



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

ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ

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

អង្គជំនុំជម្រះសាលាដំបូង
Trial Chamber
Chambre de première instance

ឯកសារដើម
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TRANSCRIPT OF TRIAL PROCEEDINGS

PUBLIC

Case File N° 002/19-09-2007-ECCC/TC

17 September 2015

Trial Day 330

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

The Accused: NUON Chea
KHIEU Samphan

Lawyers for the Accused:
Victor KOPPE
LIV Sovanna
SON Arun
Anta GUISSSE
KONG Sam Onn

Trial Chamber Greffiers/Legal Officers:
CHEA Sivhoang
Maddalena GHEZZI

Lawyers for the Civil Parties:
Marie GUIRAUD
LOR Chunthy
PICH Ang
VEN Pov

For the Office of the Co-Prosecutors:
Vincent DE WILDE D'ESTMAEL
Nicholas KOUMJIAN
Dale LYSAK
SENG Leang

For Court Management Section:
UCH Arun

I N D E X

Mr. HIM Man (2-TCCP-252)

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List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
Mr. DE WILDE D'ESTMAEL	French
Judge FENZ	English
The GREFFIER	Khmer
Ms. GUIRAUD	French
Ms. GUISSÉ	French
Mr. HIM Man (2-TCCP-252)	Khmer
Mr. KONG Sam Onn	Khmer
Mr. KOPPE	English
Judge LAVERGNE	French
Mr. LOR Chunthy	Khmer
Mr. LYSAK	English
The President (NIL Nonn)	Khmer
Mr. PICH Ang	Khmer
Mr. SENG Leang	Khmer

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1 PROCEEDINGS

2 (Court opens at 0903H)

3 MR. PRESIDENT:

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

5 Today the Chamber will hear testimony of a civil party, that is,

6 2-TCCP-252. And before we proceed with the hearing of the

7 testimony of the civil party, the Chamber will grant the floor to

8 Defence Counsel Victor Koppe, regarding his request and

9 submission, as well as the inclusion of his new submission. Ms.

10 Chea Sivhoang, please report the attendance to the Parties and

11 other individuals at today's proceedings.

12 [09.04.37]

13 THE GREFFIER:

14 Mr. President, for today's proceedings, all Parties to this case

15 are present. Mr. Nuon Chea is present in the holding cell

16 downstairs. He has waived his right to be present in the

17 courtroom. The waiver has been delivered to the greffier. A civil

18 party who is to testify today, that is, 2-TCCP-252 is ready to be

19 called by the Chamber. Thank you.

20 [09.05.13]

21 MR. PRESIDENT:

22 Thank you, Ms. Chea Sivhoang. The Chamber now decides on the

23 request by Nuon Chea. The Chamber has received a waiver from Nuon

24 Chea dated 17 September 2015, which notes that due to his health:

25 headache, back pain, he cannot sit or concentrate for long, and

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1 in order to effectively participate in future hearings, he
2 requests to waive his right to participate in and be present at
3 the 17 September 2015 hearing.

4 Having seen the medical report of Nuon Chea by the duty doctor
5 for the Accused at the ECCC dated 17 September 2015, which notes
6 that Nuon Chea has chronic back pain and cannot sit for long, and
7 recommends that the Chamber grant him his request so that he can
8 follow the proceedings remotely from the holding cell downstairs.
9 Based on the above information and pursuant to Rule 81.5 of the
10 ECCC Internal Rules, the Chamber grants Nuon Chea his request to
11 follow today's proceedings remotely from the holding cell
12 downstairs via audio-visual means. And the Chamber instructs the
13 AV unit personnel to link the proceedings to the room downstairs
14 so that Nuon Chea can follow it. And this applies to the whole
15 day.

16 And the Chamber would like to hand the floor to Counsel Koppe to
17 provide initially your submission regarding -- your intention to
18 provide your actual submission. And please indicate to the
19 Chamber how much time that you anticipate for your submission.

20 You may proceed.

21 [09.07.26]

22 MR. KOPPE:

23 Thank you, Mr. President. Good morning, Your Honours. Good
24 morning, Counsel. I anticipate between 10 and 15 minutes.

25 MR. PRESIDENT:

1 You may proceed then.

2 MR. KOPPE:

3 Thank you. Mr. President, two days ago, the International
4 Co-Prosecutor, Mr. Nicholas Koumjian filed a request to call
5 three additional witnesses in respect of the treatment of the
6 Cham. That request was signed by him only; no signature of the
7 National Co-Prosecutor, Chea Leang, appears on the document with
8 number E366. Two of the three witnesses mentioned in E366 had
9 already been requested by both the International Co-Prosecutor
10 and the National Co-Prosecutor. They had done so on the 9th of
11 May 2014, and that is also why two of the three witnesses were
12 given TCW numbers. One is 2-TCW-938 and one is 2-TCW-894.

13 [09.09.00]

14 Now the most important one seems to be 2-TCW-938. This witness
15 has already testified in this very courtroom before the Chamber
16 in Case 002/01. That was in early 2012. Mr. President, I'm being
17 a bit vague as to the exact date in order to ensure that I do not
18 reveal the identity of the witness. In the request from
19 International Co-Prosecutor Koumjian, we can read that 2-TCW-938
20 has testified another five times in Case 004.
21 And this testimony was gathered in 2013. And that evidence was
22 subsequently placed on the case file of Case 004 in December
23 2014. It was then disclosed to the Defence and other Parties in
24 our case in February 2015, and admitted into evidence on 17 July
25 2015. However, the Chamber had decided in August 2015, last

4

1 month, not to summons 2-TCW-938 and 2-TCW-894.

2 [09.10.41]

3 According to the International Co-Prosecutor, these two witnesses
4 can now offer "critical evidence of the existence of a plan to
5 systematically destroy the Cham as a group" as well as "details
6 of how the plan was passed down the hierarchy from Sector 41 to
7 the district and commune levels for implementation." According to
8 the International Co-Prosecutor, the evidence goes to, I quote
9 again, "a central issue in this case, whether the mass killings
10 of the Cham people were conducted pursuant to a policy of the CPK
11 leaders." Accordingly, 2-TCW-938 and the other witness 2-TCW-894,
12 are in the view of the International Co-Prosecutor, quoting
13 again, "perhaps the two most important witnesses for this trial
14 segment." Considering the, quoting again, "significance of the
15 evidence", as well as, "the centrality of this evidence to the
16 critical issues behind the targeting of the Cham and other
17 groups", it is in the view of the International Co-Prosecutor
18 "imperative" to summon these witnesses.

19 [09.12.15]

20 Now having summarized this request, we have first two requests
21 for clarification. As I just said, 2-TCW-938 has already
22 testified in this courtroom. And as I said, this witness was
23 subsequently requested by both the International and National
24 Co-Prosecutor in Case 002/02. The question that I'm seeking
25 clarification on is, why is it now only the International

5

1 Co-Prosecutor requesting to summons this witness? I would like to
2 enquire today with the National Co-Prosecutor why it is that she,
3 Chea Leang, did not co-sign the E366 request?request. What has
4 changed between May 2014 and now? Mr. President, I would also
5 like to know from the National Co-Prosecutor if, according to
6 Cambodian law, it is legally possible for the International
7 Co-Prosecutor to request the Trial Chamber to summons a witness
8 without, I presume, the apparent consent of the National
9 Co-Prosecutor? Now, Mr. President, the Defence realizes that in
10 the segment on Krang Ta Chan, district secretary Boeun, you might
11 remember her, was requested only by the International
12 Co-Prosecutor. But that was, we believe, a different situation
13 because she had never testified before in Case 002, let alone
14 appear in this courtroom during the Case 002/01 trial.

15 [09.14.30]

16 In addition to this, the National Co-Prosecutor has first jointly
17 asked for 2-TCW-938 with her international counterpart, and now
18 all of a sudden, not anymore. And of course, also the fact that
19 we didn't raise this issue with witness Boeun at the time doesn't
20 of course mean we cannot raise this legal matter now. So my
21 request, Mr. President, is to the National Co-Prosecutor to
22 please explain to us what the law is, so that we can revisit the
23 issue when we file our written submissions in response to the
24 request.

25 The second point we seek clarification on is with the

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1 International Co-Prosecutor. Why, is the question, why file this
2 request now? Why so late? Why ask for these witnesses now when we
3 are in the middle of hearing evidence on what allegedly happened
4 with the Cham in part of Sector 41? Mr. International
5 Co-Prosecutor, you have been sitting on this evidence as early as
6 December 2014, and we would really appreciate an explanation. We
7 actually find it quite incredible that so long was waited. And
8 having heard your answer today, we would be happy to then
9 incorporate your answer into again our written submissions. And
10 that, Mr. President, brings me to an even more fundamental issue.
11 And that's the following.

12 [09.16.37]

13 I shall be honest, as I'm always, but this time even a little bit
14 more. We didn't see the request, this particular request, from
15 the International Co-Prosecutor coming. We were actually
16 completely taken by surprise. Of course, in theory, we could have
17 known the existence of this evidence that the International
18 Prosecutor calls so critical and crucial, but the truth is, we
19 didn't. In the tsunami of 8,155 pages coming from the
20 approximately 500 individuals who have given testimony in Case
21 004 and which have been disclosed to us since the beginning of
22 the second trial against our client, it was simply buried. It
23 hadn't come up, excuse me, it hadn't come up in our pdf searches,
24 and as a matter of fact, our one and only international intern
25 had literally stumbled upon the evidence of 2-TCW-938 literally

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1 half an hour before the notification of E366.

2 Now the question of course is why is that -- how is that
3 possible? It's possible simply because up until now, we have not
4 been able to really read those 8,000 plus pages. The only thing
5 we can do and have been doing so far is do dedicated word
6 searches in these thousands of pages. We do not have the time or
7 the resources to read this flood of Case 004 evidence.

8 [09.18.37]

9 Mr. President, as you are well aware, we are having a relentless
10 trial schedule with no breaks between the segments. For instance,
11 there was literally zero pause between the segments on the
12 worksite and the segment on the treatment of the Cham. In
13 addition, and maybe even more important, we are also in full
14 preparation for the upcoming appeal hearings. Only last Friday,
15 we filed probably one of our most important submissions since
16 2008, with the Supreme Court Chamber. It was a highly densely
17 formulated request that took us considerable resources to write.
18 I'm not sure if I'm right now, but I think we do take some
19 comfort from the fact that it appears that also the Trial Chamber
20 itself might not have seen the request from the International
21 Co-Prosecutor coming. Otherwise, I presume both 2-TCW-938 and
22 2-TCW-894 would surely have made it to the witness lists
23 regarding the segment of the Cham.

24 [09.19.55]

25 Mr. President, what I'm saying is in fact that we are pulling the

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1 emergency break. We simply cannot do it anymore. Either we are
2 given extra resources immediately or we should stop hearing
3 evidence on the Cham right now and you allow us to really read
4 and process the evidence from Case 004. And more importantly,
5 actually discuss -- enable us to discuss the evidence with our
6 client and get his input, which we still have not been able to
7 do.

8 And that, Mr. President, brings me to my last point. It is also a
9 very important point. While we are hearing evidence today,
10 yesterday, last week, as to what happened to the Cham in one
11 particular district in Sector 41, the investigators in Case 004
12 are now, as we speak questioning apparently crucial witnesses in
13 relation to one of the suspects in Case 004, Ao An. They are
14 investigating right now genocide charges against him in relation
15 to Sector 41. The very Ta An to whom two of the witnesses this
16 week were referring to in their testimony.

17 [09.21.28]

18 So what allegedly happened at Wat O Trakuon is part of that Case
19 004 investigation right now. And allow me to refer you to
20 paragraphs 23 to 25 of the Case 004 introductory submissions
21 regarding An, they're not part of the case file but you can find
22 these submissions in the public domain on internet. So the
23 investigators in Case 004 are apparently looking for evidence to
24 establish the existence of a genocidal policy against the Cham in
25 Sector 41. They are looking at other districts in Sector 41; they

1 are looking at other security centres in Sector 41; they are
2 looking at the hierarchical structure in Sector 41, both
3 downwards from the sector to the districts and communes and
4 upwards from the sector to the central and standing committee of
5 the CPK. It is very possible that there is exculpatory evidence
6 being gathered today or maybe even yesterday or maybe tomorrow.

7 [09.22.48]

8 Now, Mr. President, we believe that there is a crucial difference
9 with the Trapeang Thma dam worksite in the Northwest Zone. You
10 know that there were also kinds of issues about the evidence
11 coming from Case 004 in relation to this worksite. The crucial
12 difference is, we have not been disputing the existence of the
13 dam, we have not been disputing the decision by our client and
14 others to have that particular dam or the 1st January Dam built.
15 Of course, we didn't present our documents at the document
16 hearing, but if we would have, it would have been clear to you,
17 to all of us, that we are not disputing a policy to build dams
18 and worksites. However, we are strenuously disputing the
19 existence of a policy of genocide against the Cham. Therefore,
20 Mr. President, and I'm rounding up, we request to stop hearing
21 evidence on the Cham in respect of Wat O Trakuon in Peam Chi Kang
22 commune until the investigation against An has been closed and
23 all relevant evidence has been disclosed and seen by the Defence.
24 Alternatively, we request that the Chamber only hears evidence on
25 the treatment of the Cham in the former East Zone since that zone

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1 is not part of the investigation against An.

2 One last remark, in addition, please be informed, Mr. President,
3 that we will soon be requesting to hear additional witnesses in
4 relation to the treatment of the Cham in the East Zone. That
5 request is almost finished and we will circulate a courtesy copy
6 probably coming Monday. But that's aside of the main issues that
7 I would like to raise in relation to the request from the
8 Prosecution -- from the International Co-Prosecutor two days ago.
9 Thank you.

