



អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា
Extraordinary Chambers in the Courts of Cambodia
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ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ

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

អង្គជំនុំជម្រះសាលាដំបូង

Trial Chamber
Chambre de première instance

TRANSCRIPT OF TRIAL PROCEEDINGS

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I N D E X

Mr. NHEM En (2-TCW-919)

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List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
Mr. FARR	English
Judge FENZ	English
The GREFFIER	Khmer
Ms. GUIRAUD	French
Ms. GUISSE	French
Mr. KONG Sam Onn	English
Mr. KOPPE	English
Judge LAVERGNE	French
Mr. LYSAK	English
Mr. NHEM En (2-TCW-919)	Khmer
The President (NIL Nonn)	Khmer
Mr. PICH Ang	Khmer
Mr. SENG Leang	Khmer
Mr. TAY Teng (2-TCW-865)	Khmer

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

2 (Court opens at 0900H)

3 MR. PRESIDENT:

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

5 Today, the Chamber continues to hear the remaining testimony of
6 witness Nhem En, and begins hearing testimony of another witness
7 -- that is, 2-TCW-865.

8 Ms. Se Kolvuthy, please report the attendance of the parties and
9 other individuals to today's proceedings.

10 THE GREFFIER:

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

13 Mr. Nuon Chea is present in the holding cell downstairs. He has
14 waived his right to be present in the courtroom. The waiver has
15 been delivered to the greffier.

16 The witness who is to conclude his testimony today, Mr. Nhem En,
17 is present in the courtroom, and the upcoming witness, namely,
18 2-TCW-865, has Mr. Mam Rithea as duty counsel. Both are ready to
19 be called by the Chamber.

20 Thank you.

21 [09.02.10]

22 MR. PRESIDENT:

23 Thank you, Ms. Se Kolvuthy. The Chamber now decides on the
24 request by Nuon Chea.

25 The Chamber has received a waiver from Nuon Chea, dated 21st

2

1 April 2016, which states that due to his health, headache, back
2 pain, he cannot sit or concentrate for long. And in order to
3 effectively participate in future hearings, he requests to waive
4 his right to be present at the 21st <April> 2016 hearing.

5 Having seen the medical report of Nuon Chea by the duty doctor
6 for the Accused at the ECCC, dated 21st April 2016, which states
7 that, today, Nuon Chea has back pain and feels dizzy when he sits
8 or stands for long and recommends that the Chamber shall grant
9 Nuon Chea his request so that he can follow the proceedings
10 remotely from the holding cell downstairs. Based on the above
11 information and pursuant to Rule 81.5 of the ECCC Internal Rules,
12 the Chamber grants Nuon Chea his request to follow the
13 proceedings remotely from a holding cell downstairs via an
14 audio-visual means.

15 The Chamber instructs the AV Unit personnel to link the
16 proceedings to the room downstairs so that Nuon Chea can follow.
17 That applies to the whole day.

18 [09.03.48]

19 The floor will be next given to the two defence teams to put
20 questions to the witness. However, before we do that, I'd like to
21 give the floor to Judge Fenz since <she> has some questions to
22 put to the witness.

23 Judge Fenz, you have the floor.

24 QUESTIONING BY JUDGE FENZ:

25 Thank you, and good morning.

3

1 Q. Witness, I have a few short questions, and I would appreciate
2 short and concise answers. The magic word is "short". Do we
3 understand each other? Okay.

4 All my questions pertain to the films, videos and audios you
5 claim to have in your possession. My first question: Are these
6 films, videos and audios, have they been taken by you?

7 MR. NHEM EN:

8 A. Those documents<>, I, myself, produced them <during that
9 regime>.

10 [09.05.04]

11 Q. Were these documents produced by you between '75 and '79?

12 A. Yes, that is correct.

13 Q. Do you still have negatives of these photographs?

14 A. I did not have the negatives. I only have photos.

15 Q. So the only thing you have is printouts. No negatives exist
16 any longer, anywhere in Cambodia.

17 A. Yes, that is correct.

18 Q. But you have the originals of audios and videos, or don't you?

19 A. I have some original <tapes and> videos. As for the
20 audiotapes, my friend sent it over from Germany.

21 Q. The audiotapes were sent by a friend. How many audiotapes are
22 we -- are these tapes taken between '75 and '79?

23 A. Allow me to backtrack a little bit. I did not have <those>
24 audiotapes, but I have the audiotapes <that were produced> after
25 <'79. Sorry, I was confused a while ago. Regarding the audiotapes

4

1 before '79, I do not have them. However, I have the audiotapes
2 that were produced after '79, and it was the voice of Pol Pot.>
3 [09.07.15]

4 Q. So to be clear, you don't have audiotapes that originate from
5 '75 to '79.

6 What about videotapes? Do you have videotapes which were taken
7 between '75 and '79?

8 A. <Many of them have been lost, but> I have some<>.

9 Q. Short question to the audios. Why -- if you have taken them,
10 why were they sent by a friend from Germany?

11 A. In fact, we did not maintain those documents during the war
12 time, although there were many. But many of them <have been> lost
13 anyway. And during the -- during the war period, we only took
14 care <of ourselves>, but not the documents. <We kept moving from
15 one place to another.>

16 [09.08.24]

17 Q. But how did your videotapes end up with a friend in Germany,
18 or are these not your videotapes?

19 A. Regarding the documents, I actually took many videos, but I
20 did not have <time to save> them<>. For that reason, they were
21 maintained by others in overseas. And <at that time>, most of
22 those videos were sent to Ta Mok and Pol Pot, <and those were
23 placed at Ministry of Education> during the regime.

24 Q. I don't follow. You gave your videos and audios to friends who
25 left the country? Is this how it was? Or are these videos taken

5

1 by somebody else?

2 A. Allow me to clarify it. There are two stages: Between '75 to
3 '79, I did not have in my possession the tapes of Pol Pot; and
4 only after '79, <from '83 to '95,> I have some tapes of Pol Pot.

5 Q. To clarify, you have no -- you didn't produce any tapes
6 between '75 and '79, or you don't have any of those you produced
7 between '75 and '79? Let's -- one question after the other. I
8 want to be clear.

