainy season at Cheang
6 Tong commune, at Kus commune, at Popel and Trapeang Thum Khang
7 Cheung communes.

8 Q. Besides going down to assist the people in the rice fields at
9 the cooperative <and at the worksites>, did you, as a district
10 soldier, understand about the situation of the <security and the>
11 enemy at the <base>?

12 A. No. That was a separate business. The district <soldiers> did
13 not have any involvement with <> the base.

14 Q. Thank you. Your district <soldiers>, how many soldiers were
15 there?

16 A. It was referred to as a <100-member unit or company chief> and
17 usually, the real force was <from> 50 to 70 <members, and they
18 also called that the 100-member unit>. As for the <50-member>
19 unit, <later on, it consisted of> more than 10 <or 12 members
20 only, and it was also called a 50-member unit>.

21 [11.20.45]

22 Q. And who was overall in charge of the district <soldiers>? Was
23 the administrator of the district or was it controlled by the
24 Party?

25 A. I only know Chhoeun (phonetic) who was <> a companion

1 commander, <and I knew Ta Phin later on. B>ut I did not know
2 specific commander for each unit underneath.

3 Q. Thank you. While you were with the district <soldiers>, was
4 your station or barracks located at the district or was it just
5 based on a house of a villager within the district?

6 A. While I was <> with the district <soldiers>, we were based
7 along the foot of the Damrei Romeal Mountain.

8 Q. Thank you. Yesterday, you stated that at the Krang Ta Chan
9 office, six Party members led the office, including An, Penh,
10 Cheng, <Chhoeung,> Moeun, <and Chhoeun>. Does it mean the six
11 people have the rights to make decisions to execute people at
12 Krang Ta Chan office?

13 A. When there was a letter from the upper echelon<,> they would
14 make that decision based on that letter.

15 [11.22.42]

16 Q. As for you yourself, what was your role in term of a Party
17 membership? Were you a Party member or were you in a Youth
18 League?

19 A. No, I did not belong to any of these two because I was very
20 young. <I survived by following them.>

21 Q. What about the <other five members in your unit,> did they
22 belong to the Party membership or did they belong to the Youth
23 League <or were they the core forces?>

24 A. No. Those five members did not have any position in the two
25 sections that you've just stated.

1 MS. CHET VANLY:

2 Thank you very much for your response and in the interests of
3 time, I don't have any further questions for you and I'd like to
4 hand the floor to my international counterpart.

5 MR. PRESIDENT:

6 Thank you. And the International Lead Co-Lawyer for civil
7 parties, you have the floor.

8 [11.23.55]

9 QUESTIONING BY MS. GUIRAUD:

10 Thank you, Mr. President. Good morning everyone. Witness, my name
11 is Marie Guiraud. I am <a> Civil Party <> Lawyer<, and> I have
12 only two questions to put to you, in principle.

13 This morning you <told us> that the interrogation <site> at Krang
14 Ta Chan was open and <you said> that you <had seen> prisoners
15 being tortured. You <> said that bamboo clubs or plastic bags
16 were used. <And> I would like to put two questions to you
17 regarding the treatment that was meted out to <> prisoners who
18 were women.

19 Q. My first question is as follows: During your stay at Krang Ta
20 Chan, did you see women who were detainees <> who <> were
21 undressed <to nakedness by the guards or by any security staff>?

22 MR. VAN SOEUN:

23 A. Regarding this point, in fact my aunt told me about it. My
24 aunt was detained there for three years and they used a rope to
25 hang the neck. <When I was working there, I did not see this kind

1 of torture. To this day, her neck still has the scar .>

2 [11.25.38]

3 Q. Thank you. I wanted to know whether women who were <prisoners
4 -- and specifically, when they were interrogated --> were
5 <subjected to particular treatment that was> different from <the
6 treatment received by> men. <And, specifically, did you,
7 yourself, see or did your aunt perhaps tell you that> women
8 <were> undressed before or during <their> interrogations?

9 A. During the interrogations, as my aunt told me, they used a
10 rope to hang at her neck. However, later on when I was there, I
11 did not see any prisoners who were tortured that way during the
12 interrogation process.

13 Q. Thank you. A while ago, you talked of bamboo clubs <and>
14 plastic bags that were used to torture prisoners. <Did you see
15 pliers?>

16 <A. No, there were none in that place.>

17 THE INTERPRETER:

18 Mr. President, we did not get the exact word used by Counsel
19 Giraud in her question.

20 JUDGE FENZ:

21 There is an interpretation issue. Please repeat the question.

22 [11.27.23]

23 BY MS. GUIRAUD:

24 Thank you, Mr. President. I will repeat my question.

25 Q. A while ago, you talked of bamboo clubs and plastic bags that

1 were used as instruments <of> torture<>. Did you see <> pliers<>?

2 MR. VAN SOEUN:

3 A. I did not see any pliers at that location.

4 Q. I just wanted you to react <, witness --> and this will be my
5 last question <-- to some information that we gave to> Say Sen,
6 during his examination in February last year -- and I will
7 <simply> quote an <excerpt> of his record <of interview in
8 E1/257.1. And he said, on that day,> at about 10.09.54, in answer
9 to <the> question<>:

10 "Did you ever <see or hear that> detainees <had their> nails
11 <ripped out> during interrogations?<" , and he replied: "No, I
12 didn't know anything about that. I knew that> pliers <were> used
13 to <hurt women prisoners and to pinch their> nipples<>."

14 [11.29.09]

15 I <wanted to know> whether you saw <or heard about treatment that
16 was reserved for female prisoners during interrogations using>
17 those pliers<>.

18 A. No, I did not see it.

19 Q. Last question. <In your opinion, did the> women <> detained at
20 Krang Ta Chan <-- and specifically, when they were being
21 interrogated -- suffer a fate> different from <that of the>
22 men<>?

23 A. No, I did not know the details since I was not there directly.

24 MS. GUIRAUD:

25 Thank you, witness. Thank you, Mr. President. I have no further

1 questions.

2 MR. PRESIDENT:

3 Thank you.

4 It is now convenient and - rather, I'd like now to hand the floor
5 to Judge Lavergne.

6 [11.30.20]

7 QUESTIONING BY JUDGE LAVERGNE:

8 Thank you, Mr. President.

9 Witness, I will have a few quick questions to put to you to try
10 to clarify certain points.

11 Q. You said that, at Krang Ta Chan, there were two people called
12 Duch who were working there. There was Duch, who came from the
13 district; and there was another Duch, who was part of the same
14 unit as you. Do you know what the duties were of <> the Duch <who
15 came> from the district? What were his duties at the district
16 level?

17 MR. VAN SOEUN:

18 A. Duch who was from the district office, he was the chief of the
19 district youth unit.

20 Q. And what were his duties? What did they consist of?

21 A. I don't know all of his duties.

22 [11.31.48]

23 Q. You also spoke <yesterday> about a certain Duch who was also
24 called Sarat. <So> who was Sarat? Was this the Duch <who came>
25 from the district or was this the Duch <that worked> with you in

1 the guard unit?

2 A. Duch alias Sarat, was the one who was the guard <just like
3 me>.

4 Q. Was that his name or was that a nickname? Was there a specific
5 reason <he was called> Sarat?

6 A. At that time, he was called Duch but <I just heard he was
7 called> Sarat. I don't know the reason behind that.

8 Q. And back then, was he called Little Duch? Is that a nickname
9 you heard?

10 A. Yes. He was called Little Duch and another one was called Big
11 Duch.

12 Q. You explained that, in your unit, there <were> other guards
13 <with you,> for example, <Saing> and Sim. You also said that
14 before arriving at Krang Ta Chan, you <had been> at the Damrei
15 Romeal Mountain and at the village of Trapeang Lean or Trapeang
16 Pou. Were Saing and Sim <also> with you <> there?

17 A. At that time we were in different units and when we met we
18 were at Trapeang Pou village.

19 [11.34.29]

20 Q. And Little Duch -- was he with you, as well, at Dramei Romeal
21 or <at> Trapeang Pou?

22 A. Only Little Duch who was always with me because he was in my
23 group -- in the same group.

24 Q. So Little Duch was always with you<, from> Takeo all the way
25 to the Dramei Romeal <mountain>, the village of Trapeang <Lean>,

1 Trapeang <Pou,> and at Krang Ta Chan<>. Did you arrive at the
2 same time as he?

3 A. Yes.

4 Q. You said yesterday that you were part of the Krang Ta Chan
5 staff and that you would receive <instructions> from Ta An and
6 from Penh. Would you also receive orders from the military
7 authorities -- from the regiment you had belonged to? Or would
8 you only receive <instructions> from Ta An and from Penh?

9 A. <It was completely separated.> When I was at Krang Ta Chan, I
10 would receive orders only from Ta An but when I was <there,> I
11 was receiving orders from <Ta Phin. After I left, there was only
12 Ta An.>

13 [11.36.28]

14 Q. Yesterday you said that you stayed at Krang Ta Chan until
15 1979. Can you confirm that?

16 A. Yes.

17 Q. <Did> Little Duch stay with you at Krang Ta Chan until 1979<>?

18 A. No. Little Duch was removed from the place earlier.

19 Q. Aside from Little Duch, who <did the typing>?

20 A. Ta An would do the typing by himself.

21 Q. I don't remember what you said concerning this but do you
22 remember having heard loudspeakers <operating> at Krang Ta Chan?

23 A. Yes, I remember.

24 Q. <Under which circumstances would these loudspeakers be used?
25 When> would these loudspeakers start working and why?

1 A. They would play music on loudspeakers when they <smashed> the
2 prisoners.

3 [11.38.42]

4 Q. <Earlier,> you said that you would not hear -- <when the
5 prisoners were executed,> you would hear the beatings <they
6 received> but <that> you would not hear their cries because they
7 no longer had the strength to yell. But would you hear the sounds
8 of the loudspeakers?