10 [09.25.18]

11 MR. PRESIDENT:

12 Thank you, Counsel. And International Counsel for Khieu Samphan,
13 you have the floor.

14 MS. GUISSSE:

15 Thank you, Mr. President. Good morning to <the Chamber and to>
16 all Parties here present. As I said or as I indicated by email
17 yesterday, <I believe>. We do not wish to address the
18 Co-Prosecutor's submission in substance. We will do it in
19 writing, <as we have indicated>. However, I have to make a few
20 remarks given what my colleague Koppe has just told us. Because,
21 <as you must understand,> there's obviously a direct connection
22 with the latest submissions that we filed; in particular, our
23 submission on the Co-Prosecutor's obligation of disclosure<,>
24 E363.

25 [09.26.14]

11

1 So we are now exactly in the key moment in the proceedings, <I'd
2 say,> because the fundamental question is: how are you going to
3 continue with the trial if day after day, there is continuous
4 introduction of new elements coming from an investigation in
5 <progress>? What our colleague Koppe has just said, we already
6 said in our submissions about the massive amounts of documents
7 <and whether or not> we can review <them all>. But beyond <that,
8 beyond> the practical issues, there are issues of principle. <Can
9 we,> in an <ongoing> trial, integrate in the process elements
10 from an investigation that is not yet closed? It's a substantial
11 problem. It's a problem that is going to come up during the
12 entire trial, in fact, if we do not find <a> true solution to it.
13 So our submission E363 <is aimed> at finding a solution that
14 would allow us to avoid delays in this trial and which would
15 allow us also to abide by rules in a trial that was the subject
16 of an investigation. And I'd like to refer you to our last
17 submission <in response to> the Prosecution, <and I will stop
18 there,> which is <on> what the Co-Prosecutors were telling us, by
19 <incessantly> introducing elements that they say are <normally>
20 capital, <they say,> but that were not reviewed in the case of
21 the investigation, then we have an issue. Does this mean that the
22 investigation was not properly done? Does this mean that the
23 investigative work was not well done? Does this also mean that
24 the investigation, <even that of> Case 002/02, is also not
25 completed? So what <are we doing here then>? So, I will stop

12

1 here. I will refer <the> Chamber to our previous submissions, and
2 we will <respond> in a detailed way to the Co-Prosecutor's
3 <future> submissions pursuant, of course, to the Internal
4 <Rules>.

5 [09.28.38]

6 MR. PRESIDENT:

7 Judge Claudia Fenz, you have the floor.

8 JUDGE FENZ:

9 Just before we get the responses because then it can perhaps be
10 covered, I want to ask both counsels the same question. And this
11 is only -- I'm not touching on the legal issues, I'm not touching
12 on the legal issues raised but on the practical concerns. So
13 that's basically the second issue Counsel Koppe raised, which is
14 lack of time and or resources. Now obviously, the Chamber can't
15 provide more resources. So my question is, have requests been
16 made to the Office of Administration to get more resources?

17 [09.29.23]

18 MR. KOPPE:

19 Numerous times, but the answer is very clear, no. It's
20 impossible, there's no money. We are in desperate need of extra
21 staff or consultants, but it's impossible.

22 JUDGE FENZ:

23 And this is also -- covers recent times?

24 MR. KOPPE:

25 I'd be happy to go every week to Mr. Endeley's office, but he

13

1 says no. No is no.

2 JUDGE FENZ:

3 Okay. So my second question is time. You said you needed more
4 time specifically now when it comes to preparing the Supreme
5 Court hearings. Can you be a bit more specific as to -- can you
6 put a number to additional time, a number of days or whatever?

7 [09.30.18]

8 MR. KOPPE:

9 Judge Fenz, I brought the preparation for the Supreme Court
10 Chamber or the appeal hearings, I brought that up because that's
11 something that we're doing simultaneously. Obviously, when we
12 have hearings scheduled, the question arises whether we can even
13 be in this courtroom hearing evidence on any subject. But up
14 until now, we have not heard anything. So, I suppose the
15 million-dollar question of today is also, when are we going to
16 have the appeal hearings? But that doesn't change the fact that
17 we are preparing on a daily basis for the appeal hearings
18 already. We've had the response of the Prosecution on our appeal,
19 so we know probably what the issues of debate are going to be. We
20 filed, as I said, a sixth additional evidence request. So we are
21 fully busy with prepping the appeal and at one point, I don't
22 think there will be even time to be busy in Case 002/02 on the
23 evidence up -- close to possible appeal hearings. So this is the
24 situation that we are facing and--

25 [09.31.38]

14

1 JUDGE FENZ:

2 Counsel, I understand the overall problem. But we have to
3 schedule. Obviously, as we have done before, we can adapt
4 schedules. But as of today and with what you know today, what, if
5 any additional time to prepare would you need? I understand this
6 can change in three weeks or whatever, but we need to make a
7 decision. If we want to accommodate you, it would be helpful to
8 get your understanding on what you would need now.

9 MR. KOPPE:

10 I understand what you're saying. The problem is really that most
11 of those 8,000 pages I haven't been able to read. It all -- it's
12 been seen by some of our consultants, but it all has to go
13 through me. I don't know -- I mean what I really should be doing
14 is read all those 8,000 plus pages. I don't know when I should do
15 that and I don't really know how long I need for it; few weeks? I
16 don't know. I mean ultimately, I'm the only one always standing
17 here. The Prosecution has, I think, seven different Prosecutors
18 sitting there. I'm being in Court every single day and I don't
19 really know when to read all those pages. So, I don't know, a few
20 weeks?

21 [09.33.14]

22 MR. PRESIDENT:

23 You may proceed. Judge Lavergne, you can now have the floor.

24 JUDGE LAVERGNE:

25 Yes, I am interested in the reference to 8,000 pages because it

15

1 appears to be <extremely remarkable>. But Mr. Koppe, should <I>
2 really understand that since, <I believe,> the end of last year,
3 perhaps, in the month of November and probably even before, the
4 records from Case 004 <were> disclosed <you haven't read a single
5 page of it?>.

6 MR. KOPPE:

7 Yes, but we have been in trial every day. We were busy with the
8 appeal brief until end of last year. Then we started trial. And
9 like I said, a tsunami was unleashed. I only have 24 hours in a
10 day. Maybe you have more, I don't have it.

11 [09.34.12]

12 JUDGE LAVERGNE:

13 Mr. Koppe, if you would allow me, I would like to make a simple
14 remark. Before the Supreme Court Chamber, it appears that you
15 have referred to <an used> records of interviews <which came>
16 from Case 004. <So, when you> tell us that you absolutely have
17 not had any time to acquaint yourself with those documents, I'm
18 absolutely stunned to hear that.

19 MR. KOPPE:

20 No, I haven't been saying that. I mean only two weeks ago, we
21 filed an 87 request, having six Case 004 WRIs admitted as
22 evidence. We filed a request with the Supreme Court Chamber to
23 have Case 004 WRIs admitted. We can -- we have been reading it,
24 we have been reading Case 004 WRIs in relation to the dam. But
25 have we been able to read all 8,000 plus pages in a coherent way?

16

1 No. The only thing that we can do is do word searches and
2 hopefully find whatever we are looking for. But we haven't been
3 able to sit down and actually read coherently all those pages
4 from all those 500 individuals in Case 004. And that's the
5 situation.

6 [09.35.36]

7 MR. PRESIDENT:

8 You may now proceed, Counsel Anta Guisse.

9 MS. GUISSÉ:

10 Yes. Thank you, Mr. President. Before the prosecutors respond to
11 all these arguments, I would like to say, Mr. President, in the
12 course of these proceedings <-->and we have been dealing with
13 Cases 003 and 004<--> I must say that I feel extremely ill at
14 ease at the manner in which all of a sudden, what is under the
15 supervision of the Co-Prosecutors is now under the supervision of
16 the Defence. I <again refer> to <our submissions on> the third
17 and fourth cases <since we will be told that we perhaps did not
18 request additional administrative staff>. <They ask us to state
19 how long we need,> and each time, it's important for us to say
20 <publicly> that the impression given is that the Defence is
21 dragging its feet and is asking for more <time because it doesn't
22 do its job right>. But <let's be clear:> there are obvious
23 procedural problems and we have to resolve them <at the earliest
24 opportunity>. And as we've said in our submissions <in response>,
25 <we can talk about 'how long' once we've sorted <out> the

1 documents which, according to the procedure, should be forwarded
2 to the Defence and <to> the Chamber <, and which ones> should
3 disclosed to the Parties for their use>. That is <the> first
4 point. <If we don't <do this initial sorting out of> documents, I
5 don't see how we can say 'We need this much time'.>

6 [09.37.00]

7 If you are telling us that <at the same time> as Case 002/02 is
8 proceeding, we'll receive a hodgepodge of documents that will be
9 continually poured onto the file <and that, in fact, we are being
10 investigated in a de facto manner as part of the investigations
11 in Cases 003, 004 - then okay, then we have the time, then we
12 wait until the investigations have been completed, as should be
13 done.> So we have a serious procedural problem upstream, and this
14 problem has to be resolved. The problem is, what ought to be
15 disclosed in terms of exculpatory evidence relating to witnesses
16 who are to be called by the Parties and the Co-Prosecutors. So,
17 <third and last point>, we can <exceptionally make requests
18 pursuant to> Rule 87, paragraph 4 of the Rules <as regards new
19 elements, but only exceptionally>. <Now> we find ourselves in a
20 procedural imbroglio and <right mess, that> we cannot cope with
21 it as a Defence.

22 [09.38.16]

23 So once more, I am somewhat ill at ease to find that each time we
24 have to justify ourselves on things that we haven't done. And
25 we've said on several occasions during these proceedings and also

1 in our submissions regarding disclosure of documents, how we
2 would like to proceed. When there is a segment before us, we try
3 to do some research relating to documents before us, <documents
4 related to the witnesses> and documents that have already been
5 tendered into evidence in principle, or documents that are likely
6 to be exculpatory.

7 [09.38.50]

8 <And here again, I should point out that> international case law
9 shows that it is the Co-Prosecutors who should produce those
10 documents. <Today,> I do very well understand that you need to
11 <organize> yourselves in order to know how hearings will be
12 scheduled, how the calling of new witnesses will be scheduled. So
13 <once again, we have provided a modus operandi> in our
14 submissions. <Some things are very clear. Now, if we are being
15 told that we are also a Party, but without any rights under the
16 ongoing investigation, there, we will have a serious procedural
17 problem; that means that we are not in a position to continue
18 with this hearing. We <need to set the> limit.> I cannot accept
19 that on each occasion, the impression is given that we, the Khieu
20 Samphan team have to justify, <beg for days here and there
21 without knowing where we're headed, groping in the dark, because
22 finally, they've announced that even more> documents are coming
23 <and we don't know which way to go>.
24 To respond to Judge Fenz's question, <concerning the time frame,>
25 insofar as we haven't received a decision on the <modus operandi

19

1 we recommend for the> disclosures, it would be very difficult for
2 us to give you a number of days <out of the total number of days
3 that we'd need. In concrete terms, it would depend on the number
4 of statements that <we think the Co-Prosecutors should disclose
5 in keeping with their disclosure obligations.>

6 [09.40.34]

7 MR. PRESIDENT:

8 Do you have any further questions, Judges on the bench before I
9 give the floor to Parties to present responses or submissions? If
10 not, I now hand over the floor to the Deputy Co-Prosecutor of the
11 international side followed by the Co-Lead Lawyer for civil
12 parties.

13 MR. LYSAK:

14 Thank you, Mr. President, Your Honours. Let me try to respond to
15 everything we've heard today, which I must say sounds very much
16 like a response to our motion. And that would be my first point.
17 We should not be interrupting the hearing of a witness for 40
18 minutes, and then planning to file trial briefs 10 days down the
19 road. If the Defence wish to argue this issue now as they have,
20 that's fine. But I don't think they should be getting two kicks
21 at the can.

22 Second, counsel asked to bring this issue to your attention
23 yesterday morning. He had plenty of time to circulate an email
24 giving us some advance notice of what it was that he was going to
25 ask the Chamber. This is becoming a repeating thing, stunts by

1 the Defence Counsel without any notice to the Parties of the
2 request. The stunt today included putting a question to the
3 National Co-Prosecutor who is not here today. If he wished to put
4 a question to the National Co-Prosecutor -- and let me add that
5 she is certainly under no obligation to explain the law to
6 Counsel -- but if he wanted her to be here, perhaps he should
7 have told everyone in advance what he was going to ask for today.

8 [09.42.56]

9 Second, we heard an assertion that we were late in requesting
10 these witnesses. That is simply and utterly false. As he noted
11 himself, we made requests for two of the witnesses in our May
12 2014 filing. And the third witness is a new one that we have
13 discovered. Your Honours should take note that in our May 2014
14 witnesses list, while the state of evidence that had been made
15 available to us in Case 004 was not what it is now. There was
16 lower level cadres at that point who had started to come clean on
17 the policy to identify and smash the Cham people. Based on that,
18 we included these witnesses. Since that time, the investigation
19 has continued. And commune chiefs and a district chief have now
20 come clean and testified to the existence of orders from above to
21 identify and kill all the Cham. Counsel should have known of this
22 evidence. I simply do not believe they were unaware of it. He
23 says we buried this in a tsunami, nothing could be further from
24 the truth.

25 [09.44.41]

1 The interviews of the district chief, four were conducted in
2 2013, one 2014. Interestingly, they were not posted by the
3 Investigating Judge until December 2014, all five of those
4 interviews obviously because of the sensitivity of the
5 information being provided by this individual. When the
6 interviews were posted in December 2014, we made a request,
7 immediate request for authorisation. When we got that
8 authorisation, they were disclosed in February 2015. And this is
9 a very important point. We made a separate filing, disclosure
10 filing, of just the five interviews of that district chief. If
11 you go back to the filing, the disclosure was of those five
12 interviews only. Everybody knows who this person is and the
13 importance of her.

14 To stand here and suggest to the Court that they were unaware of
15 the importance of this evidence and that we tried to bury it is
16 appalling. Judge Lavergne has already pointed out that while they
17 stand here and say they don't have time to review this, they seem
18 to be doing quite a good job in the appeal proceedings where they
19 are repeatedly filing new evidence requests based on these very
20 same interviews, the Case 004 interviews. They also used them in
21 the Trapeang Thma segment, they used them extensively with
22 witnesses in Court, without filing 87.4 motions, and that's fine
23 from our end, including the Khieu Samphan defence team. Just a
24 few weeks ago, she was in this courtroom questioning a witness in
25 the Trapeang Thma segment using one of these interviews that now

1 all of a sudden, some great principle, it should prevent the
2 Court from looking at the truth.