9 Did you produce -- do you still have tapes you, yourself,
10 produced between '75 and '79?

11 A. No, I don't <have them>. As I said, I only have photographs.

12 [09.10.38]

13 Q. Okay. So we don't have videotapes between '75 and -- taken
14 between '75 and '79 and you don't have audiotapes taken between
15 '75 and '79. Is this correct?

16 A. Yes, that is correct.

17 Q. What you have is printouts of photos taken between '75 and
18 '79. Is this correct?

19 A. Yes, that is correct. I only have two kinds of items with me
20 -- that is, photographs and the Khmer Rouge songs.

21 Q. I'm not interested in what you have here, but what you have
22 anywhere in Cambodia in your possession. So let's get back to the
23 photos.

24 Do you still have photographs anywhere in Cambodia in your
25 possession that were taken between '75 and '79?

6

1 A. Yes, I have.

2 [09.11.58]

3 Q. To sum up, just to be very clear, you don't have, anywhere in
4 Cambodia, audios or videos that were taken between '75 and '79,
5 but you have -- and you don't have negatives, but you have
6 printouts of photos. Is that the correct summary?

7 A. Yes, that is correct.

8 Q. And my last question about the photos: Could I find these --
9 copies of these photos in DC-Cam archives? Did you provide copies
10 of these photos, for instance, to DC-Cam?

11 A. There is no copyright law in Cambodia and, for that reason,
12 many of my photos <are> everywhere throughout the world, and some
13 are <> at DC-Cam. But personally, I do not have any favour to
14 hand these photos to DC-Cam, <frankly speaking>.

15 Q. I'm asking a very simple question. Did you provide all of the
16 photos in your possession to DC-Cam for whatever reason? Are they
17 in their archives, yes or no?

18 A. I only gave them two photos -- that is, one photo in my hand
19 and another photo.

20 [09.13.59]

21 Q. And did anybody from the Court ever go through the remaining
22 photos in your possession, an investigator or whoever?

23 A. Yes, since 2008 when I was still deputy governor of Anlong
24 Veang district, <the individuals from the Khmer Rouge court>
25 made two trips there and I showed them photos.

7

1 Q. To whom did you show the photos?

2 A. I cannot recall the names. They came from the Khmer Rouge
3 Tribunal and Chhang Youk from DC-Cam.

4 Q. And you showed them all the photos you had in your possession.
5 True?

6 A. Yes, that is correct.

7 JUDGE FENZ:

8 Thank you. I don't think I have further questions.

9 [09.15.25]

10 MR. PRESIDENT:

11 Thank you, Judge Fenz.

12 I'd like to give the floor now to the defence team for Khieu
13 Samphan to put questions to witness Nhem En.

14 You may proceed, counsel.

15 QUESTIONING BY MS. GUISSÉ:

16 Thank you, Mr. President. Good morning, everyone.

17 Q. Good morning, Mr. Nhem En. My name is Anta Guisse. I am

18 International Co-Counsel for Mr. Khieu Samphan, and in this

19 capacity, I'll put a few follow-up questions to you.

20 And I will take the same precautions as everyone who has put

21 questions to you by saying that you should pay attention to

22 questions I put to you, try to be as concise as possible because

23 I will also be as concise as possible in putting questions to

24 you. So speak slowly so that we shouldn't have any problems with

25 interpretation.

8

1 [09.16.22]

2 My first question has to do with your life experiences. I'm
3 interested in the period prior to 1975 when you were in the
4 children's unit.

5 You talked about that period to the Co-Prosecutor. I would like
6 to know <about> your activities in the children's unit between
7 1975 and 1979.

8 MR. NHEM EN:

9 A. Good morning, Mr. President, and good morning, counsel for
10 Khieu Samphan.

11 Before 1975, I, myself, engaged in various duties. <First,> I was
12 part of the arts performance <of National United Front of
13 Kampuchea>, and I <played the drums and> sang the Yike for radio
14 broadcast. Second, I had some time to study about Democratic
15 Kampuchea regime in relation to the National United Front of
16 Kampuchea,> and <third, my main task was transporting food> to
17 the <> battlefields.

18 At that time, I was <one> of the <hundreds of> children who
19 carried food supplies to the soldiers who were fighting against
20 the US <imperialists>. <That work was before 1975> and
21 <particularly,> I also studied<>.

22 [09.17.54]

23 Q. So if I properly understand your testimony, you would agree
24 that, apart from providing supplies to the front, your children's
25 unit didn't take part in the fighting among the <adult> soldiers

1 who were fighting on the battlefield. Did I properly understand
2 your testimony?

3 A. Yes, I engaged in combat as well. I carried a gun and I
4 <provided> food supplies and sometimes we had clashes with the
5 Lon Nol soldiers, <sometimes with the aircraft bombings, and we
6 shot at them with small guns>.

7 Q. I say so because I have in hand your book, which was admitted
8 into evidence, but it doesn't have a reference yet. I will refer
9 to <it as "your book" throughout my questioning> -- the title of
10 your book is, "Nhem En: <The Khmer Rouge's Photographer at
11 S-21>". <You provided us with this book yesterday.>

12 You talk about your activities between 1971 and 1975, and this is
13 what you state. And I will quote in English, <because I have no
14 other choice,> and it is on page 11.

15 [09.19.16]

16 "When I first joined the Democratic Kampuchea movement, my
17 involvement activities included dancing, playing the drum and
18 performing revolutionary songs from '71 to early '75. Besides my
19 performance activities, I helped in transporting food and
20 ammunitions from Touk Meas to Kampong Boeng battlefields in
21 Kampong Leaeng district, Kampong Chhnang province, which was
22 considered the most dangerous battlefield in the eastern part of
23 Kampong Chhnang province."

24 So in this passage from your book, you do talk of transporting
25 food and ammunition, but you do not talk of being involved in the

10

1 fighting per se. So do I take it, then, that you've added
2 something to that and that you, indeed, engaged in fighting and
3 you did not only bring food and ammunitions to the battlefield?