9 A. They <did not have> a loudspeaker. <They had two small
10 speakers> to play music -- to make sound.

11 Q. You also spoke <earlier> about the sanitation conditions and
12 you said that <you had noticed that,> in the detention buildings,
13 there were many bugs and you <even> said that some prisoners
14 would die because they were bitten by these bugs. Can you confirm
15 this?

16 A. I did not <go in there and check>.

17 MR. PRESIDENT:

18 Counsel, you may proceed.

19 [11.40.24]

20 MR. KONG SAM ONN:

21 I am sorry Mr. President. I would like to interrupt the
22 questioning by the Judge. So it seems to us that the time is
23 passed for the lunch break <at 11.30> so the Chamber should
24 respect to the decision by itself because we need some time for
25 our client, Mr. Khieu Samphan, to have a proper rest.

1 MR. PRESIDENT:

2 Judge Lavergne, do you have more questions to put to the witness?

3 If so, could you defer to put to this witness in the afternoon?

4 BY JUDGE LAVERGNE:

5 I have a very small question that might take 30 seconds of our
6 time. <So perhaps we could finish.>

7 Q. Witness, did you see people from the district hospital <come
8 to kill -- well, to spread pesticides> to kill insects <at Krang
9 Ta Chan and kill the bugs>?

10 MR. VAN SOEUN:

11 A. There was one time that they <came>.

12 [11.41.51]

13 MR. PRESIDENT:

14 Thank you, Judge Lavergne, and the witness. It is now time for a
15 lunch break. We would resume at 1.30 this afternoon.

16 Court officer, please coordinate the witness for his rest for the
17 lunch break and have them back into the courtroom and also his
18 duty counsel at 1.30 this afternoon.

19 Security personnel are instructed to bring Mr. Khieu Samphan to
20 the room -- and that is courtroom -- and have him back into the
21 courtroom this afternoon before 1.30.

22 The Court is now in recess.

23 (Court recesses from 1142H to 1333H)

24 MR. PRESIDENT:

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

1 Before the Chamber hands the floor to the defence counsel for the
2 Accused to put questions to this witness, the Chamber would like
3 to notify all the relevant parties that 20 minutes towards
4 remaining of this hearing session -- that is, <3.40> to 4.00, the
5 Chamber will give the floor to the Parties, in particular to Nuon
6 Chea's defence, to provide oral arguments and reasons for their
7 submission to adjourn hearings of certain witnesses<,> so that
8 they could review relevant documents that the Co-Prosecutors'
9 request to have them transferred from Case 004 into the current
10 case and in particular<, two witnesses,> 2-TCW-803 and 2-TCW-809,
11 who have been scheduled by the Chamber to testify from <tomorrow
12 afternoon> onwards. So, once again, the Chamber will spend 20
13 minutes of the remaining session today before we adjourn the
14 hearing to provide the floor to all the concerned parties. And
15 I'd like now to hand the floor to Judge Fenz.

16 [13.36.30]

17 JUDGE FENZ:

18 Just to clarify, in case there was a translation issue. The 20
19 minutes are not to provide arguments on the complete motion,
20 because this hasn't been filed yet and we're not dealing with
21 non-filed motions. However, we note that one part of the motion
22 which has already been mentioned in the email pertains to the
23 next witness, so please, arguments in the afternoon are
24 exclusively to be focused on the reasons why 803 and 807 should
25 be deferred. Sorry 809.

1 MR. KOPPE:

2 Thank you, Judge Fenz, I'll be happy to do that later this
3 afternoon. If you -- if the Bench now gives us oral permission to
4 file in one language, then it is filed. The reason it's not filed
5 yet, because we're still being busy translating.

6 JUDGE FENZ:

7 We are not complaining. It's just an issue that our national
8 colleagues can't read it and I think with an issue like this,
9 everybody should be in a position to understand your arguments.

10 [13.37.45]

11 MR. KOPPE:

12 I fully appreciate that, but then, wouldn't you think it would be
13 more appropriate to await the full Khmer translation of our
14 motion and have our arguments first thing, or sometime in the
15 morning, tomorrow morning when we're finished with our
16 cross-examination.

17 JUDGE FENZ:

18 When do you expect the translation?

19 MR. KOPPE:

20 Probably sometime during the course of the morning, tomorrow
21 morning.

22 JUDGE FENZ:

23 823 is scheduled as the next one. He's already here as a reserve.

24 MR. KOPPE:

25 I understand that, that's why we've tried to do it as fast as

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1 possible but -- well it's up to you to balance full understanding
2 of our motion in Khmer language versus -- we also understand the
3 position of the next witness, but that's up to the Bench.

4 MR. PRESIDENT:

5 Judge Lavergne, you have the floor.

6 [13.39.04]

7 JUDGE LAVERGNE:

8 Yes, I would <just> like to make a correction because <I'm
9 hearing references to> Witness <823 or 843, but this afternoon,
10 it is only> Witness 803, and <perhaps> Witness 809<, so> the
11 <applications should concern these> two witnesses. <And> 20
12 minutes <will be given to> the Defence and the other parties <to
13 respond>.

14 MR. PRESIDENT:

15 Thank you, Judge. The Chamber would like now to hand the floor to
16 the defence team for Nuon Chea first to put the questions to this
17 witness. You have the floor.

18 QUESTIONING BY MR. KOPPE:

19 Thank you, Mr. President. Good afternoon, Mr. Witness. I would
20 like to start asking a few questions about some people who were
21 detained at Krang Ta Chan.

22 [13.40.10]

23 Q. Mr. Witness, I would like to start with reading a short
24 excerpt from your statement to Investigators of the Investigating
25 Judge, and that is <E319133 (sic)> and question A90, the question

1 is -- and I read as follows:

2 "Do you know about arrests made in Srae Kruo village?"

3 "Initially, in 1977" -- your answer -- "they arrested members of
4 two families, including wives and children from the village of
5 Srae Kruo, but later, in 1979, they released the wives and their
6 children back into the village. I was the one who led the wives
7 and children back to the village. Four other people were also
8 arrested and sent to Krang Ta Chan prison."

9 Question 91: "Do you remember their names?"

10 And your answer -- and I quote: "The members of the first family
11 were Kun, the husband of Yeay <Nhor> and their children Kha, Rat
12 and another one whom I cannot recall. Kun was detained at Krang
13 Ta Chan prison. The members of the second family were Rat
14 (daughter of Kun and Yeay <Nhor>), who was married to Boeun, a
15 detainee at Krang Ta Chan prison. The other four people included
16 Soth, San, and two other people whose names I cannot recall. Ta
17 Soth and Ta San were detained at Krang Ta Chan prison and
18 survived to the end of the Khmer Rouge regime. But I do not know
19 whether they're alive or dead now. Soth and San lived in Srae
20 Kruo village."

21 [13.42.20]

22 And the final question 92: "Are any of them living today?"

23 And you replied: "Yeay <Nhor> lives in Srae Kruo village."

24 Mr. Witness, is that an accurate description of your answer that
25 you gave to the Investigators?

1 MR. VAN SOEUN:

2 A. Yes. It is.

3 Q. In your answer to the investigators in <D40/23>, page 4 of the
4 English version -- that is, ERN English, 00223210; Khmer,
5 00165354; and French, 00490909. Mr. Witness, in your answer you
6 referred to Yeay <Nhor>, Grandmother Nhor as your aunt. Is that
7 correct, is Grandmother Nhor <in fact> your aunt?

8 A. There are two grandmother Nhors. One was my aunt<, and there
9 was another Yeay Nhor. There were two of them. Today, her husband
10 was in the army, and they> used to live at Ampil Bay Dam
11 (phonetic) during the Lon Nol regime, but I haven't met her <till
12 now>.

13 [13.44.13]

14 Q. So Grandmother Nhor who is the mother of Rath and Kha is not
15 your aunt, am I understanding you correctly?

16 A. Yes.

17 Q. Mr. Witness, in your answer to the Investigating Judges,
18 <E319.1.33>, in question A167, you are saying on the question:
19 "Did you ever communicate with any one the prisoners?" And your
20 answer, "I often gave food to them, such as to Yeay <Nhor>. She
21 still praises me for that today." Who is -- is this your aunt
22 that you are referring to or not your aunt that you are referring
23 to?

24 A. In that instance, I did not refer to my aunt. <But I often
25 snuck out some rice for her.>

1 [13.45.38]

2 Q. Very well. In your statement, D40/23, in the middle of -- on
3 top of page 7 -- that is, English, ERN 00223213; Khmer, 00165357;
4 and French, 00490912, the question is: "Do you know whether the
5 survivor Yeay <Nhor> is living? And your answer: "I know Yeay
6 <Nhor>. She is at Srae Kruo village, Cheang Tong sub-district.
7 Because she visits me often with her children and grandchildren
8 since she survived because of me having given her food to eat."
9 Is my understanding that this is not the mother of Rath and Kha
10 that you are referring to, but the other grandmother <Nhor>?

11 A. Yes, <that is correct. My> aunt Nhor <is another one>.

12 Q. Are you also in contact with the other Grandmother Nhor, the
13 mother of Kha and Rath, or not at all?

14 A. At present time, yes, we maintain our contact between the two
15 families.

16 [13.47.32]

17 Q. Would you be able to tell us how often both families meet with
18 each other, let's say in the last five or 10 years?

19 A. Usually I would see her at her house with the family once or
20 twice a month because sometimes I travel across her place of
21 residence.

22 Q. Now you're talking about your aunt, but my question was: Would
23 you be able to tell us if and when the two families met with each
24 other in the last five or 10 years?

25 A. Since she <has> left to live along the border, I <have> lost

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1 contact with her <to this day>.

2 Q. Let me rephrase my question. In the last five or 10 years,
3 have you spoken to Meas Sokha and his mother? Have you spoken to
4 Say Sen about anything?