3 [09.46.53]

4 I don't think -- another point was made regarding the Trial
5 Chamber. I don't think it is correct that these witnesses had
6 been rejected. They weren't included in the initial selection of
7 trial witnesses. It may be that the Trial Chamber was considering
8 them more as policy witnesses. I'm not sure. But there's
9 certainly been no ruling rejecting these witnesses, nor could I
10 think that there could be. I don't think there can be any
11 question about the importance of this evidence. The central issue
12 here is why, why were the Cham people rounded up and killed in
13 these locations? This evidence will put an end to an academic
14 argument that has been going on for years. Was there a policy?
15 Yes. We now have people, district chiefs who have provided
16 evidence that there was a clear policy to identify and kill the
17 Cham people in these core areas where they lived.

18 [09.48.07]

19 Let me get to probably what the most important issue is: the
20 procedure, the fact the argument that there is an ongoing
21 investigation and that therefore we should delay this segment.
22 That is not different than other areas of the case. Counsel is
23 right. This is a particularly key area of the case. But it is no
24 different in the other area. Investigations will continue. We
25 will continue to disclose interviews where there are new ones.

1 And there is a procedure available, should there be new
2 significant evidence that either the Defence or the Prosecution
3 wishes the Trial Chamber to hear. So there simply is no reason to
4 stop this segment because there is an ongoing investigation. And
5 we certainly agree with the Defence where reasonable requests are
6 being made, the Court should give the Defence time where they
7 need it.

8 [09.49.13]

9 But, I think that we postpone this segment until the end of trial
10 is unwarranted. Moreover, we have only one more witness relating
11 to the Kang Meas killings, which I think was what Counsel was
12 proposing that we proceed back to the East Zone side, Kroch
13 Chhmar. We only have today's witness. So I don't think asking
14 that we postpone the Kang Meas part of this trial where we have
15 this one witness left, a victim who will describe what happened
16 to the Cham people, I don't think that that is warranted. Should
17 the Chamber grant our request to hear these witnesses, they're
18 not going to be heard for a while. I assume it would be not until
19 sometime in October after the break. In my view, that's
20 sufficient time. But certainly, the Chamber can consider how much
21 time the Defence needs. But I do want to make it very clear,
22 there should be no surprise at all about these witnesses. I think
23 that responds to Mr. Koppe's points.

24 [09.50.30]

25 Regard to the Khieu Samphan team, again, you may have been

1 wondering, as we are, what brought about this recent flip-flop
2 from them? Where they had been using this Case 004 interviews in
3 Court, they had not been opposing our requests to put them into
4 evidence. And then all of a sudden, a few weeks ago, it becomes a
5 matter of principle that we must not hear any of this evidence
6 anymore. I would submit that in all likelihood at some point a
7 few weeks ago, they became aware when they were preparing for the
8 Cham case of these key interviews; this critical evidence that is
9 obviously damaging to the Defence. But put that aside, this Court
10 has an obligation to ascertain the truth. Both sides, Prosecution
11 and Defence, have the right to request new evidence where it
12 meets the criteria under the Rules. This evidence certainly does,
13 these new interviews. The Defence have the right to oppose that.
14 They didn't when we put this evidence forward. This is critical
15 evidence, Your Honours, and as indicated in my motion, we believe
16 it's critical that -- essential that the Court hear this. If you
17 have any questions, I'll stay on my feet. But I think I've
18 responded to the Defence -- my list of issues from the Defence.

19 [09.52.20]

20 MR. PRESIDENT:

21 Thank you. You have the floor now, International Lead Co-Lawyer
22 for civil parties.

23 MS. GUIRAUD:

24 Thank you, Mr. President. Good morning, everyone. I would like to
25 make a few remarks which would be our response to the motion by

1 the International Co-Prosecutor. We do not intend to make any
2 written response to this motion. <I would like to remind
3 everybody of what I always say> whenever we have had to discuss
4 this issue, <that we are speaking about.> I have always presented
5 our position which is very distinct in this case, <since> we
6 support the <public action brought by> the Prosecution, but we do
7 so autonomously. <I also wish to reiterate the point that> the
8 Lead Co-Lawyers do not have access to Cases 003 and 004. And we
9 therefore find ourselves in exactly the same situation as the
10 Defence with regard to access to those documents, bearing in mind
11 nevertheless, that we do not play the same role in this case.

12 [09.53.30]

13 In all honesty, and to make sure that the Chamber understands the
14 difficulties that the Parties may be confronted with, I am
15 obliged to say that we did not anticipate that motion and we did
16 not take full cognisance of documents relating to witness
17 2-TCW-938. I say so because it is important for the Chamber to
18 understand the magnitude of the work that each of the Parties
19 have to do <in each of their roles>, bearing in mind their
20 different functions within the courtroom and outside of the
21 courtroom. And for the Lead Co-Lawyers, the work that we have to
22 do outside of the courtroom is also particularly significant. We
23 can therefore understand that the Defence is asking for more time
24 in order to take cognisance of those documents. We ourselves face
25 difficulties in reading, digesting, and understanding the

1 information that is disclosed, while reiterating what we have
2 always said since the very beginning of this trial that it is in
3 the interest of the civil parties to be able to continue to make
4 progress in a regular manner while respecting the rights of each
5 of the Parties. We have never been opposed to any request made by
6 any Party as regards the summoning of a witness. We have always
7 relied on the discretion and the wisdom of the Chamber. And that
8 is what we intend to do in the case of this particular motion.
9 There is manifestly a recurrent problem, and we all endure the
10 consequences in this trial.

11 [09.55.37]

12 At a point in time, we'll need a verdict from the Supreme Court
13 in Case 002/01 <before the end of the trial>, because
14 <evidently,> there'll be direct <implications> between the
15 decision of the Supreme Court and the proceedings that are
16 underway <before this Chamber>. And <at a point in time, we will
17 have to raise the question of the end of> <the investigations in>
18 Cases 003 and 004 before the end of proceedings in Case 002/02.
19 This said, I would like to react to one of the points made by our
20 colleague, Mr. Koppe, regarding Ta An, because we, the civil
21 parties, are interested, first and foremost, in the search for
22 the truth. We <know from> having access to public information on
23 the Court website that Ta An was charged not with genocide but
24 crimes against humanity, <specifically, crimes> relating to
25 religious persecution, and crimes related to the Au Trakuon

1 pagoda which we often refer to since the beginning of the segment
2 on the Cham.

3 At a point in time, the Chamber will have to ask itself the
4 question whether Ta An should be summoned to explain what
5 happened in Case 002/02. There is no procedural obstacle <for>
6 the Chamber, <proprio motu, to> decide to summon Ta An who
7 appears to have chosen to cooperate with the Court since <he> was
8 not investigated in absentia <, since it appears that,> in light
9 of <public> information on the tribunal <website> and the press
10 communique released, <he> chose to <appear in person and be
11 charged>. So there is no obstacle to the summoning of Ta An by
12 the Chamber bearing in mind the information that <he> appears to
13 have in <his> possession, and which appears to be particularly
14 relevant to the manifestation of the truth as regards <one or>
15 several segments of this trial. We are not making a motion, but
16 we would like to draw the Chamber's attention to this
17 possibility. These are my remarks, Mr. President, Your Honours.
18 Thank you for your kind attention.

19 [09.58.05]

20 MR. PRESIDENT:

21 Thank you. Mr. Koppe, you have the floor.

22 MR. KOPPE:

23 Thank you very much, Mr. President. Let me first say that I'm
24 quite pleased with the support from the Lead Co-Lawyer for the
25 civil parties. I'm quite pleased to hear that also they, despite

1 their very good connections with the Prosecution, did not see
2 that request coming. Sarcastically, Mr. Lysak called our motions
3 a stunt. Well, that really wasn't, and I'm very happy that the
4 Lead Co-Lawyers are supporting us in this respect now. They had
5 no idea about the potential importance of this witness. And I'm
6 actually quite convinced, Mr. President, that the trial Chamber
7 itself didn't have -- didn't see that coming either. So to just
8 accuse us of some stunt is quite outrageous, I must say.

9 [09.59.09]

10 My second point, Mr. President, it's all very nice what the
11 International Co-Prosecutor is saying, but I'm really interested
12 in what the National Co-Prosecutor has to say in respect to my
13 request for clarification. He is entitled to respond, I presume,
14 on behalf of the Office of the National Co-Prosecutor. If Ms.
15 Chea Leang is not there, we don't have any problem with this. He
16 is fully capable, I'm sure, in giving the perspective of the
17 National Co-Prosecutor. So I would really like to hear his view
18 as to why they didn't sign -- didn't co-sign that request that we
19 are now discussing.

20 [10.00.04]

21 MR. PRESIDENT:

22 Judge Lavergne, you have the floor.

23 JUDGE LAVERGNE:

24 Counsel Koppe, I would like to understand your request better,
25 this request <for> clarification that you are addressing to the

1 National Co-Prosecutor. Do you wish to challenge the validity of
2 the <International> Co-Prosecutor's request? I really don't
3 understand. And I don't understand the relevance of this request
4 with regard to the <ongoing> proceedings.

5 [10.00.39]

6 MR. KOPPE:

7 Well, in our written submissions in response to this motion, we
8 can only speculate as to the reasons of why the National
9 Co-Prosecutor is not co-signing. We can have an idea but we
10 really do not know. That's why in Court, in the place where it
11 all should happen, I'm requesting, I have requested the National
12 Co-Prosecutor if it's possible according to Cambodian law to even
13 ask for a witness only by the International Co-Prosecutor? I
14 remember only two weeks ago, Judge Fenz said, when I walked away
15 angrily, it doesn't matter as long as a national lawyer is here,
16 it's all fine. But here we have a mirror situation. It's the
17 International Co-Prosecutor asking only for this witness, whereas
18 before, it was a co-signed request. So I'm not -- maybe I'm
19 mistaken about Cambodian law, but I think it should be the
20 National Co-Prosecutor requesting the Trial Chamber to call for a
21 witness or to summons a witness.

22 [10.01.56]

23 MR. PRESIDENT:

24 I think the Chamber is rather confused now. And it seems that the
25 Parties taken to be like host on a TV broadcast or radio

30

1 broadcast. I have instructed explicitly that each side should
2 expressly submit their stance and observations, and then the
3 other Party can proceed with their response. Now, I would like to
4 ask about the National Deputy Co-Prosecutor if he has anything to
5 say regarding this matter.

6 [10.02.41]

7 MR. SENG LEANG:

8 Mr. President, what has been raised by the defence team is in
9 fact a response to our submission. For that reason, I am in no
10 way to represent the National Co-Prosecutor to respond to his
11 submission. He can do it in writing.

12 MR. PRESIDENT:

13 The Chamber thanks all the Parties involved for your responses
14 and observations regarding the submission by the International
15 Co-Prosecutor to hear new witnesses and the new documents as well
16 as the responses and the submissions made by the two defence
17 teams. They confirm that they will provide their written
18 submission, the one which they base in their observation and
19 submission this morning as well as the upcoming ones in next week
20 also. And this will be used by the Chamber as a basis for our
21 deliberation. Certain issues will be discussed and oral rulings
22 will be provided. However, for other complicated matters, we will
23 inform you of our decision in due course. It is now appropriate
24 for our short break. We will take a break now and return at
25 10.20.

31

1 (Court recesses from 1004H to 1033H)

2 MR. PRESIDENT:

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

4 Before the Chamber invites the civil party to appear in the
5 courtroom, after hearing the request and also the responses by
6 Counsel Koppe in relation to document E366 <filed by the
7 International Co-Prosecutor>, the Chamber decides today, we will
8 hear the testimony of a witness, of a civil party rather,
9 2-TCCP-252, because the civil party is currently in the compound
10 of the ECCC. And Mr. Koppe stated that this civil party has
11 something to do with Cases 003 and 004 <regarding treatment of
12 the Cham people in Sector 41>, however, the Chamber decides that
13 after hearing this civil party, if Counsel Koppe believes it is
14 necessary to invite the civil party to appear before the Chamber
15 again then Counsel Koppe can submit a request for reappearance of
16 this witness.

17 The Chamber will take into account what has been raised by
18 counsel for the defence team and also by the Co-Prosecutor and
19 the Chamber will issue the decision in due course, perhaps next
20 week.

21 Court officer, please invite the civil party 2-TCCP-252 into the
22 courtroom.

23 [10.35.50]

24 (Witness enters courtroom)

25 [10.38.28]

1 QUESTIONING BY THE PRESIDENT:

2 Good morning, Mr. Civil Party, what is your name?

3 MR. HIM MAN:

4 A. My name is Him Man.

5 Q. Thank you. When were you born, do you recall it? Please hold
6 on and observe the microphone before you speak, wait until the
7 mike is operating.

8 A. I was born in 1949.

9 Q. Thank you. Where were you born Mr. Man? Please observe the
10 microphone before you speak.

11 A. I was born in Sach Sou village, Peam Chi Kang commune, Kang
12 Meas district, Kampong Cham province.

13 [10.39.46]

14 Q. Thank you. What is your current address, where are you living
15 now?

16 A. I am living in Sach Sou village.

17 Q. What village is it?

18 A. Sach Sou village.

19 Q. What is the commune are you living in now?

20 A. I am living in Sach Sou village, Kang Meas district. Again, I
21 am living in Sach Sou village, Peam Chi Kang commune, Kang Meas
22 district, Kampong Cham province.