4 A. Yes, that is correct.

5 [09.20.55]

6 Q. You also talked about your trip to China for the purpose of
7 undergoing training. Can you specify who was the person who chose
8 you to go on that trip?

9 A. Regarding the trip to study in China, <I would like to clarify
10 it precisely. First>, it was <His> Excellency Son Sen, Minister
11 of National Defence of the DK regime. Second, it was Uncle Nat
12 who was in charge of general staff in Phnom Penh. And third,
13 Uncle Pin who was a former commander of Division 703 <of the DK
14 regime>.

15 Q. And who was your immediate superior at the time?

16 A. <His> Excellency Son Sen and Nat were my two immediate
17 <superiors>. Of course, there were <a lot of superiors, and I
18 cannot recall all those names>, but <my> direct supervisor --
19 that is, <was> Son Sen, the Minister of National Defence of the
20 DK regime.

21 Q. Which means that he issued orders to you directly -- that is,
22 before you went to China. When you were a messenger, you took
23 your orders from him. Is that correct?

24 A. Yes, that is correct because there was no one else besides
25 him.

11

1 Q. You also stated at the hearing of the 19th of April at
2 15.32.27 that you only got to know Duch when you were assigned to
3 S-21 -- that is, in mid-1976. Did I properly understand your
4 testimony?

5 A. Yes, that is correct.

6 [09.23.52]

7 Q. Under those circumstances, I would like you to clarify a point
8 you made in answer to a question put to you by the President on
9 the first day of your appearance and you said you were
10 interviewed on several occasions. We have on record a number of
11 statements which are <audio> transcripts of some of those
12 interviews. I am interested in interview E3/7636, dated -- in
13 fact, there are several audio extracts <from> 2001, 2002.
14 The passage I will quote dates back to 2002, and you talk about
15 <Duch and> your experiences. And this is what you state. French
16 ERN is 00280459 ; in Khmer, 00281408; and in English, 00171307;
17 and it continues on the next page. And this is what you state:

18 [09.25.15]

19 "I was the son of poor peasants who had lived with the Khmer
20 Rouge regime from 1970 to 1975. That is why the leaders admired
21 my enthusiasm at the time. For instance, Ta Duch called me "A
22 Khmao" or "A Kleum" in <a way that meant> that he loved me.<.>
23 <My> name is Nhem En. But he called me 'A Khmao' or 'A Kleum' for
24 fun. He said I could do my work such as shooting a film,
25 projecting a film, making a map and printing photographs. This

12

1 work was difficult<, remember I was> young. Therefore, he was
2 also proud of me. And I was also proud of myself. If he didn't
3 love me, he wouldn't have let me go to China. Therefore, the
4 reason why I could go to China was because a high-ranking man
5 loved me." End of quote.

6 So in this audio recording, we understand that you are explaining
7 that it was Duch who allowed you to go to China. However, if I
8 properly understood your testimony, you stated that you only met
9 Duch in mid-1976 -- that is, after your return from China.

10 Can you explain this point?

11 A. Allow me to clarify the point. In fact, there was a committee,
12 and this security committee <was> comprised of four people,
13 namely, <His> Excellency Son Sen, Ta Nat, Ta Pin and Ta Duch.
14 <But I did not mention Ta Duch>. So these four individuals were
15 in charge of security at Tuol Sleng <prison>.

16 Sometimes he even called me to take <photographs> of the young
17 babies at his house, and whether he refused to know me or to
18 recognize me during his testimony, that is his right.

19 [09.28.10]

20 Q. I have heard your explanation, but you have not explained why
21 you said during your interview in 2002 that Duch had authorized
22 you to go to China whereas you, yourself, have said that you only
23 got to know him after your return from China. <That's what I
24 don't understand>.Can you explain why, please?

25 A. Before I went to China, I attended a meeting <what is now>

13

1 called <Le> Royal Hotel <in front of> Wat Phnom. And <regarding
2 this point, I apologize that> I did not mention <Duch's> name. At
3 that time, <I saw> Duch <> sitting with Son Sen and Nat. <At the
4 time, I did not know him yet.>

5 And I <began> to know him <well> after I returned from China in
6 <>1976, <and I knew him well when I worked in Tuol Sleng prison>,
7 and on the list of those people who were recruited to be sent for
8 study in China, there were clear signatures of these committee
9 members as well as <my> signature.> The Chinese Ambassador <Sun
10 Hao also participated the meeting> at the time.

11 [09.29.38]

12 Q. So if I understood your answer properly, now you are telling
13 us that you knew Duch before you were assigned to S-21. Is that
14 what I must understand? Is that the case,<> are you changing your
15 testimony?

16 So you're saying that yes, you knew him before. Is that the case?

17 A. Yes, that is correct. <It was about five or six months -- I
18 could not forget his face> because I attended that meeting before
19 I went to China, so I saw him. I saw his face. And <Angkar did
20 not recruit simple people> to study in China, <as I said earlier
21 that those people were diligent and vigilant with their work.>

22 Q. Yes, but my question is not if you saw his face because in the
23 excerpt of the audio recording that I just quoted, we're not only
24 speaking about the fact that you saw him. You said that he liked
25 you, that he gave you beloved nicknames, so this is why,

14

1 apparently, he let you go to China.

2 So it's not exactly the same thing we're talking about here. So
3 can you be clear about this?

4 [09.31.05]

5 A. <Regarding this point>, he <called> me "A Khleum" or "A
6 Khmao", I might be confused about it>. However, I can say for
7 certainty that after I came to work for him at Tuol Sleng, I
8 worked hard and he caught my effort in working and took interest
9 in me. <First, regarding my core work, Angkar took a lot of
10 interest in me because I was attentive to my work. But I might be
11 confused in the words. In fact, he had sentimental feelings for
12 me because our houses were not far from each other. But regarding
13 in 2001 when I was interviewed by many people, not just by a
14 French newspaper, but>

15 I have been interviewed by major news outlets <of 190 countries
16 in the world>. And of course, I <might make> some slight mistakes
17 between those interviews, <but concerning what I have talked
18 about regarding the time details, it cannot be overturned, all of
19 it was true>.