5 A. Please repeat your question. <I couldn't follow it.>

6 [13.49.09]

7 Q. My question is about the contacts that you had with other
8 families, with other grandmother Nhor, the mother of Ka and Rath.
9 Are you meeting them often, are the two families meeting each
10 other often? Could you shed some light on that?

11 A. I have not visited her at her home during the last two months.
12 <But normally, I visited her.>

13 Q. Fair enough. How about the last five years or 10 years?

14 A. Usually I would be invited to attend any religious ceremony
15 and she would send her children to come to invite me to attend
16 it.

17 Q. Have you talked to any of - to members of your family or
18 members of the other family, Grandmother Nhor, et cetera, about
19 events that happened during the regime of Democratic Kampuchea?

20 A. My relationship or contact with Yeay Nhor family was social
21 one and we did not talk about what happened during the DK regime.
22 <She asked me to forget about that and that we just kept in touch
23 with each other. That was what she said.>

24 [13.50.59]

25 Q. Okay. Thank you, Mr. Witness.

1 In your statement to the Investigating Judge, <E319133 (sic)> in
2 answer 223, you state as follows:

3 Question: "Can you give me the names of any of those who survived
4 the Krang Ta Chan Prison that you know?" And your answer: "Yeay
5 <Nhor> presently lives in Srae Kruo village, Cheang Tong commune,
6 Tram Kak District; Yeay Rath lives in the United States of
7 America; Soth and San lives near Yeay <Nhor>."

8 How do you know, Mr. Witness, that Yeay Rath lives in the United
9 States of America?

10 A. When I went to visit Yeay Nhor, Yeay Nhor told me about it.

11 First, Yeay Nhor - Yeay Rath went to study in Vietnam and then
12 she returned to Phnom Penh. She then got married and she went to
13 live in the United States.

14 Q. Did she tell you how long her daughter lives in the United
15 States already?

16 A. I did not know when she left for America as I did not ask
17 about it.

18 [13.52.42]

19 Q. Did you ever yourself speak with Rath?

20 A. I met her in 1979.

21 Q. Did you ever speak recently to Rath?

22 A. Since she went to the United States of America, I have not met
23 her or spoken to her.

24 Q. Maybe I didn't get that answer, but do you know around which
25 year she went to the United States?

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1 A. <I do not know.> Yeay Nhor simply told me that she went to the
2 States.<I did not ask about her departure date.>

3 Q. Did she tell you in which city Rath lives?

4 A. No.

5 [13.54.04]

6 Q. What is the relation -- do you know -- between Say Sen and
7 Grandmother <Nhor>?

8 A. You talk about Soy <Ser> (phonetic), I do not know any person
9 by the name of Soy <Ser> (phonetic) but if you refer to Say Sen,
10 yes, I know that person.

11 Q. I apologise for my pronunciation. I mean Say Sen, the person
12 we spoke about earlier during your testimony. Do you know what
13 his relation is, if any, with Grandmother Nhor?

14 A. No. I don't, and I don't have any contact with him either. He
15 was also a former prisoner there.

16 Q. Do you know if she, Grandmother Nhor, considered him, Say Sen,
17 as her foster son or adopted son or some equivalent of that?

18 A. No, I don't know the relationship between Say Sen and her.

19 Q. Do you know if Say Sen had a different name in the period
20 between 1970 and 1979?

21 A. No, I don't know. I only know his name as Say Sen.

22 Q. Does the name Khut <Sen> (phonetic) mean anything to you?

23 A. No, that name doesn't ring a bell.

24 [13.56.36]

25 Q. Mr. Witness, we spoke earlier about Rath and about her

1 husband, Mom Boeun. Do you know anything about the reason why Mom
2 Boeun was arrested and detained at Krang Ta Chan?

3 A. No, I don't know anything in that regard; I only saw him when
4 he was sent there.

5 Q. When exactly he was sent there, we will get back to that
6 later, Mr. Witness.

7 Do you know anything about the reasons for the arrest and
8 detention of the husband of Grandmother Nhor, Meas Kun?

9 A. No, I don't.

10 Q, When I say that they might have had an argument with the
11 village chief Nop (phonetic), does that refresh your memory?

12 A. No, I don't know anything about that and I also did not ask
13 her about it.

14 [13.58.19]

15 Q. Do you know anything about allegations against Mom Boeun,
16 husband of Rath, of raping an April 17 person with the name of
17 Khorn, coming from Ou Svay Chek?

18 A. No, I don't.

19 Q. Coming back to the question whether Mom Boeun and Meas Kun and
20 their respective wives were already in Krang Ta Chan when you
21 arrived or that they came -- that they arrived in Krang Ta Chan
22 after you had come? If I recall correctly, you gave mixing
23 answers, changing answers. Can you try to remember well and
24 answer the question whether they were already there or had been
25 already there when you came or that they came after you had

1 arrived?

2 A. I was there before they arrived.

3 Q. Did you see them come in, did you see them being brought in as
4 prisoners?

5 A. Yes, I did.

6 [14.00.20]

7 Q. Were you, may be, in fact one of the guards who picked them at
8 the outside gate and brought them into the prison compound or was
9 it somebody else?

10 A. The other persons brought them in.

11 Q. Do you remember them sitting in one of the two prison
12 buildings being shackled?

13 A. I am not aware of this because I was guarding outside.

14 Q. Did you see them being walked from the detention building
15 until the interrogation room?

16 A. No, I did not.

17 Q. Do I take it that you also didn't see them being interrogated?

18 A. No, I did not see that.

19 Q. Do you know when their respective wives arrived at Krang Ta
20 Chan?

21 A. I did not recall the dates exactly; I just saw them there
22 together with their children.

23 [14.02.35]

24 Q. I understand that you don't remember the date but would you be
25 able to tell - to give us an estimate as to when the wives

1 arrived and the time and the moment that their husbands arrived
2 at Krang Ta Chan?

3 A. The husband had arrived first, and after one or two weeks, the
4 wives arrived.

5 Q. Did you see them in shackles in the detention building?

6 A. I did not enter the compound.

7 Q. So then, you didn't see them being taken from the detention
8 building to the interrogation room; is that correct?

9 A. Yes, that is correct.

10 [14.03.57]

11 Q. I will move on to a different subject now, Mr. Witness.

12 In your statement to the Investigating Judges at A26 and 27, you
13 answered the following:

14 "After April 1975" - let me read the question first, Mr. Witness.

15 The question is: "Before you worked at Krang Ta Chan, where had
16 you worked?"

17 And your answer, A26: "After April 1975, before I came to work at
18 Krang Ta Chan, I was a soldier near Phnom Damrei Romeal Mountain.

19 I was stationed at Phnom Damrei Romeal Mountain."

20 Question: "What did they have you do when you were stationed at
21 Phnom Damrei Romeal Mountain?"

22 Answer: "I was on guard at the foot of the mountain waiting to
23 capture the enemy but there were no enemies at the time."

24 Can you give us some more detail as to what you mean with "at the
25 foot of the mountain"? Where exactly is the foot of the mountain?

1 A. Damrei Romeal Mountain, it is a range of mountain; it's -- the
2 range start from National Road Number 3 to <Khpbob Trabaek area.
3 They stationed along the foot of mountain. It is now an old
4 road.>

5 [14.05.53]

6 Q. That's correct; it's west of Krang Ta Chan prison. The
7 mountain range is quite long. When you say "at the foot of the
8 mountain", where exactly, which position are you referring to,
9 which part of the mountain?

10 A. I was stationed in Trapeang Lean village, Kus commune, Tram
11 Kak district.

12 Q. Let me try it differently. When you speak about the foot of
13 the mountains, the exact spot that you're referring to, were
14 there, for instance, waterfalls close by?

15 A. There were no waterfalls <at Damrei Romeal Mountain>. The
16 place where I was stationed was in Trapeang Lean village, Kus
17 commune, Tram Kak district.

18 [14.07.19]

19 Q. But you're referring in your testimony that you were stationed
20 at the foot of the mountain.

21 Let me refresh your memory by reading another part of your
22 testimony -- that is, D40/23, English, page 7 - English, ERN
23 00223213; French, 00490912; and Khmer, 00165357; the question is:
24 "Do you know where prisoners were taken to be killed?"

25 Your answer: "I know it was in the fenced wall compound of the

1 office."

2 Question: "How do you know that?"

3 Answer: "Because on the days when they set out the plan, they had
4 a meeting. A moment later, they transported them to the
5 mountains. But I don't know where they transported them to throw
6 them away."

7 Now, there, again, you speak about the mountains, are these the
8 same mountains that you referred to when you were stationed at
9 the foot of the mountain?

10 A. The mountain here referred to Damrei Romeal Mountain.

11 [14.08.51]

12 Q. So that's not the same place that you were stationed in 1975;
13 is that correct?

14 A. Yes, that is correct.

15 Q. So the place at the foot of the mountain where they took the
16 prisoners, were there waterfalls close by?

17 A. I do not know.

18 Q. Was there a dam close by?

19 A. There were many dams <along the Damrei Romeal Mountain>: Ta
20 Oum (phonetic) dam, Ta Muong (phonetic) dam, at the base of the
21 mountain.

22 Q. That's the place where they -- you said, they took prisoners;
23 was there a dam close by? And if yes, which dam was it?

24 A. There were many dams and I did not know <where they took them
25 to.>

1 [14.10.26]

2 Q. Let me try it differently. Mr Witness. Do you know if there
3 was a place where people were executed at the foot of the
4 mountain, at the foot of the Damrei Romeal Mountain?

5 A. Actually I knew that prisoners were transported out of the
6 centre and I did not know where exactly they were sent to, which
7 mountain exactly they were sent to.

8 Q. So just to be clear, you only knew that when prisoners were
9 taken out of Krang Ta Chan, they were brought to the mountains.
10 Do I understand that correctly?