23 Q. What are your parents' names?

24 A. My father's name is Him and my name is Man.

25 Q. What about your mother, what is her name?

1 A. Her name is El Meus.

2 Q. Thank you Mr. Him Man. What is your wife's name and how many
3 children do you have?

4 [10.41.31]

5 A. I have five children.

6 Q. What is your wife's name?

7 A. Her name is Khatei Chah, Him Khatei Chah.

8 MR. PRESIDENT:

9 Mr. Him Man, at the end of your testimony as a civil party, you
10 make a victim impact statement or harms suffered by you during
11 the Democratic Kampuchea, if you wish to do so. Under the
12 Internal Rule 91bis of the ECCC, the floor is now given to the
13 Lead Co-Lawyers for civil parties before other parties. The Lead
14 Co-Lawyers for civil parties and Co-Prosecutors will have two
15 sessions to put questions to this civil party. You may now
16 proceed.

17 [10.42.56]

18 MR. PICH ANG:

19 Thank you, Mr. President. Good morning, Your Honours. Lor Chunthy
20 representing the civil party will ask questions first, followed
21 by the Lead Co-Lawyer Marie Guiraud.

22 MR. PRESIDENT:

23 You may now proceed, Counsel.

24 QUESTIONING BY MR. LOR CHUNTHY:

25 Good morning, Mr. President. First of all, very good morning

1 Chamber, Parties, everyone in and around the courtroom. My name
2 is Lor Chunthy, I am the lawyer representing civil parties, I am
3 from Legal Aid of Cambodia.

4 Q. Good morning, Mr. Civil Party, Him Man. I have several
5 questions to ask you in relation the treatment of Cham people
6 within the period of 1975 to 1979. But first before 1975 where
7 did you live Mr. Him Man?

8 MR. HIM MAN:

9 A. I lived in Sach Sou village.

10 Q. In Sach Sou village did Cham -- did the whole village consist
11 of Cham people?

12 [10.45.18]

13 A. I lived in Sach Sou village and in that village there were
14 Cham living in the entire village. There were no Khmer people
15 living, mingled with Cham people in that Sach Sou village.

16 Q. Thank you. Back then were there mosques for Cham people to
17 practice their religion?

18 A. Yes, we have mosques and we have everything for Cham people to
19 practice their religion and to worship.

20 Q. Thank you. Back then did -- how did Cham people and your
21 villagers practice the religion?

22 A. We practised our religion as normal. We had freedom at the
23 time to practice our religion.

24 Q. Thank you. So from what I heard you were allowed to practice
25 your religion freely, no one came to prohibit you all from

1 practising your religion, is that true?

2 [10.47.32]

3 A. No one banned us from practising our religion at the time. But
4 later on we heard different news.

5 Q. Thank you. What about after 1975, after 17 April 1975, where
6 did you live?

7 A. I was still living in Sach Sou village <>.

8 Q. What about <the> Cham people, were they still living in the
9 same village as you were at the time?

10 A. Yes, they were living in the village. Later on Cham people
11 were transferred to elsewhere. Half of villagers <of Sach Sou
12 village> were evacuated and sent to different places and they
13 were dispersed.

14 Q. Thank you. Do you know how many Cham families were living in
15 that village?

16 A. I can tell you the estimate number; I do not know whether it
17 is right or wrong. There were around 200 or 300 Cham families
18 within the village. I was not the one who was in charge of the
19 statistics; it was <the hakim> who <had> that responsibility. It
20 is my estimate that there were around the number I mentioned a
21 little while ago.

22 Q. Thank you. You have just made mention that Cham people were
23 evacuated and they were sent to various places, where were sent
24 to?

25 [10.51.22]

1 A. All I know is that there was evacuation and I could no longer
2 see half of the villagers who used to be living in my village. I
3 do not know where they were sent to, <> I heard that they were
4 sent to live in various places.

5 Q. How did they go to live in various places?

6 A. They went <there> on foot at the time. No vehicles, no horse
7 carts were being used as a means of transportation at the time.

8 Q. While Cham people were being evacuated, do you know when it
9 happened?

10 A. It is my estimate that it happened in 1975. Yes, perhaps it
11 was in that year. I told you already about the year when Cham
12 people were evacuated. It happened more than 40 years during the
13 time I had -- my mouth <was> full of teeth but now some of my
14 teeth were gone.

15 [10.53.49]

16 Q. How long after the 17 April 1975, were people -- Cham people
17 evacuated? Did it happen during the rainy season or in the dry
18 season that year?

19 A. Cham people were evacuated in the dry season that year. I
20 cannot tell you the exact month of that year. It was -- it
21 happened in the dry season at the time no rains and the weather
22 was hot.

23 Q. Regarding <the Sach Sou villagers> who were evacuated, <did>
24 you know some of them or were any of them related to you?

25 A. Yes. I <knew> some of them. Namely <Hakim Sos (phonetic)> was

1 also one among the evacuees. There were too many of them, <and> I
2 am pretty sure <that the extended families of Hakim Sos
3 (phonetic) were> among the evacuees.

4 Q. Thank you. You said that some of Cham people were evacuated
5 from your village so how many Cham families remained living in
6 your village at the time?

7 A. After the evacuation, there were only 30 Cham families
8 remained living in the village because many of the Cham people
9 were transferred out of my village already.

10 Q. Thank you. Among the Cham 30 families, did it also include
11 your family?

12 [10.56.51]

13 A. Yes, my family was among the 30 Cham families, we were living,
14 still living after the evacuation.

15 Q. Thank you. Later on were these remaining Cham families called
16 to attend any meetings?

17 A. We were invited to attend a meeting and we were told that we,
18 Cham ethnicity, were required to have our hair cut, <not to cover
19 our heads with krama and say daily prayers, but> to eat pork at
20 that time. Everything in relation to Islamic religion, we were
21 prohibited from practising the religion and at the time we were
22 told that the wheel of history was moving and if we happened to
23 put our hands in or put our legs to in to stop the wheel, we --
24 our limbs would be cut by the speed of the wheel.

25 Q. Do you recall who called all of you to attend the meeting at

1 the time?

2 [10.59.13]

3 A. I could recall it but not well. During that time the village
4 chief's name was <Ta Tam (phonetic), who was also a> Cham
5 <person> practising Islam. Ta <Tam (phonetic)> was appointed to
6 <instruct us everything needed to be done. Ta Tam (phonetic) also
7 carried out orders from above.> Later on, Ta <Tam (phonetic) was
8 also> taken away and killed.

9 Q. Thank you. You just stated that the village <chief> at the
10 time was Ta <Tam> (phonetic) and that <he> received <orders> from
11 the upper level. Did he actually organise <any> meeting to <tell
12 people how he had received those orders> as you have just stated?

13 A. I myself was tasked to do -- to engage in manual labour and I
14 was working while the meeting was being conducted nearby.
15 <During> the Khmer Rouge regime, when a chief <raised something,
16 it was certain that he must have received an order to do so. I
17 had no idea from whom the order came. From my pure assumption, he
18 must have received the order before he could make any
19 announcement.>

20 Q. Can you inform the Chamber, what happened after the conclusion
21 of that meeting; I mean what happened to the Cham people?

22 A. Indeed. People started to disappear, either individually or as
23 a whole family and that happened continually. People kept
24 disappearing.

25 [11.02.49]

1 Q. And <did> you yourself know the reasons for those people's
2 disappearances?

3 A. I did. After those people's disappearances -- in fact people,
4 while they were having meal were taken away by the Khmer Rouge at
5 gun point and it varied, the circumstances varied depending on
6 how many people the Khmer Rouge needed to take away. Sometimes
7 two or three people were taken at a time during the meal time and
8 we were so scared at meal time because we were thinking that some
9 of us would be taken away at that time. In our tradition, of
10 course, we have meal in order to live but under the Khmer Rouge
11 regime, every time when it was the meal time, we were afraid that
12 we would be taken away and killed and people were taken to the
13 west and I presume they were taken to Au Trakuon pagoda.

14 [11.04.48]

15 Q. And when you knew about people being taken away at gun point,
16 did you know <of any reason associated with the practice of> your
17 religion?

18 A. It was related to our religion. For us we prayed to Allah
19 despite the ban by the Khmer Rouge. We did it secretly. At the
20 time we were under constant monitoring by the militia and of
21 course they did not tell us that this person or that person was
22 taken away because they were spotted <praying> to Allah and that
23 was the conclusion that we made that we were under watch by the
24 militia and if any of us was found to pray to Allah, then we
25 would be risking our life as they would come to take us away at

1 gun point at lunch time. However, this is my personal conclusion
2 as they, of course, did not tell us the reason when they came to
3 take people away at gun point while we were having meal. And as I
4 said, at that time, everybody was well versed with the saying
5 that the historical wheel was in motion and if you happen to be
6 in the way you would be crushed.

7 Q. Please compose yourself, Mr. Civil Party, and please make your
8 response rather precise. You spoke about having meal, were you
9 having meal communally, I mean among all the Cham people and were
10 you forced to eat anything that you are supposed not to?

11 [11.07.35]

12 A. After the meeting, the Cham people were forced to eat <> pork
13 and when we actually were having meal, nobody came to inspect
14 whether we were having pork or not. Everybody was silent,
15 everybody was afraid of everyone else. We were afraid that our
16 next -- the person who was sitting next to us would report to
17 Angkar in order to gain favour from Angkar and for that reason
18 when we were having meal, no Khmer Rouge came to see whether we
19 were having pork or not. We were afraid that we were being
20 watched and if we were reported by <> other <> people then we
21 would be in danger. Everybody was seen to compete with another to
22 gain favour from the Khmer Rouge.

23 [11.09.06]

24 Q. Can you inform the Chamber whether all the Cham people had to
25 eat pork at the time?

1 A. In accordance to the holy text of Allah, for food that we were
2 supposed not to eat, however we were forced at gun point, we
3 could eat that meat in order to survive and with belief some Cham
4 people actually ate the pork. At that time we were threatened if
5 we were not to consume the pork then we would <be> shot. Some
6 people were weeping while they <were eating> pork. Here the meat
7 that I refer to is pork. I made this response because I myself
8 had to force myself to eat pork; otherwise I would be shot dead.

9 Q. And what about other traditions and customs, was there any
10 prohibitions by the Khmer Rouge?

11 MR. PRESIDENT:

12 Mr. Civil Party, please wait and Counsel Koppe, you have the
13 floor.

14 MR. KOPPE:

15 Thank you, Mr. President. No objection but a request to the
16 Lawyers of the civil parties to be a little bit more specific as
17 to what period of time we are speaking about. I haven't been
18 hearing any reference to time, I presume we are still 1975 or
19 1976 but I haven't heard that so -- in the previous question the
20 lawyer asked at what time did this happen, I would like to have
21 clarification as to what year we are talking about now.

22 BY MR. LOR CHUNTHY:

23 Thank you, Counsel. And Mr. Civil Party, allow me to put further
24 questions to you.

25 Q. In relation to your testimony that you just <gave>, can you

1 inform the Chamber which year did it happen?

2 [11.12.23]

3 MR. HIM MAN:

4 A. I can only give you an estimate. I think it happened in around
5 1976. Yes, I think so, it's 1976. At that time we did not have
6 anything to refer to the date or the year because that's what I
7 supposed to say it was in 1976. However, for the actual physical
8 mistreatment, that, I myself, experienced, and I can tell you
9 rather precisely about that.

10 Q. Thank you. Let me go back a little bit. You referred to a
11 meeting, did they mention that the Cham people were their
12 enemies; did they mention that in the meeting?

13 A. There was a rumour which was spread out through the village
14 that the Cham people were the enemy number one of the regime and
15 the Khmer people were enemy number two. And, at that time, I
16 myself, was wondering about that and in fact I asked a person
17 whose name I cannot recall now and the person was Khmer not Cham
18 and I asked why the Cham people were regarded as enemy number one
19 and he said that because based on the historical backgrounds
20 since the birth of Allah, that the Cham people were greedy in
21 engaging in the battles, in wars and that's what I heard from
22 this Khmer person and rumour was spread out through the village
23 and later on I observed that Cham people had been arrested. But,
24 in my mind, I still had doubt at the time, that why the Cham
25 people were considered enemy number one.

1 [11.15.26]

2 Q. Thank you. I would like to move on to the next topic.

3 In regard to the Cham people who were living in the village and
4 that later on only 30 Cham families remained, my question to you
5 is the following: Were there other people sent to live in that
6 village?

7 A. Yes, there were. The Khmer Rouge actually allotted Khmer
8 people to live, mingle with the Cham people in that village. So
9 by that time, from the view, we could say that there was no
10 longer distinction between the Cham people and the Khmer people,
11 and every one of us living in the village was considered the
12 Khmer people.

13 Q. What year did this happen; was it in 1976?

14 A. I think I have to make an estimate again because I did not
15 have any calendar to refer to in the regime. That event probably
16 took place in 1976.

17 Q. There was an event that happened in that village. One day the
18 Cham people were rounded up and taken away from the village. Were
19 you among the Cham people that were rounded up?

20 MR. PRESIDENT:

21 Mr. Civil Party, please hold on; and Counsel Kong Sam Onn, you
22 have the floor.

23 [11.18.11]

24 MR. KONG SAM ONN:

25 Thank you, Mr. President. Please instruct the civil party lawyer

1 to provide the document that he referred to. This civil party so
2 far does not mention anything about rounding up of the Cham
3 people.

4 MR. LOR CHUNTHY:

5 Mr. President, my question is based -- the document is E3/4706.
6 The Khmer ERN is 00369051 and I will provide you the English and
7 the French ERN a bit later. The English is <00417863>.

8 MR. PRESIDENT:

9 Counsel Kong Sam Onn, you have the floor.

10 MR. KONG SAM ONN:

11 Thank you, Mr. President. In order to avoid putting any leading
12 question to the civil party, it is a practice that a general
13 question shall be put first to the civil party before a
14 particular document is referred to.

15 [11.20.24]

16 BY MR. LOR CHUNTHY:

17 Thank you. Let me rephrase my question to the civil party.

18 Q. My question to you is the following, Mr. Civil Party: Did you
19 know about an event that took place in your village, <Sach Sou,>
20 subsequently?