20 MR. PRESIDENT:

21 Mr. Nhem En, please be reminded again that you should only speak
22 of the facts that you, yourself, involved, observed or
23 experienced and that is put to you through the question. And
24 please limit your response to the point that is put to you.

25 As I said, parties have different strategies to put the questions

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1 to you -- that is, to seek the truth from you or to seek your
2 comments. If that is the case, then you can have a lengthy
3 response, but if it is a short, precise question, then limit your
4 response to that. And as I reminded you yesterday, answer what
5 you are asked. And if you do not understand the question, you may
6 ask <for> the question to be repeated or reformulated so that you
7 can understand it clearly.

8 If your response is deviated or is more than the point asked to
9 you, then it's a waste of time.

10 [09.33.22]

11 BY MS. GUISSÉ:

12 Q. I have another point of clarification to request from you.

13 In this excerpt that I just read out, you said that you are the
14 son of poor peasants. And at the hearing of 19 April, at 19.24.35
15 <(sic)>, you said that your father was a school principal. That's
16 when my colleague, Victor Koppe, was questioning you about your
17 date of birth, and you said that you were sure of this point
18 because your father had told you -- well, that your father was a
19 school principal so, therefore, you were sure of your date of
20 birth.

21 And in your book at page 26, you say, and I will quote in English
22 again: "My father used to work as a district governor of Kampong
23 Leaeng before 1970.'" End of quote.

24 So my question is the following: Was your father a poor farmer or
25 was your father a school principal or was your father a former

16

1 district governor?

2 [09.34.38]

3 MR. NHEM EN:

4 A. I would like to tell you a little bit. <My mother passed away>
5 when I was two years old. I had eight siblings. From 1955, my
6 father was the chief -- the district chief. And during that time,
7 I was not yet born. And later on, he <became> a professor in
8 Kampong Leaeng <district>, Kampong Chhnang province.

9 And after <my mother passed away>, the livelihood of my family
10 was difficult since I had <eight> siblings, <they were all male,
11 and all of us went to school>. And this information <I> learned
12 from my father. <Later on, when I grew up, I realized that my
13 family was very poor.>

14 And I was -- family was <poor> peasant<s in Trapeang Meas
15 village, Trangel commune> , Kampong Leaeng <> district, <Kampong
16 Chhnang province>.

17 [09.35.48]

18 Q. I have a little problem with the dates here. In the
19 interpretation, I heard that your father was a district leader in
20 1975. However, in the excerpt that I just read out from your
21 book, you said that he was a district leader before 1970. So can
22 you be clear about this? I don't know if there was a problem in
23 the interpretation, but this is what I heard.

24 MR. PRESIDENT:

25 Mr. Witness, please answer shortly about the year when your

17

1 father had different <positions>. Please mention clearly the time
2 frame when he held <a> specific position.

3 As I told you already, in the Court proceedings, if you talk
4 endlessly, the problem will be on you.

5 Now, please tell <us> the timeframe, the timeline very clearly
6 <regarding> the occupation that your father held in different
7 periods of time.

8 [09.36.58]

9 MR. NHEM EN:

10 A. Mr. President -- it is not an example. It is the fact.

11 <Regarding the book, I would like to say three points.> Before
12 1965, my father was the Kampong Leaeng district chief. And in
13 between 1975 and 1979 <of the DK regime>, my elder brother was <a
14 district> chief as well.

15 And in the book, perhaps it was not written clearly. I mean, the
16 author did not write it clearly. That's why it is confusing.

17 MR. PRESIDENT:

18 You were asked with a specific question yesterday about the
19 author of the book, and you stated yesterday that you are the one
20 who <wrote> this book. And now you say you do not know whether it
21 is written clearly <or not> -- whether the book is not written
22 clearly by the author.

23 And here, we are seeking the truth, so you have to be aware of
24 this.

25 Number two, listen -- please listen carefully to the question and

18

1 answer what you are asked. And also, please speak slowly. A while
2 ago, there was no interpretation in one of the languages. I am
3 <a> fast speaker. However, since I am -- since I have become the
4 President of the Trial Chamber, I am teaching myself how to speak
5 in a moderate speed. And I am now speaking in a speed which is in
6 a similar speed to other speakers.

7 Please, answer what you are asked and respond to the <scope> of
8 the question and speak very slowly.

9 [09.39.02]

10 JUDGE FENZ:

11 A bit of advice for counsel; as you probably saw in the beginning
12 when I tried, usually short questions get -- have a better chance
13 to get short answers.

14 BY MS. GUISSÉ:

15 Yes, of course. I note, however, that <my> last answer (<sic>)
16 was <not> particularly lengthy. But I have to speak about all
17 three versions and see which one is the right one, so I cannot do
18 otherwise.

19 Q. But in any case, witness, I understood from <the
20 interpretation, the part that I heard, anyway,> that your father
21 was a district governor before 1970, or before 1975, in any case.
22 So could you please specify here?

23 MR. NHEM EN:

24 A. Madam Counsel --

25 [09.40.05]

1 MR. PRESIDENT:

2 Please hold on, Mr. Witness.

3 You have the floor first, International Deputy Co-Prosecutor.

4 MR. LYSAK:

5 It may be a translation issue, but the last answer he gave was
6 that his father was district chief before 1965. That's what he
7 said the first time. His book says before 1970, so I don't know
8 if we're having translation problems here, but from what I've
9 heard, his answer's been consistent every time.

10 [09.40.36]

11 BY MS. GUISSÉ:

12 I didn't hear the same thing in French. That's why I was asking
13 for clarification.

14 Q. So we do agree that your father was a province (sic) governor
15 before 1970. Is that the case?

16 MR. NHEM EN:

17 A. In fact, <at that time>, he was not the chief of the district,
18 but he was the deputy chief instead. <His position was similar to
19 mine. For instance, I was a deputy chief of Anlong Veang
20 district. My elder brother was a deputy chief of Kampong Leaeng
21 district.>

22 And perhaps I am speaking beyond the question asked sometimes. My
23 <apologies>, Mr. President.

24 Q. I now would like to focus on your work at S-21, and more
25 specifically on the photographer's unit you belonged to.