11 A. Yes. You are right.

12 Q. Can you tell us how often prisoners were taken out of Krang Ta
13 Chan and brought to the mountains?

14 A. I know that it happened only once.

15 Q. Can you tell me something about this one time that you saw or
16 you knew about it, when exactly was that?

17 A. It was at night time. <I only knew that the prisoners were
18 taken out at night but> I did not know how many prisoners were
19 taken out. <>

20 [14.12.17]

21 Q. Can you tell us how you knew about that, how did you know
22 prisoners were taken to the mountains?

23 MR. PRESIDENT:

24 Please hold on, Mr. Witness. You shall wait for the microphone
25 activation.

1 MR. VAN SOEUN:

2 A. I was asked to guard the trucks.

3 BY MR. KOPPE:

4 Q. How many trucks were there?

5 MR. VAN SOEUN:

6 A. Actually there were no trucks within the compound. Trucks were
7 driven from outside and there was only one truck.

8 Q. What exactly was your duty, what did they make you do?

9 A. I was asked to guard the outside area.

10 Q. What exactly do you remember you saw?

11 A. I did not see anything.

12 [14.14.02]

13 Q. But you spoke about a truck. I gather you saw a truck. Can you
14 give us some more details?

15 A. The truck arrived at night time and I was told in advance that
16 the truck would arrive at night time. <That was all they told me,
17 and I was in a different unit, so I left.>

18 Q. Did you see prisoners being loaded into the truck?

19 A. I did not see. There was no light so I could not see.

20 Q. Mr. Witness. On page 7 of your statement, <D4023 (sic)>, the
21 very last question, so I don't have to give the ERNs, the very
22 last question of your statement, the question is being asked:

23 "While you worked at this office, did you ever see any high level
24 leader go to inspect there?"

25 And then your answer: "Only Phy and Duch who worked at Tram Kak

1 district, they often rode motorcycles and vehicles there."

2 Earlier there was question about Phy and you called him

3 handicapped Phy, if I remember correctly. What more can you tell

4 us about Phy?

5 A. I did not know Phy's background and he was referred to the

6 "handicapped Phy" and everyone in Tram Kak district knew the

7 "handicapped Phy".

8 [14.06.08]

9 Q. Was it because his leg was amputated; do you know anything
10 about that?

11 A. <He was a Party member.> I never asked anything about him and

12 this person Phy <and we never talked to each other.> When he

13 arrived at the place, he would talk only to the high leaders.

14 Q. Do you know what happened to Phy after 1979?

15 A. I do not know after that, but at that time, I could see Phy

16 arrive at the place very often.

17 Q. Do you know if Phy was executed in 1979 or 1980?

18 A. I do not know.

19 [14.17.28]

20 Q. Another topic, Mr. Witness, that is your answers to questions

21 A127 up until A130 -- that is, <E319133 (sic)>: Question from the

22 Investigators, Mr. Witness, is as follows:

23 "You just mentioned a moment ago about the arrests made in Tram

24 Kak district with regard to light offenders and serious

25 offenders. We would like you to give examples of or distinguish

1 between those who fell under the light offenders and serious
2 offender category."

3 Your answer, 127: "Light offenders included those who stole
4 potatoes or chicken or raped women. Serious offenders included
5 political prisoners and man and women who fornicated. Their
6 punishment was to soil on shoulder polls."

7 Question: "Was rape a light offence?"

8 "The victim", you answered, "was a light offender, while the
9 rapist was a serious offender".

10 Question: "Was the victim also punished?"

11 "Yes, they were, but they were released."

12 Question: "In what category were the prisoners who were sent to
13 Krang Ta Chan Security Office?"

14 "To my knowledge", you answered, 130, "serious offenders were
15 sent to Krang Ta Chan Security Office; light offenders were not
16 sent there".

17 [14.19.15]

18 Can you tell the Chamber what your knowledge is of - about the
19 difference between light and serious offenders, how do you know
20 that?

21 A. I do not know how the offenders were determined<. I just heard
22 by word of mouth that> the light offenders were <put at Angk Roka
23 prison>, and as for serious offenders<,> they would be sent to
24 Krang Ta Chan Security Office. I did not attend the meeting so I
25 did not know how they were determined<>.

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1 Q. I understand you don't know the answer to specific people but
2 could you tell us how you know or what the basis of your
3 knowledge about this general distinction between light offenders
4 and serious offenders, is that something maybe that you heard
5 while you were a guard at Krang Ta Chan prison?

6 A. I heard about this from another guard.

7 Q. Which guard?

8 A. Sieng<, who was a Party member,> told me that serious
9 offenders were to be sent to Krang Ta Chan Security Office and as
10 for light offenders, they <were put at Angk Roka prison.> I was
11 asked to be cautious and to be careful<>.

12 [14.21.20]

13 Q. And do you remember how he knew about this?

14 A. Sieng was a Party member.

15 Q. Very well. Another topic: Mr. Witness, you spoke about that
16 already earlier -- that is, question in <E319133 (sic)>, question
17 138, you were being asked by the Investigators the following:

18 "After 17 April '75 when Lon Nol had been defeated by the Khmer
19 Rouge, what happened to the Lon Nol soldiers and White Scarves?"

20 Your answer, 138: "They evacuated them all."

21 Question 140: "At Krang Ta Chan Security Office, were there any
22 prisoners who were former Lon Nol soldiers?"

23 Your Answer: "While I worked at Krang Ta Chan Security Centre,
24 there were none.

25 [14.22.37]

1 Question: "After you had worked for a period of time at Krang Ta
2 Chan Security Office, were any former Lon Nol soldiers sent
3 there?"

4 Your Answer: "No."

5 "After 17 April '75, did you know if former Lon Nol soldiers and
6 their families had been taken away for execution?"

7 Your Answer: "I did not know about that since I was in the rear
8 ranks. Once the provincial town of Takeo had been captured, I was
9 moved back to the district."

10 Last question, 143: "As a soldier after the victory on 17 April
11 1975, did you ever receive any instructions with regard to
12 encounters with former Lon Nol soldiers?"

13 And your answers to the Investigators: "No. They just had us send
14 Lon Nol soldiers back to their hometowns."

15 Is that, in fact, what you told the Investigators?

16 A. Yes, this is my statement. It is true.

17 [14.23.50]

18 Q. How can you be sure that the prisoners who were at Krang Ta
19 Chan were not in fact former Lon Nol soldiers or officers?

20 A. People were talking about this from one another and I did not
21 know where this information was from.

22 Q. So to the best of your knowledge, there were no former Lon Nol
23 soldiers or officers detained in Krang Ta Chan prison; is that
24 your testimony?

25 A. Yes.

1 [14.24.46]

2 Q. I would like take you back to another answer -- different
3 subject -- that is, D4023 <(sic)>, page 5 in the English version;
4 French, ERN 00490909; Khmer, ERN 00165354; the question in the
5 middle of the page:

6 "Did you ever see them kill prisoners while you were working at
7 the Krang Ta Chan office?"

8 Your answer: "I never saw it. I noted while I was working there,
9 I was the youngest one of all and perhaps since they always
10 feared a breach of secrecy, that may have been why they did not
11 let me know."

12 My question now is about the second part of that sentence --
13 "they always feared a breach of secrecy". What exactly did you
14 mean when you gave that answer with "the fear of breach of
15 secrecy"?

16 A. They were afraid that if I <walked> anywhere and met with
17 people, they were afraid that I would talk about this to people
18 that is why they did not let me know.

19 [14.26.24]

20 Q. I understand that.

21 Do you remember what exactly your orders or instructions were?
22 Were you specifically instructed or ordered not to speak to
23 villagers about events that took place within the compound of
24 Krang Ta Chan?

25 A. I was not given any order. I <just> received an instruction

1 that I should shut my mouth. <That's all they said.>

2 Q. That might seem a little bit technical point, but I just want
3 to be sure that I understand correctly, you were a former
4 soldier, what is exactly the difference between an instruction
5 and an order. Were you only told or were you ordered in your
6 capacity as a soldier not to speak to villagers?

7 A. I was threatened and <they> warned <us> not to let anything
8 out of <our> mouths<>. <If they heard it from someone's mouth,
9 that person would be responsible. That was what they said.>

10 [14.28.03]

11 Q. Do you remember -- it's long time ago, I understand -- but do
12 you remember the exact words when you were threatened not to tell
13 anything about what happened at Krang Ta Chan?

14 A. That is true.

15 Q. What is true?

16 A. I was told that when I learned any information from outside I
17 should not say anything about it otherwise my head would fall
18 down on the earth.

19 Q. May be there was something wrong in the translation, but were
20 you specifically instructed not to speak outsiders, for instance,
21 villagers as to what happened at Krang Ta Chan while you were at
22 Krang Ta Chan?

23 A. I was not allowed to go and make any contact with the people
24 outside the compound. The compound -- there were two levels of
25 fences surrounding the compound.

1 [14.29.40]

2 Q. I understand what you're saying, Mr. Witness. But we've heard
3 the testimony of another witness, the person that we just spoke
4 about, Say Sen, he told the Chamber that he was allowed to leave
5 the compound tending the cows. Do you know if he had any
6 instructions not to speak to villagers about what happened at
7 Krang Ta Chan?

8 A. Personally, I never spoke to Say Sen. Maybe he received his
9 instructions from his chief. If that is the case, I would not
10 know.

11 Q. If I understood that the testimony of Say Sen correctly and
12 also the testimony of Meas Sokha, they were allowed, apparently,
13 so they say, to wander around tending the cows. Do you know about
14 any instructions to Meas Sokha not to speak to villagers?

15 A. The two of them tended the cows but I did not know about the
16 instructions relayed between their chief and them.

17 [14.31.08]

18 Q. The instructions or orders or whatever they were, not to speak
19 to anybody about what happened at Krang Ta Chan, did that also
20 apply to your fellow guards, the five other guards within your
21 unit, did they have that same order or instruction?