21 MR. HIM MAN:

22 A. Subsequently, the Cham people were not allowed to go and work
23 in the field, <but> to stay in their respective homes in the
24 village while the Khmer people were allowed to work in the field.
25 So, the remaining Cham people from the evacuation were instructed

1 to remain at home and I was wondering what was happening, why we
2 were allowed not to leave home. And actually they started
3 rounding us up at 3 o'clock in the afternoon and the members of
4 those people were the members of the Long Sword Group. They
5 actually were wearing scarves, <some were wearing pants> and
6 <some of them> were shirtless. <> I myself was among the Cham
7 people who were being rounded up and taken to the pits in Au
8 Trakuon pagoda.

9 [11.22.37]

10 I knew that we were rounded up by them and that we would fall
11 into death trap and then I discussed with my wife what we were
12 going to do in order to survive. So, within the group, I was
13 walking <ahead of> other people so that the Khmer Rouge people
14 would think that I was heading <for> the pit. And then I met a
15 person from the <sector> and <he> asked <me> where I was heading
16 <>. I <then> told him that I was searching for my cattle. <> I
17 called my wife to come along quickly because we had to rush to
18 find our cattle. If our cattle ate vegetables then we would be in
19 big trouble. <Having heard that he did not stop us.> So then I
20 was moving ahead with my wife and then I met another person. And
21 by that time the main Cham group was being headed by the members
22 of the Long Sword Group. <And> luckily <the person told me that
23 he had seen> a cow -- rather brown colour cow <at the back of a
24 house where I was heading>, and <then> I was happy <as I knew>
25 that I would survive. However, we could not leave the outskirts

1 of the village yet as I observed that there were armed people
2 situated along the edge of the village so we hid ourselves <in a
3 small bush. Luckily, they did not see us>. And, at that time, I
4 was about 50 metres away from them, <and it was around 3 p.m. in
5 the afternoon> and then we were hiding ourselves in the bushes. I
6 could see them clearly. <They dressed in black and were> carrying
7 AK<> rifles although I did not know who they were. <They were
8 surrounding the village to make sure no one could escape.> So
9 there were two groups: <the> Long Sword <group> members who were
10 herding the Cham people, <and> another armed group <who> was
11 guarding at the outskirts of the village <so that no one could
12 escape>. <To dig up grass, one must dig up the roots.>

13 [11.25.17]

14 Q. My apology, Mr. Civil Party, allow me to interrupt. You said
15 the Cham people were being rounded up, what was the process like?
16 Please elaborate a bit further.

17 A. They rounded up the Cham people in a certain way in order not
18 to make mistake in rounding up the Khmer people, for that reason
19 the Khmer people were instructed to go and work in the field and
20 only the Cham people were instructed to remain at home. And
21 actually later on, those people who were instructed to work
22 outside the village were taken away and killed too.

23 Q. My main focus is related to the activity of rounding up the
24 Cham people, were the Cham people told the reason for the
25 gathering, were any Cham people tied or were they allowed to walk

1 normally?

2 A. During the process of rounding up, if any Cham person <had
3 been observed to be strong>, that person would <have been> tied
4 <up>. However, for those who <had been observed to be weak,> they
5 <would not have been> tied <up for they knew that those people
6 would not run anywhere>. At that time the situation was rather
7 confusing and chaotic. The dogs were barking and the chickens
8 were running here and there. So I presume even the cattle and the
9 animals knew that <their owners> were being rounded up and taken
10 to be killed.

11 [11.28.14]

12 Q. You said that the people were being escorted by members of the
13 Long Sword Group. And <how did> you yourself <and your wife
14 manage to escape> from the group?

15 A. Actually, at that time, I <played a trick on> them. I made
16 <them believe that> I was a gentle person <so that it was not
17 necessary to have me tied up. Because of the trick, I managed to
18 escape from the group, and went into hiding in> the nearby bush
19 and that was the trick that I used in order to survive.

20 Q. So <after> you could remove yourself from the group and hid
21 yourself in the bush, <how long did you remain in the bush? And>
22 what else did you learn during this period of time?

23 A. I knew about what happened at the time because I myself was
24 amidst the situation. I was lying in the bush and I remained
25 there until it became dark and maybe it was around 7 o'clock at

1 night, then the Cham people -- they started to kill the Cham
2 people and why could I say that; because the place where I was
3 hiding was about 100 metres away from the pit where they were
4 killing the Cham people. I heard screams, I was lying in the
5 bushes with my wife and we heard the screams. We even heard the
6 sound from people being hit. <We heard people screaming to> Allah
7 <for> help. They screamed, "O Allah, my Lord." And usually <other
8 people who were non-Muslims would not> make such a scream, but
9 <only my relatives, my parents, my villagers, my neighbours,> the
10 Cham people <whom they had rounded up at the same time as mine
11 would> pray to Allah. <> I was there hiding in the bush because I
12 could not escape from the village since there was another layer
13 of the Khmer Rouge guarding the village.

14 [11.32.01]

15 MR. PRESIDENT:

16 Thank you, Counsel. It is now time for our lunch break. We will
17 take a lunch break from now and resume at 1.30 this afternoon.
18 Court officer, please assist the civil party during the break
19 time at the waiting room for civil parties and witnesses and
20 invite him back into the courtroom at 1.30 this afternoon.
21 Security personnel, you are instructed to take Khieu Samphan to
22 the waiting room downstairs and have him returned to attend the
23 proceedings in this courtroom before 1.30.
24 The Court is now in recess.
25 (Court recesses from 1132H to 1331H)

1 MR. PRESIDENT:

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

3 Before I hand over the floor to Lead Co-Lawyers for civil parties
4 and Co-Prosecutors to put questions to this civil party, the

5 Chamber would like to inform Parties and the public that the

6 Chamber needs to provide time for the defence team to debate or

7 discussion concerning civil parties who will be testifying before

8 this Court, and in order to find proper solution for the matters.

9 After the Chamber hears the testimony of this civil party and

10 after questioning of the civil party by the Co-Prosecutor and

11 Lead Co-Lawyers, the Chamber will adjourn its hearings today. In

12 addition to this, the Trial Chamber will not sit next week. The

13 remaining issues will be notified to Parties via email in due

14 course. So, please be informed there are some matters which

15 require the Chamber to decide in due course and Parties will be

16 notified in relation to the remaining issues in due course.

17 Please, Judge Fenz, you have the floor.

18 [13.34.34]

19 JUDGE FENZ:

20 I believe it might help if I try to clarify the translation in

21 English.

22 The Chamber will adjourn today after Co-Lead Lawyers and

23 prosecutor have questioned this civil party. So, Defence

24 questioning will happen after a break. This was the reference to

25 the civil party. It's not general; it's to this civil party.

50

1 A couple of issues have been raised this morning. The Chamber
2 will deliberate on these issues and will inform the Parties in
3 due time. But in order to give early notice, we already announced
4 that we will not be sitting next week.

5 Does that clarify issues for the time being?

6 MS. GUIRAUD:

7 Thank you, Mr. President. I'm going to request a last element of
8 clarification, because my Khmer colleague did not understand the
9 same thing as I did. If I understood the Chamber properly,
10 therefore Mr. Him Man is going to have to come back next week?
11 I'm simply telling the Chamber that he's been here for five days
12 already, so it's going to be a bit difficult for him to come back
13 next week, but I take note of the Chamber's decision in that
14 regard.

15 [13.36.26]

16 MR. PRESIDENT:

17 We will only hear the civil parties <after the Co-Prosecutor
18 conclude the questioning today> because we will give time to the
19 defence teams to read documents for preparation in questioning
20 other civil parties and other witnesses. And the following week,
21 the week of 28 September 2015, the Chamber will resume its
22 hearing and will give the floor to the defence team to question
23 the civil parties. And as you are all informed already, the
24 Chamber will deliberate and discuss the remaining issues raised
25 by Parties. And the Chamber will notify Parties in due course in

1 relation to those remaining issues to be discussed by the
2 Chamber.

3 Now, I would like to give the floor to Lead Co-Lawyer for civil
4 parties to put questions to this civil party. You may now
5 proceed.

6 [13.38.09]

7 BY MR. LOR CHUNTHY:

8 Thank you, Mr. President. Good afternoon, the Chamber. Good
9 afternoon, everyone in and around the courtroom. I will now
10 resume my questioning.

11 Q. Mr. Him Man, this morning I asked you about the time when you
12 were hiding in the bushes. And at that particular point in time,
13 you heard the screaming. How many days were you hiding in those
14 bushes, and what did you do during those few days?

15 MR. HIM MAN:

16 A. I was planning to hide in the pond. However, because I was
17 afraid that the militiaman would see me, I decided to hide
18 together with my wife in the bushes. I would have been in
19 dangerous situation if I <had> decided to run to any other places
20 beside the bushes <as the village was being surrounded>. I heard
21 the screaming. I assumed it happened around 7 or 6 p.m. <They
22 were> screaming, "Oh my Allah, please help me." So I believed
23 that the screaming <to> Allah for help perhaps belonged to my
24 mother and my <younger siblings who had been arrested the same
25 time as me>. <It was certain that> the people screaming were

1 <actually the Allah believers who had been arrested from the
2 village>, because they were screaming <to> Allah <for> help. <I
3 was hiding there, and heard the screaming.>

4 [13.40.34]

5 Q. Did you move to any other place at that time while you were
6 hiding?

7 A. I told my wife that she should be waiting for me in the
8 bushes. I would go to see what happened. <Then> I <left> the
9 bushes in order to look for any weapon. I wanted to <know> how
10 many people were still <alive and> staying in the <village. I
11 climbed up a> mosque <in order to find some rifles>. I could not
12 find a single weapon at that time. <I was desperate as I wanted>
13 to help <my villagers with whom I had had memories prior to the
14 incident>. We used to eat together, the cold rice, <we used to
15 meet, and then the day of death came; thus, I became hopeless.> I
16 could not go to help my people, the Cham, because I was not able
17 to find a single weapon. My physical strength started to get
18 weaker and weaker. <I became desperate and almost went insane as
19 all> my relatives, my neighbours, <my siblings in the village and
20 my religion> had gone, so I had no hope in myself. If I <had
21 been> able to help my people at that time, I would <have saved>
22 them.

23 Q. Where did you go afterwards?

24 [13.42.43]

25 MR. PRESIDENT:

1 Please hold on, Mr. Witness. Please observe the microphone.

2 MR. HIM MAN:

3 A. I went to Ta Chib's house; I went westward and I climbed up
4 <every> house <where the Cham people had lived> to see whether
5 there were <any> Cham people <left> in those houses. <The last
6 house I climbed was> Ta Chib's house. I saw no one <left. After>
7 I <climbed> down <Ta Chib's> house, <I started> weeping <right in
8 front of his house.> I was thinking in my mind that <all the>
9 Cham people <in the village> had been <gone except> my wife and
10 I, <and my cousin who had fled to an island.> It was around 4
11 a.m. on that day that I came back to see my wife to discuss where
12 <we would> go <next>. We <then rolled ourselves> into a pond and
13 stayed in that pond. The <next> morning, they <used> M79, B40,
14 <and> AK rifles <to fire on us in the pond>. They fired these
15 kinds of weapons at me in the pond. And the bullets did not hit
16 me and my wife, but I could sense the <vibration made by those
17 big bullets. We submerged and covered our heads with plants.
18 Because of fear, my wife wanted to surface, but then I asked her
19 to remain submerged as she could get killed. I told her they had
20 no mercy, and she would get killed the moment she rose.> I told
21 my wife at that time that <they> were <spraying us with bullets;
22 they were> not <aiming at> just a single <target>. My wife
23 followed me and <remained> under the water at that time.

24 [13.45.05]

25 BY MR. LOR CHUNTHY:

1 Q. Thank you. So, how many days did you stay under the water?

2 MR. PRESIDENT:

3 Please observe the microphone before you speak, Witness.

4 MR. HIM MAN:

5 A. I <stayed there> perhaps for eight days; I was so hungry at
6 that time. And I observed the rats <that were eating> the roots
7 of the water hyacinths. <At that time, since I had no rice to eat
8 -->

9 BY MR. LOR CHUNTHY:

10 Q. I wanted to know how many days you were staying under the
11 water in the pond. You had just mentioned that you stayed under
12 the water for a period of eight days; is that true?

13 MR. HIM MAN:

14 A. I mean I spent time running around for eight days, and I
15 observed that the roots of the water hyacinths were eaten by the
16 rats close to the pond bank. So <I ate the plants like those rats
17 did. Since I was also living in the pond, I faced the same
18 condition as those rats did. I had to follow the rats in order to
19 survive to this day.> At the time, <since we> had no <rice> to
20 eat, <we had to eat all sorts of things including raw eels,>
21 snails, frogs, <crabs,> and other <plants grew there. I had to
22 eat all those things. That was the reason my faeces were like
23 those of the rabbits; they were round and odourless. It was
24 miserable.>

25 Q. You said you had no food to eat, so how could you survive?

1 <What was your body like? How did you live during the day? And
2 how did you live during the night?>

3 [13.47.15]

4 MR. PRESIDENT:

5 Please observe microphone, Mr. Man.

6 MR. HIM MAN:

7 A. I was hiding in the water hyacinths. At night-time, I would
8 pull the "Tras" trees <together and laid on them underneath
9 which> snakes <were> everywhere. <The place was a haven for
10 snakes.> And in the morning <at around 4 a.m.>, I <released>
11 those "Tras" trees <to stand naturally so that the men who were
12 surrounding the pond would not notice any track of anyone laying
13 on them the previous night. I left no tracks of our presence. I
14 then submerged under those water hyacinths again, and covered
15 ourselves with the plants. We remained in such position until 4
16 p.m. before we got out. At certain points, they brought people
17 from five villages to remove the water hyacinths, and put them
18 into piles. Once those water hyacinths were arranged in piles, I
19 swam under water to stay under those piles. I went to hide myself
20 from one pile to another. On some occasions, after a pile of
21 water hyacinths was arranged, those people even sat on me who was
22 hiding underneath that pile.> It was <such> a <misery>, Mr.
23 Lawyer.