20

1 On April 19, a little bit after 4 o'clock in the afternoon, and
2 27 seconds, you said that you were heading a team made up of two
3 people, and that Sreang was at the head of a team made up of two
4 people as well, and all of this made up the photographer's unit
5 that resulted in a team of six people.

6 Did I understand your testimony properly?

7 A. That is true.

8 [09.42.22]

9 Q. This is not what you always said, in fact, because in document
10 E3/7495, which is an interview you gave on 12 March 1997 to two
11 journalists, I believe, or two people, in any case, Doug Niven
12 and Peter Maguire, and in the audio recording of this interview,
13 ERN in French, 00795351; Khmer, ERN 00826558; ERN in English,
14 0078256 ; this is what you answered to the question that was put
15 to you: "Who were your assistants?"

16 And your answer was the following: "My assistants were named Ry,
17 Sam, Nith, Song, and Sreang."

18 So my question is the following: Were you or <were you> not the
19 chief of all photographers, or were you only the head or were you
20 only the boss of two other photographers?

21 [09.44.02]

22 A. I <said> earlier that there were six photographers. I had two
23 <subordinates. Regarding> Sreang, Nith and Song, they were in
24 <charge of> different groups. <>

25 <Sometimes> we had to discuss among us how to take the

21

1 photographs <at Tuol Sleng prison>, and as I told you, at the
2 time, <all three or four of us> were very careful with our work.
3 However, we had to discuss among us <whenever we used any
4 photograph of Angkar>.

5 Q. So why did you say during that interview in 1997 that all of
6 the photographers were your assistants?

7 A. That is true. I came back from China in the training. I did
8 not hold a higher position, but I considered myself the chief.
9 <But in there, it was divided into two parts, and as I said
10 earlier, I was a squad chief, and> Sreang was <a squad chief as
11 well. I learnt all the techniques in China such as film making,
12 developing photographs, map drawing>. And <although> I was <not>
13 specialized in <those fields, I had more knowledge in that area
14 than the others>. That is why I considered myself to be <the
15 chief>.

16 [09.45.43]

17 Q. I have a hard time understanding this idea that you considered
18 yourself as their chief. In the context of Democratic Kampuchea,
19 <we thought we understood> that there was a hierarchy and that in
20 order to give orders, you had to be a chief for sure. So were you
21 indeed the boss, including the boss of Sreang, or were you not
22 the boss?

23 A. Strictly speaking, I could be considered the -- either the
24 chief or not the chief since I was more <of an> expert in
25 photography. Usually he went -- he came to see me to ask about

1 how to do the photographs.

2 MR. PRESIDENT:

3 That is based on your own conclusion, but <> there was a strict

4 hierarchy in the regime, <so> based on the decision of the

5 Angkar. <Who was the chief?> And <yesterday> you said Sreang was

6 the group <chief, but not the squad chief>. And <later on, it was

7 divided into two, he was in charge of a group and a squad as

8 well. And you were in charge of another squad. Regarding the high

9 or low techniques, it was a separated issue>.

10 You cannot mix up the technical skills in terms of the hierarchy.

11 I told you <that> already, please, answer very expressly and

12 <specifically> provide the source of your information <as well>.

13 You cannot just answer what you want.

14 [09.47.32]

15 BY MS. GUISSÉ:

16 Q. You also described yourself as the team leader. That's <on>

17 page 33 in your book. And I would like to challenge you with a

18 statement by Sreang that was read out to you by my colleague in

19 the Nuon Chea team yesterday, but you didn't really answer the

20 questions put to you in that regard.

21 So I'd like to read the passage to you again and have you react.

22 It's document E3/7618, French, ERN 00164445, but I don't have the

23 ERNs in the other languages, so please bear with me so that my

24 team can locate the passage.

25 And this is what Nim Kim Sreang says regarding you:

Corrected transcript: Text occurring between less than (<) and greater than (>) signs has been corrected to ensure consistency among the three language versions of the transcript. The corrections are based on the audio recordings in the source language and may differ from verbatim interpretation in the relay and target languages.

23

1 "Before he was in the children's unit with Duch, when Nhem En
2 came to work with me, it was to learn how to make pictures of
3 me."

4 Well, the French translation is maybe not very good, but -- so in
5 this excerpt, Sreang does not say that you were his boss. He says
6 that you were his apprentice.

7 So can you react to that? And can you tell us if you were,
8 indeed, or not his apprentice?

9 [09.49.28]

10 MR. NHEM EN:

11 A. I do not really understand that. It is his or her right to
12 answer. <You can consider it, Mr. President>. I have a different
13 version from Sreang's.

14 <Regarding Sreang, I saw and knew him when I came to work at>
15 Tuol Sleng<>. <Before, as Duch> said, particularly in relation to
16 photographers in Division 703, <I do not understand that -->

17 MR. PRESIDENT:

18 Do you understand the question put to you? You were previously a
19 deputy district chief in Anlong Veang. <I have told you many
20 times to answer only what you were asked. Otherwise, it's wasting
21 time>.

22 There <was> no question about Duch, the question <was> whether or
23 not you were <Streang's> apprentice and what made Sreang say
24 that. Could you give your reaction and could you explain this
25 issue for the counsel?

24

1 Did you go to learn how to do photography from Sreang, or what
2 happened?

3 You do not need to order or instruct the Chamber how to consider
4 and decide on the issue. The Chamber will, on its own, decide and
5 consider the evidence and what you said.

6 [09.51.05]

7 MR. NHEM EN:

8 A. I did not learn from Sreang. I had the <notebook. I have
9 provided a set of documents regarding my photography training in
10 China to the Chamber already.> And you can ask Sreang whether or
11 not he had the <notebook of photography techniques> from China<>.
12 <He did not have it, but I do. I do not know which date it was,
13 but I know it was in June, I have my notebook of techniques that
14 I learnt in China.>

15 So you can consider this point. I did not go to learn from
16 Sreang.

17 BY MS. GUISSÉ:

18 Q. Well, I did not mention the ERNs in Khmer <or English>, so the
19 Khmer ERN of document E3/7618 is 00164437 and the English ERN is
20 00164441.