22 A. I was specifically instructed on that issue because I was the
23 youngest member of the unit.

24 Q. My question was whether you know whether the fellow members of
25 your unit had similar instructions. Do you know anything about

1 that?

2 A. I only met one person and I was instructed not to say
3 anything. <I never attended any meeting about the overall
4 instructions.>

5 Q. I apologise, Mr. Witness. Maybe my questions are not very
6 clear. My question was relating to the fellow members of your
7 unit, your military unit and I take it you received orders, do
8 you know whether the other members of your unit, like Duch, for
9 instance, or Saing, whether they received orders not to speak to
10 anybody about what happened at Krang Ta Chan?

11 A. I did not know if they did because I only knew what I was
12 told. As for Saing or Duch, they could receive instructions but I
13 did not know what instructions were given to them<.>

14 [14.33.24]

15 Q. Mr. Witness, I, myself, have never been in the military but
16 isn't it true and it is also the case within the Revolutionary
17 Army that instructions were given to units or platoons or
18 battalions as a group or am I mistaken?

19 A. In the Army, the Commander issued order but when I was at
20 Krang Ta Chan office, we were no longer under the military
21 command and our instruction was to guard the Krang Ta Chan
22 office<,> and in practice, under the military command, for
23 example, if <they> were to attack or engage in a battlefield,
24 there would be a meeting <with all the divisions, 100-member
25 units and groups. For the security centre, they divided into

1 units.>

2 Q. You're saying that this was not the practice in relation to
3 your unit which was stationed at Krang Ta Chan?

4 A. Yes, that is correct.

5 [14.35.07]

6 Q. My next question, Mr. Witness -- that is, your Answer to
7 question 163, document E319133 <(sic)>: "Did Ta An ever tell you
8 or give instructions on how to behave with prisoners?"

9 Answer: "He instructed us to be gentle but firm with the
10 prisoners."

11 Now I want to ask you a question about the "us", asked you a
12 question about "to be gentle but firm with the prisoners". Do you
13 remember this specific order and are you able to tell us what he
14 meant with that specific order?

15 A. The word "<gentle but firm>" was commonly used. <In that
16 regime, their words were, "We had to be gentle but at the same we
17 had to be firm and absolute with the enemies." That's what they
18 said.>

19 Q. I understand your answer, however earlier testimony you
20 indicated that possibly prisoners were being tortured, were being
21 executed. Did you think at the time that that was a strange order
22 or you had no idea or not thought about that specific order to
23 treat the prisoners firm but gently?

24 A. On this point, I myself did not understand it. <I did not know
25 how they judged the prisoners.>

1 [14.37.14]

2 Q. Fair enough, but the order you remember specifically, "firm
3 but gentle treatment of prisoners"; correct?

4 A. Yes.

5 Q. Do you remember in which year or - in which year specifically
6 this order was given, were you there already for a long time or a
7 short time, do you remember?

8 A. During meetings, it was one of the main points that they
9 raised.

10 Q. So it was told to your unit more than once, is that your
11 testimony?

12 A. Yes.

13 Q. And at these meetings, do I understand correctly, your fellow
14 unit members were present and heard this order as well?

15 A. There are two kinds of <meetings: the meetings for the party
16 members and the meetings for the guards.>

17 [14.39.02]

18 Q. I'm telling -- I'm asking you questions about the meeting with
19 your fellow unit members and you were told as a group several
20 times; is that correct, to be gentle but firm with prisoners?

21 A. Yes.

22 Q. And let me revisit my earlier question. These group sessions,
23 when you receive this order, were there also other orders given
24 to you and your unit members?

25 A. They did not give too many instructions; they only spoke on

1 the main points, including this one.

2 Q. And do you remember which other points were discussed or other
3 points that you were given as instructions on?

4 A. As for them, they held meetings only among themselves, the
5 senior people. As for us, we were the outside guards and usually
6 the meetings that were held for us it was held once a month.

7 MR. PRESIDENT:

8 Thank you, counsel. It is now a convenient time for a short
9 break. We will take a break now and resume at 3 o'clock.

10 And Court officer, please assist the witness during the break and
11 invite him, including his duty counsel back to the courtroom at 3
12 o'clock.

13 The Court is now in recess.

14 (Court recesses from 1441H to 1501H)

15 MR. PRESIDENT:

16 Please be seated. The Court is back in session, and I now hand
17 over the floor to the defence counsel for Mr. Nuon Chea to put
18 your further questions. You may now proceed.

19 BY MR. KOPPE

20 Q. Thank you, Mr. President.

21 Mr. Witness, I would like to discuss a -- another topic with you,
22 if that's all right with you, and more specifically, I would like
23 to take you to your statement <D4023 (sic)> English, page 5, in
24 the middle, English, ERN 00223211; French, 00490909; Khmer,
25 00165354. Now, you've been asked a very specific question by the

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1 Investigators, and the question is as follows:

2 "Did you ever see them kill prisoners while you were working at
3 the Krang Ta Chen office?"

4 Answer: "I never saw it."

5 Do you remember whether that was in fact your answer to the
6 Investigators?

7 MR. VAN SOEUN:

8 A. Yes.

9 Q. In other words, you never saw with your own eyes somebody die
10 in front of you? That's not a way of phrasing it, but is that
11 correct?

12 A. Yes.

13 [15.04.12]

14 Q. Witnesses Meas Sokha and Say Sen have also given testimony
15 earlier last month to this Chamber, and both of them have given
16 quite graphic testimony as to the killings that they said they
17 witnessed at Krang Ta Chan. Would you be able to give some
18 explanation as to why you never saw anything, and they saw all
19 kinds of killings happening at Krang Ta Chan?

20 MR. PRESIDENT:

21 Please hold on, Mr. Witness. Deputy International Co-Prosecutor,
22 you now proceed.

23 MR. DE WILDE D'ESTMAEL:

24 <Thank you, Mr. President.> I will speak French. I would like to
25 object to this question given that he is asking the witness to

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1 speculate. <It is one> thing <to ask> the witness what he saw,
2 but <to know> why the others might have seen but not him, <I
3 think that is crossing a line.> He's asking the witness to
4 speculate about why the others may have <been able to see these>
5 executions, so I think that this question should be reformulated.

6 Thank you.

7 [15.05.05]

8 MR. KOPPE:

9 Although I think this prosecutor is maybe the last person in this
10 room who should say something about speculation, nevertheless I
11 think it is an appropriate question. I'm trying to reconcile two
12 possibilities, two witnesses saying -- testifying before this
13 Chamber that they saw all kinds of gruesome atrocities, and this
14 witness says again, "I never saw anything". And apparently all of
15 them were there, and I think asking, without asking to speculate,
16 if he would know there's a reason why he didn't see anything and
17 they did, is within the realm of what is possible.

18 (Judges deliberate)

19 [15.07.13]

20 MR. PRESIDENT:

21 I now give the floor to Judge Fenz to decide on the objection to
22 the question. You may now proceed, Judge Fenz.

23 JUDGE FENZ:

24 Firstly, the Chamber doesn't appreciate the insult to the
25 prosecutor, and suggests you stop that. Secondly, the objection

1 is rejected, the question is allowed.

2 BY MR. KOPPE:

3 Q. Mr. Witness, would you be able to give an explanation as to
4 why Meas Sokha and Say Sen were able to witness gruesome
5 executions at the compound of Krang Ta Chan, and you didn't see
6 any killing?

7 MR. VAN SOEUN:

8 A. Because <there were a lot of bushes.> There were two levels of
9 fences, and there were also a lot of banana <trees>, so I could
10 not see, since I was guarding outside.

11 [15.08.36]

12 Q. To follow up on this, it is also the testimony of Meas Sokha
13 and Say Sen that they left the compound during the day to tend
14 the cows and the buffalos. So, it seems that they were also
15 outside the inner perimeter. So, my question again is how do you
16 know -- is it possible that they saw all kinds of things and you
17 didn't see anything?

18 MR. PRESIDENT:

19 Please hold on, Mr. Witness. You may now proceed, Deputy
20 International Co-Prosecutor.

21 MR. DE WILDE D'ESTMAEL:

22 The Defence is <> trying to suggest that <both> Meas Sokha <and
23 Say Sen> only tended cows or buffalos. That is <a poor>
24 representation of what <was> said. Say Sen was clear about his
25 role. He <explained> that he played many roles; that he would

1 <move about within> the compound and not only <> outside <of it>.

2 So, I think that this question is <poorly worded> and leads the
3 witness into error.

4 [15.10.03]

5 BY MR. KOPPE:

6 Q. Let me rephrase.

7 Mr. Witness, you were guarding outside. Where did you sleep when
8 you were done guarding?

9 MR. VAN SOEUN:

10 A. I was sleeping close to the fence.

11 Q. So, you're saying you didn't actually sleep within the inner
12 compound? Is that your testimony?

13 A. Yes.

14 Q. What about Duch? He was often within the inner compound,
15 typing. Did he sleep also inside or did he sleep outside?

16 A. There were two Duchs. Which one are you asking?

17 Q. I'm asking about your member, your unit member, Duch the
18 typist. Was he sleeping outside as well?

19 A. We slept in the same -- in different rooms, close to the
20 fence.

21 [15.11.48]

22 Q. Let me -- I'll revisit this topic. I'll start asking you some
23 other questions now.

24 The same Say Sen that we just spoke about gave testimony a few
25 weeks ago to this Chamber. His testimony was very, very bad about

1 the behaviour of your unit of six. He gave testimony to the
2 effect that four or five cadres within your unit were in fact --
3 had in fact participated in rape of a female prisoner. Do you
4 know anything about that?

5 A. That is not true.

6 Q. So the members of your unit never raped any female prisoner?
7 Is that your testimony?

8 A. No, they never.

9 Q. Just to be sure, Mr. Witness. Let me read a passage from Say
10 Sen's testimony before this Chamber.

11 [15.13.28]

12 Mr. President, it's E1257 <(sic)>; it's 5 February 2015, at 10.38
13 in the morning. My question to Say Sen is as follows -- and I
14 read that to you now, Mr. Witness.