24 [13.48.31]

25 BY MR. LOR CHUNTHY:

1 Q. <I am sorry to interrupt. After you have stayed there>, when
2 did you leave <that place>?

3 MR. HIM MAN:

4 A. <By the time we were leaving the place, the water was rising
5 to the level of my height. So in order to prevent ourselves from
6 getting drowned, my wife and I kept the water hyacinths under our
7 chests and on our heads, and we stayed still like> crocodiles.
8 And <on that night, when the village was being flooded, we came
9 to the village. At one corner, we spotted a papaya tree. We were
10 very hungry as we had not eaten rice for three months and 29
11 days. With the help of my wife holding the tree, I managed to
12 climb the tree to pick> two papayas. <They were still young and
13 green. Each of us ate one papaya. At that moment, it> was <the
14 most> delicious <food ever in the whole wide world, although it
15 was still a young and green papaya.> I had no food for a period
16 of three months and 29 days already. I <spotted> two papayas at
17 that time, so <my wife and I ate one each. We also ate the skin
18 of the papaya. It became the most> delicious <food ever in the
19 whole wide world at that time.> I had no food for a period of
20 three months and 29 days.

21 Q. You stated that you <lived there for> a period of three months
22 and 29 days. <Did you have any sort of reference to come up with
23 this figure of three months and 29 days?>

24 MR. PRESIDENT:

25 Please observe microphone, Civil Party.

1 [13.50.42]

2 MR. HIM MAN:

3 A. <> I know <that it was > three months and 29 days because I
4 <did my own counting every day. I actually counted each passing
5 day. Both my wife and I did the counting. Since life was such a
6 misery, each passing day was as long as a period of one year.
7 Time went by so slowly back then. I did not ask anyone regarding
8 the period of time we had gone into hiding. Both my wife and I
9 tried to do our own counting. Our bodies were in pretty bad
10 shape. We became very dark that we dared not touch ourselves hard
11 for fear that our flesh would come off.>

12 BY MR. LOR CHUNTHY:

13 Q. You stated that you went into a village to look for a weapon
14 to help <your siblings who had also been arrested amongst the
15 other> Cham people. What <were their> names?

16 MR. HIM MAN:

17 A. The name was Ahmat Kamel (phonetic), and my mother was also
18 arrested. Lap Li (phonetic) was another one among the group,
19 Aminas, Tauny, Ibrahim, Ka Va (phonetic) and other neighbours and
20 distant relatives, they had all been arrested. I did not lose
21 only close relatives and siblings. My distant relatives also
22 disappeared. So I could not help them.

23 [13.53.12]

24 Q. I have another question. Probably this is the last one. Do you
25 know the names of militia men in your area?

1 A. I know some of them. I <feel sorry for myself. I have tried to
2 recall those people.> One was Yong; he was part of the Long Sword
3 Group. Choek (phonetic) -- there were other members of
4 militiamen, but I could see the two individuals I have just
5 mentioned very clearly. <I observed that many> militiamen <were
6 present> at that time. I did not pay attention <to> who <those>
7 militiamen were because I was <concerned about> my <own> life.
8 <My life was like on the tip of my hair. I just ran for my life.>
9 But, <at a glance,> I could see the two individuals, Choek and
10 Yong, very clearly. I <did> not know where they were living
11 during the period.

12 Q. Thank you. Do you know a person by the name Doeun?

13 A. Yes, Doeun, there was another member, but I do not know where
14 he is living now.

15 MR. LOR CHUNTHY:

16 Thank you, Mr. President. I would like to hand over the floor to
17 the international colleague.

18 [13.55.14]

19 QUESTIONING BY MS. GUIRAUD:

20 I thank my colleague. Good afternoon to all of you. Good
21 afternoon, Civil Party. I'm going to put to you a few questions
22 in order to allow you to continue with your account.

23 Q. As of the moment when you were in the lake hidden with your
24 wife. First a little point of clarification regarding the time
25 you spent in the lake. You said a little earlier this afternoon

1 that you spent three months and 29 days hidden in the lake and
2 that you had counted these days. So, did I understand your
3 testimony properly?

4 MR. HIM MAN:

5 I did count the days. I did not ask others how many days I was
6 hiding. I <went into> hiding for three months and 29 days. I
7 survived the regime because I ate <all sorts of plants that grew
8 there. During the period of three months and 29 days, I found and
9 ate an> eel <this big. I cut it into two, and shared it with my
10 wife. Since I could not eat the eel itself, I then> ate <its
11 intestines. Although> the organs were smelly, <I did my best to
12 swallow them. Because my stomach was empty, I could not even
13 throw that up.> I tried to eat together with my wife. So how
14 could I survive the period? Thanks to vegetables and those
15 insects, snails, <and> fish <that I caught once in a while>. I
16 ate everything at that time. <If I managed to catch a fish from
17 underneath the water hyacinths, I would cut it into two and ate
18 it raw half each together with my wife. The way we ate was like
19 that of rats. We depended on those plants as main food without
20 which we would have not been able to make it for the> period of
21 three months and 29 days.

22 [13.57.29]

23 Q. Thank you. Earlier you described the way the Cham were
24 <assembled> and taken to the pits. In any case, this is what you
25 told us earlier on. So how far was the lake <in which> you were

1 hidden, from the pits that you described?

2 A. I want to ask you: Do you know -- did you want to know the
3 distance from the pond or lake or from the field where I was
4 hiding? I'm not quite clear <about> your question. <Actually,
5 there were two places where I went into hiding. One was the dyke
6 in the paddy field, while the other one was the pond itself.> The
7 distance <was the same. It was about 200 metres to the lake. And
8 it was about 100 metres away> from the pond <where I was hiding>.
9 I could not tell you the exact distance, so I did not take time
10 to measure the distance. <I had to make the jump as I> was
11 <trying to> survive. Sometimes I could smell the stench, bad
12 smells. <Somehow, the stench turned sweet. My nose could no
13 longer make a distinction anymore. Actually,> if the dead bodies
14 <had ever flowed in my direction, I would have torn them into
15 pieces and ate them> because of <the> hunger. I had no food, no
16 rice to eat for a period of three months and 29 days. <Luckily,
17 those dead bodies did not flow in my direction. It was certain
18 that if a body or two had flowed in our direction, both my wife
19 and I would have consumed them.> I was <very> hungry, <so> was my
20 wife. <My nose did not sense the stench anymore, but the sweet
21 scent coming> from the pits where my <parents had been buried.
22 The pits were close to my place.> I had <to take deep> breaths to
23 <inhale> the stench.

24 [14.00.03]

25 <I have kept wondering and asking myself to these days what

1 actually was going on with me that the dead bodies were supposed
2 to be smelly, but my nose sensed the scent instead, I took deep
3 breaths to inhale the stench. I am telling the truth. I am not
4 making up my story. This is what I actually went through. The
5 stench somehow turned sweet so I took deep breaths to inhale it.
6 I was hungry and the stench was coming from the nearby pits.>

7 Q. Can you please explain to the Chamber why you came out of the
8 lake and where you went?

9 A. After I left the pond, I was going to any place that would be
10 safe for me. Actually, I was planning to go to Vietnam. <I was
11 asking myself how I would make it to Vietnam since I was so
12 thin.> And that's what I was thinking and that's what was in my
13 mind at the time. Actually at that time, the <area was flooded so
14 I tried to keep myself afloat, and was flowing together with the>
15 water hyacinth <along the river heading for Neak Loeang. That was
16 my plan as I knew I would not be able to make it by a boat.
17 Things did not go well as planned as I got stuck in a bamboo
18 scrub. By that time, those people who were looking for rats found
19 me and caught me. They beat me with clubs, took me away, and kept
20 me in a> corn barn. <That corn barn was actually a prison as it
21 was being secured> by members of the Long Swords <Group>. They
22 were living <downstairs, while> I was <being> detained <upstairs.
23 The barn was well covered. It was supposed to be the place where
24 people would be kept for a while before they were subsequently
25 taken> to be killed at <> Au Trakuon pagoda.

1 I had a strange feeling <having heard a noise> at the time. In
2 fact, <although I was so thin,> my chest was <being enlarged.
3 According to my own measurement, my chest was approximately seven
4 "hatt" (phonetic) wide and my limbs were this small. I was
5 intending to kick the barn with the hope that I could do it
6 easily. Having looked at myself again and found that I was too
7 thin, I gave up the idea. I then continued to stay there. The
8 people working there went to discuss with the man in charge about
9 an idea of having me spared as they knew I had not associated
10 with anyone, and that I had lived all by myself in the pond. For
11 this reason, they spared my life.> And <then> Kan, the district
12 chief <agreed that I could be> spared <since all the> Cham
13 <people> in the village <had been gone except my couple. Other
14 reasons they agreed to keep me were that I could swim under
15 water, make spoons and melt steel.> Kan himself said <that I
16 could be spared due to the fact that I had not associated with
17 anyone. He himself knew that I had not done anything but stayed
18 in the pond where buffalos hanged out.> He spared me because I
19 knew how to retrieve the tangled <> net at the bottom of the
20 river, <and for the reason that there were no more Cham people
21 who were divers except me. And it was me who took care of the
22 work regarding melting steel to make spoons and ploughs. These>
23 were the main reasons that I was spared. This is part of the
24 stories that I survived, mainly because of my <multi-skills
25 including> swimming, <and melting steel to make spoons for them

1 to use.>

2 [14.04.36]

3 Q. Thank you. Was that <barn> in Sach Sou village, that is your
4 native village, and when you came out of your hideout, did you
5 return to your native village, Sach Sou?

6 A. I was arrested at the bamboo <scrub> in Sach Sou, and sent to
7 Sambuor Meas <where> the corn barn <was located>. That was like a
8 temporary place for people to be detained before they were sent
9 to be killed, and I was detained there. <I became desperate.>

10 Q. <After having been> detained in> that corn barn, did you
11 return to your village or <if not, where did you go?

12 A. I was detained in that corn barn, then I was allowed to live
13 outside the corn barn next to the barn. I was given food to eat,
14 and then <the guards> warned me not to eat too much, otherwise I
15 would be killed. Actually, <I knew I was being spared for the
16 reason that> they <were guarding over> me, <but I warned to> eat
17 <only> a small amount of food <in order to survive. I just
18 followed their instruction.> And <after they had cooked for me
19 and taken care of me for a period of> two to three months, I
20 heard of the news again that people <were mentioning> two
21 <surviving> Cham people <in the village, but> the <villagers>
22 there actually <were fond of> me. <The villagers even gave us
23 the> Khmer <names so there would be no more tracks of the Cham
24 identity. My Khmer name was> Lim (phonetic), <and> my wife's
25 <name was> Na (phonetic) <to show that> no <more> Cham anymore

1 living in the village.
2 [14.07.31]
3 <Later on, after another rumour that was going around among the
4 villagers that there had been another Cham in the village, they
5 came up with a plan. As for this time, another execution took
6 place during which both the Khmer and the Cham people were taken.
7 As a boat driver, I was ordered to transport the adults, while
8 the young ones were being marched towards pits in Reay Pay
9 located not in Peam Chi Kang district, rather in Kang Meas
10 district at that time. During the boat journey, I played tricks
11 on them by acting as if the boat machine had broken down.> Then
12 the Khmer <Rouge> asked me whether I could fix it. <I told them
13 that I was not a mechanic so I did not know how to fix the
14 machine. As a matter of fact, I knew that some air had come in
15 the machine via the injection pump, but I was pretending I did
16 not know how to fix the problem in order to save all the people
17 on that boat from the armed soldiers who were guarding over them,
18 and escorting them to be killed at a lake. I was trying to come
19 up with excuses. I was pretending that I did not know how to fix
20 the machine in order to cause a delay.> In fact, there was
21 nothing wrong with the machine except the air <coming via the
22 injection pump. During the delay, the Vietnamese were defeating
23 the Phnom Penh administration, and there were tanks coming along
24 Road Number 7. Having seen that, those people jumped into the
25 river. All the Khmer people on the boat survived the incident.

1 And those people that had been marched to Reay Pay for execution
2 were also scattered all over the place and were returning to the
3 village. I had no idea where the people that had been assigned to
4 dig pits at Reay Pay were from.>

5 [14.09.06]

6 <At that time, their plan was to have both the Khmer and the Cham
7 people killed. A pit of 50 metres by 50 metres was dug in Sach
8 Sou village. They did not manage to bury anyone there yet because
9 the Vietnamese had defeated the Phnom Penh administration just in
10 time. They did not bury anyone there yet. The pit has already
11 been filled, and people currently grow mango trees there. People
12 were asked to dig the pit for burying the Khmer people. To my
13 assumption, the pit was 50 metres by 50 metres big. At one point,
14 they said there were no more Cham people, but only the Khmer. So
15 the time came for the Khmer. The pit was reserved for the Khmer
16 people because all the Cham people had already been killed. The
17 pit was not used yet as the liberators and the saviours had come
18 to save us in time. This is how> the Khmer people survived <the
19 regime>.

20 There were several big pits in the area. The pit size was as big
21 as the size of a pond. <But no one was buried there yet.> We were
22 fortunate enough that those people who we regarded as saviours
23 came to rescue us. <Rumours spread around that, by the time> the
24 <later> pits were dug, <all the Cham people in Sach Sou village
25 had already been killed. And the information regarding the

1 digging of these new big pits was kept confidential. Anyways, the
2 pits at Reay Pay towards where I was also being marched had
3 already been dug.> And I <would like to> apologize <for> keeping
4 repeating this, because <it was such a painful piece of
5 experience.> And this is not a fiction, this is a true event.

6 [14.11.11]

7 Q. Thank you, Mr. Civil Party. You are not <repeating yourself>.
8 <What> you're saying is very important <and coherent>. I have
9 only one last question for you and then I'll give the floor to
10 the Prosecution to <put> some follow-up questions and <perhaps>
11 some <more> specific questions to you.

12 You <have stated> that you were in a boat with some Khmers and
13 you were being led away to be executed. Did they explain to you
14 why you were arrested a second time? Did they tell you why you
15 were arrested that second time and put on that boat?