21 And on these same pages, Sreang also says that you arrived -- and
22 I quote, "maybe in mid-1978, about six months before the fall of
23 Phnom Penh in 1979."

24 So can you please react to what I just said, knowing that Sreang
25 said that you did not arrive in mid-76, but in mid-78?

25

1 [09.52.32]

2 MR. NHEM EN:

3 A. Madam Counsel, it is not true. I know the room where I slept
4 <well> and the house -- the location of the house. Perhaps he
5 have answered beyond the question put to him. I have evidence. I
6 have <notebooks> that I got from China, and I got the <notebook>
7 before. But all those books were sent to Australia.

8 Q. So you're saying that these books were sent to Australia so
9 that you no longer have them with you?

10 [09.53.30]

11 A. Okay. In 2008, I provided the <testimony before> this Court,
12 <and you can ask permission from the Khmer Rouge Court to see the
13 notebook.> They had a copy <of it. I provided it to the Court> in
14 2008 <when I came here to give the testimony in Duch trial>. I
15 gave <it> to the Court, so you can go and ask the Court.

16 MR. LYSAK:

17 Mr. President, just for everyone's reference, the witness is
18 correct. He did provide to OCIJ in his first interview, and on
19 the case file is a copy of his notebook on techniques of taking
20 photos. It's document D108/3/15.2 (sic), for everyone's
21 reference.

22 [09.54.30]

23 BY MS. GUISSÉ:

24 Q. Well, getting back to the issue of your role within the
25 photographer's unit, I quoted Sreang, but Duch also said at the

1 hearing of 4 August 2009, document E3/7468, and it was after
2 4.11.11 in the afternoon, and I'd like to specify for the Chamber
3 and for the parties that, in the French and English translation,
4 we understand that Nhem En apparently was the son of a staff
5 member, but I was told that, in the Khmer version, it was
6 mentioned that he was an apprentice.

7 So in any case, I will quote the French version, and this is what
8 Duch said regarding you. And he said that you were the son of a
9 staff member at S-21, and he said:

10 "He was not allowed to take pictures outside of S-21. Kim Sreang
11 was the head of the photographer's unit, and below Kim Sreang,
12 there was Song, who took pictures as well at Prey Sar." End of
13 quote.

14 So Duch, whom you recognized and whom you say was your superior
15 regarding taking pictures, Duch said that it was Sreang who was
16 the head of the photographer's unit.

17 What is your reaction to that?

18 [09.56.20]

19 MR. NHEM EN:

20 A. In relation to Duch's statement, it is his own right. I was a
21 staff member within the centre, so I am sure what I said. I had
22 formal training sessions and I had a copy of the notebook I gave
23 to the Court, so what else could I say?

24 MR. PRESIDENT:

25 Your answer is not relevant. Duch said Sreang was head of

27

1 photographer's unit, and you said that you were considered either
2 the chief or not the chief of photographer unit. <That's not
3 clear. That's why you were asked about this issue in relation to
4 the chief.>

5 And I told you already about this actual hierarchy in the centre
6 at the time. And <the statement indicated> that you were the son
7 of a staff member within S-21, and a while ago, you also said
8 that your father was a former deputy governor of <Kampong Leaeng>
9 district.

10 And you also said that your father used to be the school
11 principal <and so on>, so which one of your versions is correct?

12 And counsels here are trained how to put <questions> and how to
13 use the strategies to ask the witnesses and parties, so please
14 answer clearly what you are asked.

15 [09.57.59]

16 MR. PICH ANG:

17 A while ago, I did not <get> the <reference of document> used by
18 the counsel for Mr. Khieu Samphan in relation to the fact that
19 Nhem En was the son of a staff member in S-21. Could you ask the
20 counsel to provide the reference <of document and ERN,> please?

21 MS. GUISSSE:

22 Well, I was referring to the transcript of what Duch said with
23 index E3/7468. And this was at 4.11.11. And I specified in my
24 question that, in Khmer, it was said that this notion of son
25 could be <translated> as apprentice, so I provided you with this

28

1 information to be clear about this and to be clear for the
2 witness, too.

3 But in any case, this was said at the hearing of 4 August 2009,
4 and he said that <Duch mentioned this, and he said> Sreang was
5 the head of the unit.

6 [09.59.22]

7 BY MS. GUISSÉ:

8 Q. And to be perfectly clear with this as well, there's another
9 witness, Suos Thy, document E3/7643, who, when he was questioned
10 regarding the photographers, said the following to the following
11 question - French, ERN 00164423; Khmer, 00162601; English,
12 00162615.

13 So the question that was put to him was the following:

14 "Do you remember the names of the photographers?"

15 And the answer was: "I believe one was called Song. The other was
16 called Sreang."

17 Question: "Do you know Nhem En?"

18 Answer: "I never heard about him." End of quote.

19 So in -- regarding this person who was working at S-21, that
20 person remembers in the photographer's unit Song and Sreang, whom
21 Duch described as the group leader and his deputy. So at no
22 moment <does> he remember<> you.

23 So what is your reaction to that?

24 [10.01.02]

25 MR. NHEM EN:

1 A. Thank you, Madam Counsel. It is their right.

2 I object to that statement. I have my own evidence, and I have
3 photographs.

4 And I was the one who took the portraits of Suos Thy. And if he
5 said he did not know me, <that> is, <he might be afraid because I
6 know a lot>.

7 Q. You also stated that when you were at S-21 as regards the
8 photographs that <followed> Duch's instructions that when you had
9 to go and take photographs abroad<, and travel>, it was Son Sen
10 and Ta Nat who issued orders to you. Is that correct?

11 A. Yes, that is correct. <Whenever His Excellency> Son Sen and
12 Nat needed, then <someone> would be assigned. Whoever <was>
13 assigned by Angkar, that person had to go. And usually Chhen, the
14 messenger or the bodyguard <of> Duch, would come and take along
15 that assigned photographer.