15 "Mr. Say Sen", I say, "I would like some details on what you told
16 us yesterday. You said that a soldier, or a security guard, had
17 raped two women from the mobile unit, and had inserted their
18 rifle in their vaginas. Can you tell us the name of those
19 soldiers?" And Say Sen answers: "Yes, it was Duch Touch, or Small
20 Duch, and Saing. There were two of them."

21 My question: What is your reaction on this testimony of Say Sen
22 about the behaviour of two of your unit members? Is his testimony
23 true or false?

24 A. That is not true.

25 Q. Now, again, Mr. Witness, my question would be a bit similar to

1 the earlier question about the killings. Do you have any idea, if
2 it's not true, why Say Sen would give such testimony about your
3 unit members?

4 A. There were killings, but as for rape, I don't think there were
5 rapes that happened there.

6 [15.15.32]

7 Q. Are you now saying 'I don't think'? Just to be sure, are you
8 aware or do you have knowledge about an act of rape committed by
9 members of your fellow -- fellow members of your unit? Yes or no?

10 A. That statement is not true.

11 Q. In other words, you're saying Say Sen has been lying before
12 this Chamber. Is that your answer?

13 A. Yes.

14 Q. But that wasn't the only thing that Say Sen said about your
15 unit. He said some other things as well. And on the exact same
16 page, Mr. President, of that transcript of the same day, question
17 to Say Sen, my question: "Yesterday, you also talked about the
18 massacre of two young girls. You said that the elder girl had her
19 skull smashed against a tree. And/or the younger one had her
20 skull smashed, and the other one had her neck broken. Can you
21 tell us the name of the guard who did that?" That was my
22 question. Say Sen answers: "Yes. They were Sim, Moeun, Saing,
23 Duch Touch or Small Duch."

24 So, again, Mr. Witness, it seems that Say Sen is giving testimony
25 accusing fellow members of your unit of killing children. What is

1 your reaction to that?

2 A. I was guarding outside. I did not know. And there were no
3 rapes. If there were rapes, I would know about that. Or perhaps I
4 was away, and rapes happened there. And I did not know about the
5 statement that he made.

6 [15.17.56]

7 Q. To be clear, Mr. Witness, I didn't speak about rape. This time
8 I spoke about the killing of two small children. Did members of
9 your unit -- were they involved in the killing of small children
10 as just described by me in the answer of Say Sen? Did they in
11 fact kill children?

12 A. I do not know.

13 Q. You have been with your unit members for several years. Were
14 you friends with your unit members?

15 A. We were together, and we were not friends. And sometimes we
16 did not get along with each other.

17 [15.19.20]

18 Q. My question again would be, do you have an explanation as to
19 why Say Sen is saying these things about your unit members, and
20 that you're saying that you don't know anything about killing of
21 children?

22 A. The reason that I said I do not know, Say Sen was the
23 prisoner. He was detained in the prison. And if he knew about
24 this incident, I did not know how did he know that. I was
25 guarding outside and I did not know.

1 Q. Earlier you gave an answer to the Chamber about the
2 possibility that cadres - or, the allegation that cadres were
3 eating the livers and the gallbladders of dead prisoners. You
4 said that you had never heard about that, that you didn't know
5 about that. Again, would you be able to give us some explanation
6 as to why he is giving that testimony, and that you have no idea
7 about, or no knowledge about gallbladders and livers being taken
8 from bodies of dead prisoners?

9 A. Concerning the fact that there were -- they were eating liver
10 or gallbladders, I do not know about that.

11 [15.21.15]

12 MR. KOPPE:

13 Mr. President, with your leave, I would like to show the witness
14 a small excerpt from a video. A video that I - video with ERN
15 number -- sorry, with E3 number that I mentioned in an earlier
16 email to the Senior Legal Officer. It's two minutes, from
17 E3/3116R. It is between minutes 22.20 and 24.11.

18 MR. DE WILDE D'ESTMAEL:

19 Mr. President.

20 MR. PRESIDENT:

21 Deputy International Co-Prosecutor, you may proceed.

22 [15.22.07]

23 MR. DE WILDE D'ESTMAEL:

24 Thank you, Mr. President. We viewed this <video, this> excerpt<,
25 at the times indicated>, and <it, indeed,> relates indeed to

1 livers and gallbladders that might have been extracted. <Since>
2 the witness <has> said that he knows nothing about this, I don't
3 know if <the Defence could explain to us> why this could be of
4 interest, <since this particular> witness did not <> speak about
5 it.

6 MR. KOPPE:

7 Correct, but I thought maybe -- let me rephrase. This is such a
8 -- at least to be incredibly graphic -- footage, and it is such a
9 -- such an important thing, or important element of Say Sen's
10 testimony. So my intention is to show this footage to the
11 witness, and then ask him whether images like this, similar like
12 this, would refresh his memory in relation to gallbladders and
13 livers being taken from dead bodies.

14 (Judges deliberate)

15 [15.24.45]

16 MR. PRESIDENT:

17 You may proceed, Judge Fenz.

18 JUDGE FENZ:

19 The Chamber rejects the request to show the video to this witness
20 at this time. Given what the witness has said so far, the
21 relevance hasn't been demonstrated by the Defence. Just because
22 this is graphic evidence isn't in itself good enough. But there
23 might be a time later in the proceedings, when it comes to
24 pointing out relevant documents or pieces of evidence, to show
25 it. But it hasn't been demonstrated why it would be relevant at

1 this point in time with this witness.

2 [15.25.35]

3 MR. KOPPE:

4 Then my subsidiary or alternative request would be not to ask
5 that particular question that I just formulated. But then,
6 whether he saw or has any knowledge of similar practices while he
7 was fighting within the civil war, fighting Lon Nol troops,
8 whether he has any knowledge of this. Then my question would go
9 back to the period before 1975.

10 The reason I'm -- I have particular interest in showing this
11 footage is, not only on general principle that I think the public
12 is entitled to -- to graphic footage sometimes that we see. I
13 also note that very recently, only two weeks ago, the Ambassador
14 -- Ambassador Scheffer -- used in fact the evidence of Say Sen as
15 to the taking out of livers and gallbladders as an example of
16 atrocities that took place in Krang Ta Chan. And I would like to
17 establish whether that was in fact something done by CPK cadres,
18 or Khmer Rouge cadres, or whether that was in fact a practice
19 long established before that, and particularly engaged in by Lon
20 Nol troops.

21 (Judges deliberate)

22 [15.27.35]

23 MR. PRESIDENT:

24 Judge Fenz, you may proceed.

25 JUDGE FENZ:

1 The additional arguments by the Defence haven't convinced the
2 Chamber. The ruling stands.

3 BY MR. KOPPE:

4 Very well.

5 Q. Mr. Witness, I would like to turn now to another topic and I
6 would like to draw your attention to something that you said
7 before the Co-Investigators, at page 4 of the English version --
8 that is, English, ERN 00223/ -- sorry, 00223210; French,
9 00490909; and Khmer, 00165354. The question at the bottom of the
10 page is: "When they beat and interrogated, what tools did they
11 use?" And you answer: "They beat with clubs and rattan whips.
12 Before I worked in that office, I heard them say that they had
13 hung them on ropes tied around their necks."

14 [15.29.01]

15 Mr. Witness, this passage has been read to you earlier by the
16 International Co-Prosecutor, but there's something more in your
17 answer, and that is the following:

18 "I learnt about this matter clearly from my aunt who had been
19 held there, and from two of my uncles as well. But it was my aunt
20 who told me about hanging from the neck. And I know there are
21 marks still on her neck today." Now, in the light of this answer,
22 did you in fact see with your own eyes what happened during
23 interrogation of prisoners?

24 MR. VAN SOEUN:

25 A. I did not witness this. I was guarding outside.

1 Q. I understand your answer, but did you at no time, while you
2 were stationed at Krang Ta Chan, enter the inner compound during
3 the day, and brought yourself in the position that you would be
4 able to watch interrogations?

5 A. During the interrogations I was asked to go outside the
6 perimeter of the compound.

7 [15.30.41]

8 Q. Let me rephrase. Is it your testimony that, in all those
9 years, those three years, or two years, or three years that you
10 were at Krang Ta Chan, you never -- you were never able to watch
11 interrogation in the interrogation room; is that correct?

12 A. Yes.

13 Q. Did you ever speak to any of your unit members about
14 interrogations?

15 A. No, because it was not our duty. And I did not speak to any of
16 them about it.

17 Q. Meas Sokha, the person I mentioned earlier, not only gave
18 testimony about executions at Krang Ta Chan, but also about
19 incidents of torture. Would you be able to give an explanation as
20 to why he was able to see torture going on, and you weren't?

21 A. I'd like to re-state that I was never allowed to work inside
22 the compound. Only Party members were allowed to work in, and
23 usually when they engaged in such a process, we were ordered to
24 stay at the outer part of the compound.

25 [15.32.46]

1 Q. So your testimony is that only Party members were allowed in,
2 which I understand. Could you then tell us how Meas Sokha and Say
3 Sen were able to watch interrogations?

4 A. I did not know how they would be able -- in a position to do
5 that.

6 Q. I would like to talk some more about the compound of Krang Ta
7 Chan. Your fellow unit member, Duch, testified, I think only last
8 week, before the Chamber, and he said that there were no
9 loudspeakers at the compound. You just said earlier, at the end
10 of this morning, that there were in fact loudspeakers. Who is
11 right, he or you?

12 A. There was a small <radio>, the size that I've just indicated.
13 It's not that big, and with two removable speakers on both sides.
14 And the main function of that thing was radio.

15 Q. What do you mean "with radio"?

16 A. I speak about this player, which is small in size and with two
17 detachable speakers on both sides<, and there was a radio
18 function in it about the size of a wrist>.