16 A. My life was dependent on the Khmer villagers there since all
17 the Cham people had been killed. And I think my life was spared
18 because of my expertise in diving to untangle the net and in
19 <fishing. No one else left except me who had the skill in diving
20 to the bottom of the river. The Khmer people were fond of me. And
21 for the reason they knew that I had not associated with anyone,
22 but lived all by myself in the pond.> And that was the main
23 reason <of my survival> to my understanding. <Actually, they were
24 also planning to kill me finally.> And when I was put on that
25 boat, I <knew I> was meant to be killed along with those people.

1 But still, they used me to navigate the boat at the time. <Since>
2 I had heard earlier that the people <aboard were being
3 transported to be> killed at Reay Pay, <I had to find ways to
4 avoid the destination by explaining to them that the air had gone
5 into the machine, and that I did not know how to fix the
6 problem.> And luckily they all survived because of our saviours.
7 <I can say I did save some adults -- the Khmer people. I did not
8 do anything to harm them. They were the last Khmer adults to be
9 taken from the village, and all of them survived the regime.
10 Considering the size of the river, without the saviours, all of
11 us> would <certainly> be dead.

12 [14.13.48]

13 Q. You've stated a while ago that when you went back to Sach Sou,
14 there were no longer any Cham living there. Did you see
15 inhabitants of that village later in the 1980s and 1990s? Did you
16 see the Cham with whom you had lived in Sach Sou later on?

17 A. They actually separated <those people>. However, some
18 survived, including <Hakim Sos (phonetic)> who came from the same
19 village. <He was also evacuated at that time>. His family also
20 survived. And Ta Kim (phonetic) is also living, who survived the
21 regime. But not everyone returned. From my recollection, I only
22 saw the family of Ta <Sos (phonetic)> who returned to the
23 village. And I do not see the rest of the native settlers in the
24 village.

25 Q. A while ago, you talked about pits and you described the smell

1 emanating from those pits. Did you see those pits <again> in
2 1979, following the arrival of the Vietnamese?

3 [14.15.32]

4 A. The pits were located in the area where the Cham people lived.
5 However, <the Khmer people had taken possession of the place, and
6 currently> mango <trees are being grown on> where the pits were.
7 Maybe the shape of the pit remains there. I am not sure, because
8 the pit was large in size. As I said, it was about 50 meters by
9 50 metres. <I was not aware of their actual plan. I just heard>
10 rumour <going> around <amongst the villagers> at the time that
11 the pit was <for burying people.>

12 Q. Just one last question to clarify this issue: you talked of
13 two types of pits. You first of all said that the Cham were <led
14 towards> those pits, and then you described the smell from those
15 pits. And you also, secondly, described a pit that was meant for
16 Khmers, <at least, that's what you've told us>. My question has
17 to do with the pits where you saw Cham being led to. Did you
18 subsequently see those pits again in 1979?

19 A. The pits where the Cham bodies were buried at the Au Trakuon
20 pagoda, I did not see them during the Khmer Rouge regime.
21 However, post-Khmer Rouge regime, there was an organization --
22 maybe it's ADHOC -- who asked me to accompany them to go there
23 and to measure the pits situated in Au Trakuon pagoda. However,
24 the area is now a plantation of mango trees and orange trees.
25 <The pit located to the east of the Cham village was huge, but no

1 dead bodies were buried. It was actually the biggest pit.>

2 [14.18.02]

3 Q. Can you describe the pits that you saw? Were there many pits?

4 And what were the sizes of those pits? Did you see any bones in

5 those pits, clothing, and can you give us more details on <what

6 you remember>?

7 MR. PRESIDENT:

8 Witness, please observe the microphone.

9 MR. HIM MAN:

10 A. The pit that I saw was empty; it was in anticipation of the

11 subsequent killing. Here I refer to the pit I saw. <It was for

12 burying the dead bodies, but> nobody was killed and buried there

13 <yet>, because at that time the saviours came to rescue our

14 lives. So the pit was empty.

15 [14.19.21]

16 BY MS. GUIRAUD:

17 Q. In 1979 -- let me tell you what you said, and you let me know

18 whether you still agree with me or not, and I'm referring to

19 document E3/5203, ERN in French, 00321726; English, 0024292091;

20 and 2092 in Khmer (sic). And this is what you stated: "After

21 1979, myself and other villagers went to see grave pits, which

22 the villagers had dug to look for gold. The smell there was

23 terrible. There were many bones, but there was no flesh on the

24 bones. Some bodies had clothes, some bodies did not have any

25 clothes."

1 Do you remember this episode, after 1979? If you don't recall
2 that episode, no problem.

3 MR. HIM MAN:

4 A. I have testified to the best knowledge of what I know about
5 what happened. <I do know whose remains were there, but> I know
6 that my parents were killed there. That was the area that they
7 were killed, and I even heard their screams. It is impossible
8 that people could not be killed there. It's not impossible at
9 all, because later on, people went to dig up the pits and found
10 some jewellery and gold. <So I believe that> my parents were
11 <killed there. If they had not been killed,> they would <have>
12 returned definitely to our village.

13 [14.21.38]

14 MS. GUIRAUD:

15 Thank you, Mr. Civil Party. I have no further questions for you.
16 Mr. President, we have gone beyond our time by 10 to 15 minutes
17 following an arrangement <we struck> with the Office of the
18 Prosecutor. I just wanted to point this out to the Chamber.

19 QUESTIONING BY MR. DE WILDE D'ESTMAEL:

20 Good afternoon, Mr. President, Your Honours. Good afternoon to
21 all the Parties. Mr. Civil Party, my name is Vincent de Wilde,
22 and I will put some questions to you regarding what happened
23 before and during the Democratic Kampuchea regime -- that is, the
24 regime of the Khmer Rouge.

25 Q. First of all, I have some questions for you regarding the Cham

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1 village of Sach Sou, to which you belong, and your commune, Peam
2 Chi Kang. Before the arrival of the Khmer Rouge, so we are
3 <perhaps> talking about the then Sihanouk regime. Was the Cham
4 language the language you spoke exclusively among yourselves <in
5 your village>?

6 MR. HIM MAN:

7 A. Please repeat your question. I am unclear.

8 [14.23.18]

9 Q. Prior to the arrival of the Khmer Rouge in your region, were
10 you using the Cham language in communicating with one another in
11 your village? <Which was a Cham village, after all.> And did you
12 also know the Khmer language during that period?

13 A. At that time, all the Cham people who prayed to Allah spoke
14 the Cham language. <In the Cham village, the Cham language was
15 spoken throughout the village. Only once in a while did we speak>
16 Khmer. <Mostly, we spoke the Cham language.>

17 Q. Precisely. When you spoke Khmer, did the Khmer know that you
18 were Cham? Did you have an accent when you spoke Khmer, since
19 Khmer was not your native tongue?

20 A. I think you can apply this principle to the Khmer people as
21 well. When the Cham people speak Khmer, they speak with <the
22 Cham> accent. Likewise, <when> the Khmer people who speak Cham,
23 the Cham people immediately know <that>, because they speak
24 <Cham> with <the Khmer> accent.

25 [14.25.00]

1 Q. I believe that in your commune, there were Cham villages and
2 Khmer villages. In terms of daily life, what was the distinction
3 between daily life in a Khmer village and in a Cham village? Did
4 you have different customs, <celebrations> and traditions? And if
5 yes, can you explain to us what the differences were?

6 A. We all practised our tradition and religion. Both the Cham
7 people practised their Cham religion, and the Khmer people, they
8 practised theirs.

9 Q. Did they dress differently? In other words, was it easy to
10 make the distinction between a Cham and a Khmer as you walked
11 around your <commune of Peam Chi Kang>?

12 A. Of course. We would recognize if that person is Khmer or Cham
13 based on the distinct clothes that he or she is wearing.

14 [14.26.48]

15 Q. Thank you. Let us <now> talk about the period when the Khmer
16 Rouge arrived in your region. Can you explain to us whether there
17 was an initial evacuation which targeted the religious leaders in
18 your village?

19 A. The evacuation took place. A majority of us were evacuated,
20 and they were sent to the upper part of the area to be
21 desegregated, and lived among the local residents there. I did
22 not know the motive behind the relocation of the Cham people, and
23 I can say that half of the Cham people from the village were
24 relocated at that time. <I did not know towards what specific
25 directions they were taken.> I did not know about their fate.

1 However, I heard that they were being placed in various villages
2 to live with the local residents there.

3 Q. Did the religious leaders and <Cham Muslim> intellectuals who
4 were Cham in your village <and your commune>, return to your
5 village after 1979? Or you did not see them again? Here, I am
6 referring to <the> hakim , for instance.

7 A. A number of people disappeared, however, a family of <Hakim>
8 Youssaf (phonetic) actually returned. And besides this family, I
9 did not see any. <It meant that all of them have died.>

10 [14.29.11]

11 Q. When the Khmer Rouge seized power, what happened to the
12 mosques in <your commune,> Peam Chi Kang? What did they use them
13 for?

14 A. They actually placed a grinder <in> the mosque. Rice was also
15 stored in the mosque, as no one was allowed to pray in the mosque
16 anymore. As I said, rice and its grinder were placed in the
17 mosque, and according to our religion, women were not allowed to
18 enter that sacred place. But they instructed women to go and
19 grind the rice there in the mosque.

20 Q. And back then, were Korans, <that is, the holy books> seized
21 <and burnt> in your village?

22 A. I did not see them burn any holy Koran. However, we were
23 explicitly prohibited from praying, from practising holy Koran,
24 from wearing headdress, and that we had to eat pork, <and had our
25 hair cut>. And that's what actually happened on the ground at

1 that time.

2 [14.31.21]

3 Q. Thank you. Previously you spoke about this evacuation, the
4 evacuation of a great number of Cham families, to such a point
5 that there were only 30 Cham families left. You stated to Ysa
6 Osman -- this is document E3/9338. It's an excerpt of the book,
7 "The Cham Rebellion". In French, it's at page 00286655 --
8 <00286655 to 56>; English, 00218503; and Khmer, 00218496; and
9 this is what you said:

10 "In 1975, they evacuated villagers once again, but at a much
11 larger scale this time. Only 30 families remained behind, and
12 their intent was to kill the Cham by letting them die of hunger
13 or of illness. Regarding the 30 families that stayed behind, they
14 died off relatively soon, or they were killed. The Khmer Rouge
15 wanted to suppress the Cham resistance, because they saw that if
16 we would remain united, what had happened in Kaoh Phal could
17 happen again." End of what you had said to Ysa Osman.

18 So, you said in this excerpt that the Khmer Rouge wanted to kill
19 the Cham by letting them die of hunger or illness. So, on the
20 basis of which elements do you support that statement? What makes
21 you believe that the Khmer Rouge wanted to kill the Cham by
22 letting them die of hunger <and> illness?

23 [14.33.38]

24 A. It is my presumption. I have experienced the period. My
25 relatives had been taken away. How could they let my relatives

1 survive, since they did not return? <For example, I was among the
2 30 families of my people from> Sach Sou <were taken to be shot
3 dead.> I could <hardly> make an escape. <So, we got desegregated
4 first before we were taken to be killed. I managed to escape that
5 execution. And only Tuon> Sos (phonetic) -- the person by the
6 name <of> Sos (phonetic) survived the period. He returned. <He is
7 still living today.> So they took me to be killed at that time.
8 Q. Thank you. Civil Party, in this excerpt that I just read out,
9 you spoke about the <events> in Kaoh Phal, <a Cham rebellion>.
10 So, did you hear about this rebellion back then in 1975? Or did
11 you hear about this rebellion afterwards, after the end of the
12 Khmer Rouge regime?

13 [14.35.04]

14 A. I was living in Sach Sou village at that time, and I heard of
15 the rebellion. I was assigned to dig the ground, using manual
16 labour. I heard from others about the rebellion. I heard that
17 there was a rebellion in Kaoh Phal, and villagers in Kaoh Phal
18 <were> cracked down. And from that time onward, the situation was
19 becoming worse for Cham people. There was <a> rebellion <among
20 the Cham people> in Kaoh Phal <village>, and it was cracked down;
21 that is what I heard. So <after that>, the regime <became very
22 cautious about dealing with> my <ethnic group - the> Cham people
23 -- and they did not -- they could not prohibit all of us from
24 practising our religion. <The Khmer Rouge did not win the Cham
25 people on every aspect of their religion, especially regarding

1 praying.> Although we were banned, <the Cham people could still
2 do their> praying secretly. <And when they were afraid of being
3 seen praying inside their home, they just did their prayers in
4 their heart. They must have learned about this that once in a
5 while, one Cham family at a time was taken away. They must have
6 learned that the Cham people were doing their prayers secretly,
7 and the Cham people were stubborn people. It could be the case as
8 I noticed that militiamen>, three of them -- the three militiamen
9 would monitor two Cham people. And three militiamen made up one
10 team.

11 [14.36.54]

12 Q. Thank you. There is an excerpt which I would like to read out,
13 and that's part of your civil party application. It's document
14 E3/4706. And this is also mentioned in "The Cham Rebellion". But
15 <in your civil party application> -- in English, it's 00417861;
16 Khmer, 00369050; and in French, 00898349. And this is what you
17 said regarding 1976. You said the following: "The Khmer Rouge
18 would broadcast announcements on a regular basis, indicating: 'As
19 of now, there are no longer any Cham, and no longer any Khmer. We
20 are all part of the same nation, the Khmer nation. This is why we
21 have to eat the same meal all together.'" End of quote.

22 So, is this an announcement that you heard often? And were you --
23 or did the Khmer Rouge cadres explain to you that the Cham had to
24 become Khmers?

25 A. They wanted <to make> all of us <into one flesh and one

1 spirit.> They wanted <to convert the Cham into the Khmer. And
2 because of such intent, they had to make sure there were no more>
3 Cham <left, but only the> Khmer.

4 MR. PRESIDENT:

5 Mr. Him Man, please listen carefully to the question put by the
6 Co-Prosecutor. I believe you may not have understood the question
7 well. That is why the answer appears to be straying from what the
8 Prosecutor wants.