16 [10.02.43]

17 Q. And how did you know that the orders were from Son Sen?

18 A. There were two special messengers for Duch - Mao (phonetic)
19 and Chhen. And <regarding some tasks>, usually, Chhen would drive
20 a Jeep vehicle to come and pick me up.

21 Q. And was Duch informed beforehand of such a mission order?

22 A. In short, when Chhen came, of course, it would be under the
23 order of Duch. And at that time, there was no written
24 authorization for <a> field trip or for mission at all. <We would
25 just do what we were told.>

30

1 Q. So my question remains the same. If there wasn't a mission
2 order, how did you know that it was Son Sen who issued the orders
3 for you to go to one place or the other to take photographs?

4 A. During the regime, usually when they wanted me, then they
5 would say, "Comrade En, you are assigned to go to Kamping Puoy
6 <reservoir> or to go to Kampong Som <or Angkor Wat or to go with
7 Angkar's leaders>, so the order was oral and it was not in a
8 written form.

9 [10.04.44]

10 MR. PRESIDENT:

11 The question is: how did you know that the order came for you to
12 take photographs outside S-21 and that the order came from Son
13 Sen? What is your basis to show that the order actually came from
14 Son Sen <for> you to go on the photography mission?

15 Please listen to the question carefully. It seems that you do not
16 understand the question at all, or maybe you <are trying> to
17 avoid <responding> to the question.

18 And if you know, <how did> you <know> that the order for you to
19 go on a field mission came directly from Son Sen to you?

20 MR. NHEM EN:

21 A. When Chhen, the Duch's messenger came <to take me>, I would go
22 along with Chhen on the Jeep vehicle to see Son Sen. And as I
23 said, Mr. President, Chhen was the direct messenger of Duch and
24 he would come and pick me up to go and see Son Sen and Nat, <and
25 then I would do my job>.

31

1 [10.06.13]

2 BY MS. GUISSÉ:

3 Q. So what you are saying is that before you went out to take
4 photographs accompanying delegations to the various places, you
5 took your orders from Son Sen and Nat; is that correct?

6 MR. NHEM EN:

7 A. Yes, that is correct.

8 Q. I ask this question because you, yourself, said that Son Sen
9 was Minister of Defence and he was also in charge of internal
10 security. And I'm asking you to explain how he found the time to
11 <give you, a photographer with a relatively low rank, how did he
12 find the time to> assign you to accompany delegations whereas he
13 had an <armed conflict> to take care of and he was also in charge
14 of internal security.

15 A. The direct order came to me because I was the one who was
16 recruited likely to go for study in China <through him, through
17 Son Sen. I did not know whether he had many tasks or not. I did
18 not quite understand the country affairs>. My understanding is
19 that he was in charge of the <overall> national defence and
20 security, and since he was the one who authorized me to go to
21 study in China, maybe he gave orders <directly> to me because he
22 knew that I learned <the photography techniques> from my study in
23 China.

24 [10.08.12]

25 Q. I put these questions to you in the backdrop of what you said

32

1 yesterday<, 20 April,> <shortly before> 9.48, you stated that,
2 <sometimes>, and I quote, "The six photographers did not even
3 have time to eat." It was <exhausting> work that you had to do at
4 S-21.

5 My question is: In spite of the heavy workload you had at S-21,
6 where did you find the time then to go and <take photos outside>?

7 A. There were times that we had free time amongst the six of us
8 -- that is, the six photographers. <Whenever Angkar needed us, we
9 had to go.> At Tuol Sleng prison, everybody was busy developing
10 negatives, making prints <and maintaining documents>, and usually
11 the mission outside the compound lasted for a day or two <only>.

12 [10.09.28]

13 Q. I put this question all the more so to you because, as part of
14 Case 002/01, we heard a witness, Kim Vun, who worked at the
15 Ministry of Propaganda, and worked in the area of publication of
16 magazines. He stated that, in his unit -- and I'm referring here
17 to the hearing of the 21st of August 2012 -- rather, the 22nd of
18 August 2012, document E1/112.1. And it is slightly after
19 11.29.44, and this is what he states:

20 "Initially, I was in charge of a group of photos, <so we learned
21 to take> photographs for newspapers and <had to become> good in
22 taking photographs. Those who were in charge of shooting films
23 had to take photographs for magazines, newspapers and films as
24 well." End of quote.

25 So we have a testimony that asserts that there was a unit in

1 charge of propaganda that shot its own films and took its own
2 photographs. And in that testimony, that witness doesn't make any
3 mention of photographers from S-21.

4 So my question remains the same. Do you know why Son Sen, as part
5 of all his activities, was able to find time to ask you to go and
6 take photographs whereas there was a unit in charge of shooting
7 films and taking photographs?

8 [10.11.46]

9 A. Regarding this matter, of course, there were various other
10 tasks throughout the country. Myself, after I took photos, I
11 would develop them, <and I brought them to Ta Noeun> and those
12 prints would be sent to Son Sen through <Ta> Pang (phonetic). I
13 was not the only photographer during the regime, so there might
14 be other photographers.

15 What I could say is that my core task was to take photographs at
16 Tuol Sleng, <and my additional work was outside. Regarding other
17 photographers, I never knew them>.

18 As for other photos, I also took those photos <at the
19 battlefields,> that is, <in> Tay Ninh <and Saigon. I had many
20 documents, and I sent them to a printing house where Uncle Hou
21 Nim was in charge>, and there were other people, namely Yeay Yat
22 (phonetic). <Perhaps there were other photographers, but> I could
23 not know <all of them. There were many of them, and I knew only
24 -->.

25 MR. PRESIDENT:

1 It is now convenient for a short break. We'll take a break now
2 and resume at 10.30.

3 Court officer, please assist the witness during the break time --
4 [10.13.08]

5 JUDGE LAVERGNE:

6 Just before we go on break, I would like a clarification for the
7 transcript.

8 I said the book admitted into evidence <by the Chamber yesterday,
9 Mr. Nhem En's book; it> is titled "The Khmer Rouge's Photographer
10 at S-21". It is entered into <the case file>, <under entry>
11 E3/9753 [E3/10577].