19 [15.34.56]

20 Q. But was the main function of the speakers and the radio to
21 listen to Radio Kampuchea? Is that what you're saying?

22 A. Yes, we used it to listen to radio broadcasts -- that is,
23 domestic radio broadcasts.

24 Q. And was that the only purpose of these loudspeakers?

25 A. As I said, there were no loudspeakers. There were indeed only

1 these two small speakers, detachable from this radio machine.

2 Q. Would you, with your hands, be able to describe the size of
3 these loudspeakers?

4 A. That is the size of the player itself, and then to the sides
5 there were two small, detachable speakers.

6 Q. Do you remember anything about the volume?

7 MR. PRESIDENT:

8 Counsel, please wait. Judge Fenz, you have the floor.

9 [15.36.50]

10 JUDGE FENZ:

11 This doesn't work for the transcript. So, perhaps the transcript
12 doesn't show what you demonstrated. Can you give us measurements,
13 if you remember, of the size of the loudspeakers?

14 MR. VAN SOEUN:

15 A. The player itself is about 40 centimetres wide, and as for the
16 two detachable speakers, it is about 10 centimetres wide each.

17 BY MR. KOPPE:

18 Q. It's a long time ago, I realise, Mr. Witness, but would you be
19 able to tell how far the volume of these two little speakers
20 would reach? How many metres you had to stand in relation to
21 these speakers to be able to still hear the sound coming from
22 these speakers?

23 MR. VAN SOEUN:

24 A. You could hear the sound from the <speakers,> if you stood
25 about 15 metres away.

1 [15.38.26]

2 Q. And when you were, let's say, 20 metres, 30 metres away, you
3 wouldn't be able to hear the speakers anymore. Is that what
4 you're saying?

5 A. Yes.

6 Q. The reason I'm asking, Mr. Witness, is that Say Sen gave
7 testimony to the Chamber, saying that the loudspeakers were used
8 in order for the prisoners not to hear the screams of executions.
9 In other words, that the volume was so loud that prisoners were
10 not able to hear what was going on, either in the interrogation
11 room or behind it. What is your reaction to that testimony?

12 A. I could not say anything to what this person spoke of, or
13 spoke about, because as I told you, they did not use any
14 loudspeakers.

15 [15.39.40]

16 MR. KOPPE:

17 Thank you, Mr. Witness.

18 Mr. President, I would like to go to another topic, but I see
19 it's 20 minutes before 4.00.

20 MR. PRESIDENT:

21 Thank you, defence counsel, and thank you, Mr. Van Soeun. The
22 hearing of your testimony is now postponed, and it is not yet
23 concluded, just to confirm, and you will be invited again to come
24 to this Court, tomorrow morning at 9 o'clock. So, you can now go
25 and rest.

1 And Court officer, please make an arrangement with WESU for the
2 necessary transportation of this witness to his residence, and
3 invite him to return to this courtroom tomorrow morning before 9
4 o'clock.

5 Likewise, Mr. Mam Rithea, the duty counsel, you're invited to
6 return tomorrow morning to attend to the proceedings of hearing
7 the remainder of the testimony of this witness. And you too may
8 be excused.

9 (Witness and Duty Counsel exit courtroom)

10 [15.41.29]

11 MR. PRESIDENT:

12 We now turn to the issue of the request by Nuon Chea's Defence,
13 which was submitted to the Trial Chamber. The request has not yet
14 been translated into Khmer language. However, the defence counsel
15 made it clear that they want to adjourn the hearings after the
16 conclusion of the testimony of this witness because the issue is
17 related closely to the documents submitted by the Prosecution.
18 Those documents are derived from Case 004, and in order to form
19 the basis, as foundation for our decision, and due to the urgency
20 of this matter, the Chamber now would like to hear only the oral
21 argument by the defence counsel for the hearing of the upcoming
22 testimonies of witnesses 2-TCW-803 and 2-TCW-809.

23 [15.42.53]

24 As for the remaining relevant witnesses, the Chamber will not
25 hear your oral arguments now. For that reason, Nuon Chea's

1 defence is given the floor to provide your oral arguments on
2 these two witnesses. You have 10 minutes to do so. The combined
3 time for the Prosecution and the Lead Co-Lawyers is 10 minutes in
4 order to make a response to the oral arguments by Nuon Chea's
5 defence.

6 Counsel Koppe, you have the floor now.

7 MR. KOPPE:

8 Thank you, Mr. President. It's not easy to only surgically focus
9 on the next witness, because as you understand, or you might
10 appreciate, everything is tied together. But saying it in one or
11 two sentences, we feel that, because of the magnitude of new
12 evidence coming in, it's no longer responsible to continue with
13 crime sites that are located in the Southwest Zone, or the
14 Northwest Zone. Why that is, I will not go into now. I would like
15 to refer to the draft motion that we sent to you earlier this
16 morning via email.

17 [15.44.32]

18 If I bring it back to the very urgent question as what to do with
19 the upcoming witness, it is our position, like I said, that we
20 should stop altogether. However, we have no interest at all in
21 slowing down the proceedings. That is not our intention. So,
22 that's why we formulated an alternative, and that is that we, in
23 principle, could continue with witnesses who give testimony, or
24 are able to give testimony, about things that happened at Krang
25 Ta Chan. There are some other guards, I think, still scheduled.

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1 We wouldn't also have problems with, if there are any witnesses
2 who can testify as to what happened on the ground, grassroots, as
3 you will. We have had witnesses earlier. However, the moment we
4 start speaking about tomorrow's witness, or the witness that
5 follows, we are entering into a structure, not only within
6 District 105, but also Sector 13 and other sectors, and
7 ultimately the Southwest Zone.

8 [15.45.53]

9 Just to give you some figures. In the disclosed statements, which
10 are about almost 3,000 pages, we did a word search on a few
11 things, just to give you an idea. In the binders that were given
12 to us in the new statements of Case 003 and 004, the word "Sector
13 13" is mentioned 69 times, "District 105" is mentioned eight
14 times, "Office 204" is mentioned 35 times, "Tram Kak" is
15 mentioned 212 times. Case 004 is, in essence, about events that
16 unfolded in the Southwest Zone in general, but also in District
17 105 and Sector 13 of that zone.

18 Just to elaborate a bit on that. If you -- I'm not quite sure how
19 to -- how to approach this, but if you have a look, Mr.

20 President, at one of the statements that tomorrow's potential
21 witness gave to the investigators -- that is, D119/82, on page
22 10, he is extensively being confronted with testimony of a person
23 that -- well, was indicted in absentia yesterday. And whatever
24 she is saying, or will be saying in that case, whatever other
25 witnesses have said about her in that case are all extremely

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1 relevant, I think, for our case.

2 [15.47.50]

3 Tomorrow's witness is about structure, about lines of
4 communication between the districts, the sectors and ultimately,
5 the Zone. So, I think -- and I'm not even talking about the
6 practical impossibility of dealing with so much new evidence -- I
7 think we should step away as soon as we can from Krang Ta Chan.
8 Not go into any crime sites in the Northwest Zone, but move away
9 to safer areas, safer grounds. And the suggested 1st January Dam,
10 I think, as the next segment would be a plausible alternative.

11 And because we do not want to delay the proceedings, we are -- we
12 have given an alternative, and that is to continue with guards,
13 or potentially other prisoners within Krang Ta Chan. By offering
14 this solution, I think no irreparable damage will be done, but I
15 think it is important that we realise the magnitude of what's
16 happening. And that's why I would really seek a possibility to
17 discuss this issue at length, and not <-- and> now be forced to
18 micro -- or to zoom in only as to the next witness. I understand
19 the request. But I think we have reached such a fundamental
20 issue. It is such a fundamental debate, what we should do with
21 Case 003 and 004, entering Case 002, that we should have. And I
22 think that's one of the points of relief. We should have -- we
23 should schedule a Trial Management Meeting as soon as possible to
24 discuss how we should proceed further.

25 [15.49.46]

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1 But for tomorrow, I really think we should not be hearing the
2 witness. And also the other one mentioned. He's also somebody on
3 district level, who has been asked all kinds of questions about
4 sectors and about events that happened within the Zone. And that
5 is the topic that has been -- these are the topics that are being
6 investigated maybe right now still, by the International
7 Co-Investigating Judge.

8 So again, zooming in only about -- on tomorrow's witness, I think
9 he should not be called. I think we should turn to an
10 alternative, and that could be any of the, I think, two or even
11 three remaining Krang Ta Chan cadres or guards.

12 MR. PRESIDENT:

13 Thank you, and Counsel Kong Sam Onn, you have the floor.

14 [15.50.45]

15 MR. KONG SAM ONN:

16 Thank you, Mr. President. I have two observations to make at this
17 stage. First, <I would like to raise the topic of having the
18 discussion on this issue in such a short time, and Mr. President
19 stated it was an urgent matter>. However, the Chamber should also
20 consider that our group works based on the French language, and
21 the documents that have been included in the case files are
22 mostly in English. For that reason, I'd like to urge the Chamber
23 to consider that we should have sufficient time to discuss on a
24 particular issue, or at least, that we should be afforded the
25 French version or translation of those Khmer <> documents<,> so

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1 that it can facilitate our working process, or review, of those
2 documents. <This is my request for the next discussion.>

3 [15.51.59]

4 And now on the second point, we do face a number of difficulties.
5 At lunch time, for instance, today, we only received the two
6 additional binders from the Co-Prosecutors, which had just been
7 translated. The documents that we have received so far made us
8 difficult in understanding, as they had to be translated into the
9 French language. And for that reason, the issue of language
10 translation is one of the fundamental issues concerning the
11 documents they take from other cases; namely, 003 and 004, and
12 place them into the current case. And also, we don't have a full
13 access to the documents.