9 [14.39.40]

10 BY MR. DE WILDE D'ESTMAEL:

11 Q. I will break up my question in two parts. So did you hear this
12 kind of announcement, stating that there are no longer any Khmer
13 or Cham, and that <you> all formed one single Khmer nation? And
14 did you hear this kind of announcement often?

15 MR. HIM MAN:

16 A. Not often. The village chief would not make such an
17 announcement very often. I was assigned to do the manual labour,
18 digging the ground. There was such an announcement, but it did
19 not happen very often.

20 Q. Fine. I think I still have 10 or 15 minutes more of questions.
21 I will try to speed up a little bit. With regard to the Au
22 Trakuon pagoda: before <you and> the big group of Cham were taken
23 there, and before you fled, did you know that this pagoda was
24 used as a security centre by the Khmer Rouge?

25 A. I heard from others about that. Pol Pot clique, members of

1 this clique, were walking around and stating that people were
2 shackled, people were detained. <I was not very certain of this
3 as I myself never went to the pagoda.>

4 [14.41.45]

5 Q. Were you living far from the Au Trakuon pagoda in your village
6 of Sach Sou? What was the distance between your house and the
7 pagoda?

8 A. It is my presumption that that house, my house, was located
9 about 100 metres away from the pagoda. It is my presumption
10 because I did not measure the distance between my house and the
11 pagoda.

12 Q. Did you already note in '76 or 1977, before you were arrested
13 with the other Cham who were taken away to the pagoda, did you
14 note that there was a nauseous stench around the pagoda?

15 A. The pits -- I was hiding in the pits, in the pond. So I could
16 smell the stench, and I was trying to take a long breath <to
17 inhale it> at the time, because I was so hungry. <However, at
18 that time, the stench turned into sweet scent like that of the
19 smelly dried fish; thus, I took deep breaths to inhale it as I
20 was very hungry.>

21 [14.43.43]

22 Q. Thank you. In fact, I was speaking about the moment when you
23 were not yet in the lake -- that is to say, before, when you were
24 still in your house in Sach Sou; so did you already <smell> this
25 stench at that moment?

1 A. No one was living in Sach Sou village. They were not allowed
2 to live in their respective houses. All of them <had already
3 been> taken away and killed. <By then, nobody was home and was
4 inhaling the stench. All the Cham had been killed except the two
5 of us.>

6 Q. Fine. I'm not going to dwell upon this, because I don't have
7 much time left. Did you see Khmer Rouge cadres from the Southwest
8 Zone arrive in your region?

9 A. I did not <know> at that time who were the high-level people,
10 and who were the subordinates <because of all of them were
11 dressed in black>. I was assigned to carry dirt, and to dig the
12 canals, doing the manual labour. I saw those people <dressed in
13 black>. I saw them.

14 [14.45.34]

15 Q. Earlier, you spoke about a person by the name of Kan. Do you
16 know where he came from? And did he have an accent? Was his
17 accent different from the accent of the cadres of the North Zone
18 where you were?

19 A. Kan was -- did not originate from my village. He was not from
20 my village. I heard of the name Kan. I <just> heard <from
21 villagers it was on his order that I was spared. I myself did not
22 hear that from him directly. It was the villagers who told me
23 so.> Ta Kan was not from Sach Sou village originally. I did not
24 know at the time where he was from.

25 Q. Fine. Now I'm going to turn to the day when you were gathered,

1 and when you were taken to the Au Trakuon pagoda. So, can you
2 tell us how many Cham people were gathered by the Long <Swords>
3 militia, or by the other militias?

4 A. Perhaps 20 -- more than 20 or 30 Cham families were gathered
5 and arrested. All of these people had been taken away, including
6 me. That group included me as well. And those people may have
7 died. It is my assumption.

8 [14.47.40]

9 Q. Fine. Fine, I'd like to read out an excerpt of Ysa Osman's
10 interview of you. This is document E3/9338; in Khmer, 00218497;
11 French, 00286656; English, 00218503. And you said the following
12 -- this might refresh your memory regarding figures: "At 3 p.m.,
13 the Khmer Rouge started evacuating all of the Cham throughout the
14 entire district of Kang Meas. Most of them were former villagers
15 of Sach Sou, Antung Sor, and Angkor Ban. There were hundreds of
16 us." End of quote.

17 So, can you confirm that the people who were assembled that day
18 came from different villages of your commune, and of your
19 district?

20 A. <Those people could have> died <at the same time>, because
21 <all of them, for example, were> sent to work in <a> dam site,
22 <or> in <a> worksite <at the same time. I was aware of what
23 happened in Angkor Ban, although I lived in Sach Sou - Antung Sor
24 village because people had been taken away from the village to do
25 labour work elsewhere. Since they had been taken away to work at

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1 the same time, they could have died at the same time as well.
2 The> Cham people from <Antung Sor,> Sach Sou, Angkor Ban
3 villages, died. <From my observation, those people had been
4 brought from various villages to> work together. <It did not
5 matter whether they were from> Antung Sor (phonetic) <village> or
6 Sach Sou village, they <had to> die <as long as they were the
7 Cham.>

8 [14.49.55]

9 Q. The day when the Cham were gathered in your village, would you
10 say that there were <dozens> of people, as you just said, or
11 hundreds of people, as you said to Ysa Osman before?

12 A. Tens of <the> Cham people <from my village>, I may say. And
13 together, the number of these people; <for example, the other
14 perished Cham families from Antung Sor (phonetic) and Angkor Ban
15 villages could> reach hundreds, or even thousands. Only <several>
16 Cham people evacuated from my village, and I estimated that only
17 <20->30 Cham families remained staying in my village after the
18 evacuation. <I was also among those people being taken for the
19 execution but I escaped. I was certain that I was being taken
20 among those people for the execution.>

21 Q. Fine. Well, that evening when people were executed, you heard
22 Cham <imploring> Allah when you were hiding in the bushes. Do you
23 remember if music was also played around the pagoda, or in the
24 pagoda?

25 [14.51.44]

1 A. I heard <the> screaming <of people in agony,> and <their cries
2 to> Allah for help. <Actually, the sound could be coming from
3 either> the loudspeakers <or something else. Each claim could be
4 correct. However, since I was> close to that pagoda, <I could
5 make the distinction. If the sound had been coming from the
6 loudspeakers, I would have heard some other disrupting sounds.
7 This time,> I <actually> heard the screaming for Allah; <thus, I
8 knew that they were actually my people. At that time, once a loud
9 sound was heard, one could usually claim that the sound was
10 coming from the loudspeakers. But for me, it was different when
11 it came to the screaming of men for Allah.>

12 Q. Are you aware of the fact that your experience <as a couple,
13 together> with your wife, <both of you> who survived the Sach Sou
14 massacre, is very well known in your district? And that many
15 people, including former militiamen and guards, are aware of the
16 fact that you survived?

17 A. Yes, they know. Fifty percent of them know that I and my wife
18 survived the regime. And I was -- I am referred to as Ta Man, see
19 Ta Man eating the water hyacinths. So I am referred to as what I
20 have told you.

21 Q. And among the guards or the militiamen, the Long Sword
22 militiamen, did you know someone by the name of Tay Koemhun?

23 A. I do not know this individual. But I remembered that there
24 were many people coming to arrest all of us, and I only could
25 recall two names, as I have told the Chamber already. I, at the

1 time, <saw> many of them, but I <did not know> their names.

2 [14.54.49]

3 MR. PRESIDENT:

4 Mr. Man, please listen to the question carefully, because we do
5 not have much time. And perhaps you've almost run out of time,
6 Mr. Co-Prosecutor.

7 BY MR. DE WILDE D'ESTMAEL:

8 Q. Yes, I will finish with <two> quotes, <first> a quote by Tay
9 Koemhun. In document E3/5257 -- English page, 00251021; French,
10 00342673; Khmer, 00243107-08 -- and the following question is put
11 to him:

12 "Are there Cham who were evacuated who are still alive here?"

13 His answer: "There is one family."

14 Question: "Do you know that family's name?"

15 Answer: "The husband is called Man, but I don't know the name of
16 his wife."

17 Question: "Were all the Cham killed here?"

18 Answer: "<Yes,> maybe they were all killed." And a little
19 further: "It's true that the Cham were killed." End of quote.

20 Civil Party, my last question, or my last line of questioning: do
21 you know someone by the name of Sen Srun, who was a Khmer in Sach
22 Sou village, and who worked there as well?

23 [14.56.25]

24 MR. PRESIDENT:

25 Please wait, Civil Party. International Counsel for Mr. Khieu

1 Samphan, you may now proceed.

2 MS. GUISSÉ:

3 I don't know if I didn't understand something, but I thought that
4 there was a quote by Tay Koemhun. But I didn't understand the
5 question that followed in relation to Tay Koemhun. Maybe --
6 apparently, the Co-Prosecutor has started speaking about Sen
7 Srun, so is he trying to catch up for something that he wasn't
8 able to read at the hearing with Mr. Tay Koemhum? But I'm a bit
9 at a loss here.

10 BY MR. DE WILDE D'ESTMAEL:

11 Yes, for the record, I was putting questions after I read out
12 what Sen Srun said about the fact the civil party survived with
13 his wife.

14 Q. And maybe, to <resume>: So, do you know this person, Sen Srun,
15 whom I've just spoken about?

16 [14.57.49]

17 MR. HIM MAN:

18 A. Srun? Yes, I know him. He is living in Sambuor Meas Ka
19 village.

20 Q. I simply would like to read out what he said regarding you. In
21 the document E3/5302 -- French, 00623191; Khmer, 00635176;
22 English, 00210488 -- and he said the following: "When I came home
23 from the Pring Chrum site, they asked me to join the <commune's>
24 security forces unit, to gather all of the Cham <from their
25 homes>. I was a member of this team. I was asked to <guard> the

1 Cham who had been arrested, and to <guard> them <by the entrance
2 of> the pagoda. This happened in August 1977. And back then, all
3 of the Cham in each village in my commune were assembled and
4 arrested. Only two Cham managed to escape, and to hide near the
5 lake. The number of arrested Cham in the commune was about 300."

6 [14.59.18]

7 And on the following page, he says that "Towards the end of 1978,
8 we <found> the two Cham who had managed to escape; <coming up
9 from the lake>. They were arrested, but were not executed. They
10 are alive today, and they live in Sach Sou village, Peam Chi Kang
11 commune. The man is called Kae Man, and the woman, Him Cheah.
12 <They are husband and wife.>" End of quote.

13 Sen Srun in this excerpt is quite clear about the date: he speaks
14 about August 1977, which is the moment when all the Cham were
15 gathered and brought to Wat Au Trakuon. So, do you agree with
16 him? Or do you think that this happened at another point in time?

17 A. I know the person by the name Srun. And in relation to the
18 arrest of Cham people, I agree to what he said. However, as for
19 the exact date, I have no idea when exactly Cham people were
20 arrested. It is true that Cham people were killed. I know this
21 person very well, his name is Srun. Yes, it is true that Cham
22 people were arrested. As I said, I do not know when Cham people
23 were arrested.

24 [15.01.06]

25 Q. Two last clarifications: he talked about 300 persons from the

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1 Cham community, who were led on that day to the pagoda. Do you
2 agree with that assertion, or not?

3 A. Yes, I agreed to that number. <I also made an estimate as> I
4 <have never been a> village chief, group chief, team chief, <or a
5 hakim. He was sure that the figure was about three hundred
6 people, and I came up with another figure.> So everyone gave <his
7 own> estimated number. <Since he had lived closer to the place,>
8 Srun <could be> more accurate in terms of the figure. I agreed to
9 his figure. <I agree with him that many Cham people died.
10 Although,> I did not have time to count how many Cham people were
11 living in Sach Sou, <I knew that many of them died. Since he
12 lived close to> the place where it happened, <I agree with him
13 that> many Cham people died at that time. <He is more certain
14 than I am on this point.>

15 MR. PRESIDENT:

16 Please put the last question, Mr. Co-Prosecutor.

17 [15.02.43]

18 BY MR. DE WILDE D'ESTMAEL:

19 Thank you, Mr. President. This is precisely my last question.

20 Q. You were well-known: you were even recognized by some security
21 officers, like Tay Koemhun, and some persons who played a role in
22 rallying those Cham, <like> Srun, and you were one of the few who
23 survived that episode. Can you tell us how you live with this on
24 a daily basis? The fact that in your community, you and your wife
25 <were the only two people to> survive the massacre of the Cham at

1 the Au Trakuon pagoda. How were you able to come to terms with
2 that? And what have you tried to do to hand down the memory of
3 this tragic event to future Cham generations?

4 MR. HIM MAN:

5 A. <I> survived the regime. <I went through the regime with great
6 suffering. Having suffered the hunger for a period of> three
7 months and 29 days, <I needed to raise both hands in order to
8 just scratch my head. I survived the regime with great suffering.
9 I did not survive the regime with full energy. Death could
10 probably be a better option compared to having survived in such
11 situation.>

12 [15.04.21]

13 MR. PRESIDENT:

14 I believe the question put lastly by the Co-Prosecutor is very
15 complicated, and the <civil party> may not be able to respond to
16 your question, Mr. Co-Prosecutor.

17 It is now time for the adjournment, and the Chamber will resume
18 its hearing on 29 September 2015, at 9 a.m. -- rather, on 28
19 September 2015. The Chamber will continue to hear -- continue
20 hearing the testimony of civil party 2-TCCP-252, and then the
21 Chamber will inform the following witnesses and civil parties to
22 be here in the courtroom later on, in email.

23 Thank you, Mr. Him Man. The hearing of your testimony has not
24 come to a conclusion yet. You are therefore invited to appear
25 before the Chamber once again, on 28 September 2015, at 9 a.m.

1 Court officer, in collaboration with WESU, please send Mr. Him
2 Man to his residence, or where he is staying now, and please
3 invite him back into the courtroom on 28 September 2015, at 9
4 a.m.

5 Security personnel are instructed to bring Mr. Khieu Samphan and
6 Nuon Chea back to the ECCC detention facility, and have them
7 returned on 28 September 2015, before 9 a.m.

8 The Court is now adjourned.

9 (Court adjourns at 1506H)

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