14 MR. PRESIDENT:

15 Counsel, you are reminded that we only have 20 minutes to engage
16 in this discussion, and mainly that the oral arguments from your
17 team concerning the upcoming witnesses, 2-TCW-803 and 809. In
18 further, two witnesses have been scheduled quite a long time ago,
19 and only recently we received <Nuon Chea's defence's> submission
20 to <adjourn> the hearings of these two witnesses. It is not easy
21 for the Chamber to reschedule the hearing, as we have to face
22 other possibilities of delaying, of criticisms by the general
23 public, for instance. We do not want to postpone the hearing
24 again and again.

25 [15.53.51]

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1 Now, we just try to get this time for you to discuss on the
2 documents placed into this case file by the -- one of the
3 Parties. And as I told you, the documents filed into this case
4 exist mainly only in English. There are not Khmer translations
5 yet of those documents. <We are relying on the interpreters.> And
6 you should provide your arguments on that so that we, the
7 Chamber, may use it as a foundation, whether we decide to adjourn
8 the hearing of these two witnesses<, 2-TCW-803 and 809,> or not.
9 And of course, <we give time for Nuon Chea's defence to> submit a
10 written submission to the Chamber<, and the parties can discuss
11 this recent issue.> We set this time today because the two
12 upcoming witnesses are scheduled for tomorrow afternoon <and next
13 week. Do you have any comments?>

14 [15.54.59]

15 MR. KONG SAM ONN:

16 Yes, you are right, Mr. President. I am now right on the point.
17 Because the documents included in the case file are relevant to
18 Krang Ta Chan office. And if cadres from Krang Ta Chan office are
19 to testify, and if we don't have the opportunity to review those
20 documents, that is the kind of difficulty that I am raising, Mr.
21 President. Because mainly the documents that we received, the
22 latest one, I mean, were only given to us at lunch time today.
23 And that is one of the reasons, or arguments, that we urge the
24 Chamber to adjourn the hearing and to provide us sufficient time
25 to review those documents. The documents exist in thousands of

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1 pages, and we need an appropriate time to do so. Thank you, Mr.
2 President.

3 [15.56.02]

4 MR. PRESIDENT:

5 Thank you.

6 Judge Lavergne, you have the floor now.

7 JUDGE LAVERGNE:

8 Yes, Mr. President, I'll be very brief. And <would ask> the
9 Defence <to> interrupt me if what I'm saying is not correct.
10 <But it seems to me that if we> are concentrating on witnesses
11 803 and 809, <the> statements <concerning them that came> from
12 Cases 003 and 004 <> were <made available to them> on the 16th of
13 October <of> last year. After having been rejected, they were
14 accepted by the Defence of Nuon Chea on the 4th of November and
15 by the Khieu Samphan Defence on the 22nd of December. <Moreover,
16 unless> I am <mistaken>, it <seems to me> that Nuon Chea's
17 Defence <> indicated <at a hearing>, and I believe it was <a bit
18 earlier> in the month of February, that they had had the
19 occasion, the possibility, of reading all the documents that had
20 been disclosed to them as of that date. That was at the hearing
21 of the 23rd of February 2015.

22 [15.57.11]

23 MR. KOPPE:

24 I don't think, with all respect, Judge Lavergne, that you are
25 correct. We received, and I'm sure the Prosecution can confirm,

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1 even this morning new statements. We received five/six binders
2 last Thursday. As a matter of fact, the trial proceedings were
3 postponed for two and a half days in order for us to be able to
4 read those new statements. So, it's not evidence that I'm talking
5 about that we received in October. And of course, we wouldn't
6 have any point. But it is literally almost 3,000 pages that we
7 received in the last two weeks, and we were not able to read all.
8 That is impossible. But what we've seen is that it goes directly
9 to the heart of events that happened in the Southwest Zone in
10 general, and also structure, et cetera, in relation to what we
11 are discussing.

12 So, it's not something that we knew already for some time. It's
13 something that just came up only within the last week.

14 [15.58.21]

15 MR. PRESIDENT:

16 Thank you. And the Deputy International Co-Prosecutor, you have
17 the floor.

18 MR. LYSAK:

19 Thank you, Mr. President. I'll try to be as brief as I can. I do
20 agree that there should be more discussion of the broader issues
21 later. But let me focus on the two witnesses, and particularly
22 the witness scheduled for tomorrow. I note for the record that
23 809 -- TCW 809 -- had originally been scheduled to follow, but
24 has now been postponed until almost the end of this month. So, I
25 think the issues with respect to 809 are not as pressing.

1 There has been no showing at all by the Defence of a reason to
2 postpone the testimony of this witness. It is not sufficient to
3 come in here and say that there are a large number of new
4 statements. In fact, of the new statements, there is a group of
5 20 and a group of 90 that were disclosed last week, the week
6 before. There are only 10 of those interviews that relate to Tram
7 Kak and Krang Ta Chan. I've been through them, word by word.
8 There is only one of those 10 interviews that has any mention of
9 the upcoming witness. Only one. And that person, their testimony
10 about the upcoming witnesses is limited to this: that the person
11 was district secretary in 1978, and presided over meetings
12 attended by the commune chiefs. That is the sum total of the
13 evidence relating to the upcoming witness in these interviews
14 that were recently disclosed.

15 [16.0016]

16 That information, I would note, is well-known to everyone. It is
17 something that has been testified by numerous other witnesses who
18 are part of the case file. So, our first position, Your Honour,
19 is that it's essential that these matters be decided based on a
20 showing of good cause, a showing of specific information. There
21 is no reason to delay this witness, and in our submission, there
22 is no reason to delay any Tram Kak witnesses. There is nothing in
23 any of these new interviews that warrants a delay in hearing
24 further Tram Kak testimony.

25 So something is clear, the statements that were delivered today

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1 were not new statements. These were additional translations. What
2 has happened is, because the Defence doesn't have electronic
3 access to these records, when new translations of the interviews
4 already disclosed are posted, they don't have access to the new
5 translations. So, what they received today were not new
6 interviews. These were just additional new translations of
7 previously disclosed interviews.

8 [16.01.37]

9 Last, most of the argument I've heard is based on the general
10 complaint about the number of statements. Let me just say this:
11 Case file 002 involves over 20,000 documents. It is a large case
12 file. Nuon Chea's counsel last week, when they were listing
13 documents for a single witness that they suggested that they were
14 going to use in half a day of questioning, listed more documents
15 than the number of interviews we're talking about here. They had
16 a break. You gave them a number of days. They say it's not
17 enough. I can't comment on that. All I can say is, they need to
18 divide these interviews up amongst the team, and I would think
19 that they would have had sufficient time.

20 In the Prosecution's office, we're not only obliged to read these
21 interviews. While we're doing this trial, we have to read all
22 interviews that come in on Cases 003 and 004. We then have to
23 identify what issues they relate to. Then we have to file motions
24 and go through that whole process ourselves, and do summaries of
25 them, at the same time as we are doing an appeal response.

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1 [16.03.14]

2 So I understand, all of us here understand, the demands of these
3 trials, but from our perspective, there is simply no good cause
4 here to delay the testimony of these upcoming witnesses.

5 MR. PRESIDENT:

6 You may proceed, International Co-Lead Lawyer.

7 MS. GUIRAUD:

8 Thank you, Mr. President. A few brief observations to let you
9 know that we are <ready> to hear Witness 803, and <that,>
10 therefore, we will rely on the Court's wisdom with regard to the
11 Defence's request. <Having said that>, we are also facing
12 <genuine> practical difficulties, and we <would be prepared> to
13 discuss these <practical> difficulties <either> orally during a
14 <trial management meeting> or by filing written submissions to
15 answer Nuon Chea.

16 [16.04.29]

17 The practical difficulties that we're confronting are linked, in
18 particular, to the very strict rules regulating the usage of
19 documents<, which> makes in-depth, proper <study of these
20 documents> impossible. We cannot photocopy <them>. We <cannot
21 take them with us in the evening or on> weekends <to work with
22 them>. Our interns cannot work on <them>. It's <absolutely>
23 impossible. It's really impossible. So, if we have one single
24 request<>, it's <really> that we may be able to discuss the
25 conditions <for using> these documents<, which makes their study

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1 particularly arduous for the Defence and for us, as well.>

2 MR. PRESIDENT:

3 Thank you very much. You may proceed, Victor Koppe.

4 [16.05.20]

5 MR. KOPPE:

6 Thank you, Mr. President. The remarks of the Prosecution would
7 actually force me to go back to the bigger picture, but obviously
8 we don't have time. So I regret his remarks, because it doesn't
9 give the whole picture as we see it. The bottom line, Mr.
10 President, we just can't do it. That's it. We have no capacity to
11 be able to process them in such a way that is responsible and is
12 within the realm of an effective defence. I think we mentioned in
13 our motion that the Prosecution comes here with six different
14 prosecutors doing the examination. I'm here by myself. I have
15 simply no time to read those documents, all of them, in such a
16 way that I find it responsible to go on with a witness in a
17 leading position.

18 [16.06.19]

19 As an alternative, we offer -- let's have a broader discussion.

20 Let's not go with this witness tomorrow. Let's find an

21 alternative. That's why we've -- we sent a courtesy copy, so to

22 have this discussion today. We've never said in the last two

23 years that we weren't able to do something, but this is the first

24 time.

25 MR. PRESIDENT:

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1 Thank you for the comments made by Parties in relation to the
2 matter raised by the defence counsel. The Chamber will issue a
3 decision or ruling on this matter in due course, in particular
4 before the hearing of 2-TCW-803 and 809.

5 The hearing today has come to an end. The hearing will resume
6 tomorrow on the 5th of March 2015, starting from 9 a.m. The
7 hearing will resume the hearing of the testimony of Witness Van
8 Soeun.

9 Personnel -- security personnel, you are instructed to bring the
10 two Accused back to the detention facility and have them returned
11 to the courtroom before 9 a.m.

12 The Court is now adjourned.

13 (Court adjourns at 1608H)

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