12 (Short pause)

13 [10.13.55]

14 MR. PRESIDENT:

15 We will have a recess now.

16 And Court officer, please assist the witness during the break
17 time and invite him back into the courtroom at 10.30.

18 (Court recesses from 1014H to 1029H)

19 MR. PRESIDENT:

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

21 And the floor is again given to the defence team for Mr. Khieu
22 Samphan to resume the questioning. You may proceed now.

23 MS. GUISSSE:

24 Thank you, Mr. President. And before I continue, out of courtesy,
25 may I request a bit more time? Because yesterday, we were rather

35

1 optimistic, but I believe I will need 20 minutes to finish with
2 my cross-examination, so please may I have the possibility of
3 having these 20 minutes?

4 And my colleague Koppe also tells me that he will also need 20
5 minutes for possible extra questions.

6 Well, I'd like to let you know that a certain number of questions
7 result from questions that were put by the Chamber before, so
8 these are follow-up questions, essentially.

9 MR. PRESIDENT:

10 You can proceed now, International Deputy Co-Prosecutor.

11 [10.31.26]

12 MR. LYSAK:

13 If the Court believes it is appropriate, we have no objection. I
14 would just make one observation, that if counsel is having time
15 issues, specific questions. The last two questions invited the
16 witness to speculate on how Son Sen had time -- or not had time
17 to do things.

18 When you ask the witness very broad questions that invite
19 speculation, it's going -- we're going to spend a lot of time
20 spinning our wheels here.

21 So I don't have any problem with that, but I would observe that
22 counsel should ask very specific questions and, as to the Nuon
23 Chea team, that's at your discretion.

24 JUDGE FENZ:

25 Can I just get it clear? So both together, from now on, will need

1 how much time?

2 MS. GUISSÉ:

3 Twenty minutes each, so 40 minutes in total.

4 MR. PRESIDENT:

5 Your request is granted.

6 [10.32.39]

7 BY MS. GUISSÉ:

8 Thank you, Mr. President.

9 Q. Witness, I would like to revisit the point that was discussed
10 yesterday by Judge Lavergne, and I'd like to revisit the issue of
11 the documents that you buried or elements that you buried and
12 retrieved later on.

13 I believe I understood from your testimony that, before you left
14 S-21, you had buried a certain number of elements.

15 So can you tell us what you buried, exactly?

16 [10.33.25]

17 MR. NHEM EN:

18 A. I buried cameras; that were the only things I could bury. The
19 total number of cameras that I buried was 335. Different types of
20 cameras <I had used in> Tuol Sleng <prison>, and the film
21 <projector and I did not bury> the movie cameras since they were
22 too large to bury.

23 Q. And when did you bury these cameras?

24 A. I buried them at around 4 <or 5> a.m. in the dawn on the 7
25 January <>. Sry, Sam and I collected all types of cameras and

1 buried them.

2 I placed all those cameras in a beautiful box, <and buried it> in
3 front of <the> house.

4 Q. When you say <in front of> your home, are you speaking about
5 the home where you -- about the place where you <slept> at S-21?

6 A. Yes. The house at S-21, and I buried the box of the cameras
7 across the road <about five meters away>, opposite my house
8 <where I grew cabbages.>. And before I put <it> into the ground,
9 I placed the box in a <>big jar <and then I wrapped it with
10 rubber>.

11 [10.35.46]

12 Q. So if I understood you well, you didn't bury any photograph on
13 that day; is that correct?

14 A. That is true. Photographs and film rolls, together with
15 negatives, were everywhere in the room. I did not have time to
16 bury them. <I only got to bury the cameras.>

17 My <apologies>, Mr. President. <On page> 27 of my book, you <can>
18 see the photo of the cameras. Please refer to page 27 of my book,
19 types of cameras.

20 MR. PRESIDENT:

21 Please do not go beyond to the question put to you. You did not
22 need to answer further. Please limit your response to the limit
23 of the question.

24 BY MS. GUISSÉ:

25 Q. So my question was -- or will be the following: When did you

38

1 retrieve the pictures you took which you say you own now?

2 [10.37.25]

3 MR. NHEM EN:

4 A. <> I am a history lover. I love photographs. After the
5 integration in 1995 when I joined the government, that was the
6 time when I started to collect all the documents. And some of the
7 contemporaneous documents that I have now are in Anlong Veang.

8 Q. From whom did you retrieve the pictures which you <now> own?

9 A. Generally speaking, those photographs were located in a <>
10 location <at> Pol Pot<'s house, at Pol Pot' s working place in
11 Anlong Veang>. There were many, many photographs. Perhaps I
12 could say there were two truckloads of those photos, but I could
13 only retrieve a <small> portion of them.

14 Q. Well, regarding this point specifically, you said yesterday
15 that you had retrieved a certain number of elements at Pol Pot's
16 house after his death.

17 So my first question is: Did you have any kind of -- did you have
18 any specific ties <to> Pol Pot's family?

19 [10.39.22]

20 A. I am not related to Pol Pot<>. However, after his <death>,
21 Khmer Rouge broke into different factions. And there were
22 executions, <and Son Sen was killed>. And I went up to a secret
23 house of Pol Pot at Kbal Tonsaong. <In fact, that place was not
24 Ta Mok's house.> That was <his> last place, <and> I visited
25 <there>. There were a lot of documents <in relation to the war

1 and the secret affairs> which I could not retrieve and carried
2 them with me. The location of Kbal Tonsaong was located on the
3 mountain of Dangrek.

4 Q. When you say in a secret place, one of Pol Pot's secret
5 houses, how did you become aware of this secret house where,
6 apparently, you retrieved all of these documents?

7 A. Frankly speaking, the secret house after Pol Pot's <death> in
8 1997, factions -- Khmer Rouge broke into factions, <and uncle Son
9 Sen was killed.> And Khieu Samphan<'s> house was located close to
10 Kbal Tonsaong as well.

11 [10.40.55]

12 Q. Please. I apologize. That was not my question.

13 My question was: How did you become aware of Pol Pot's secret
14 house?

15 That was my question, so could you please provide a specific
16 answer?

17 A. I was aware of that secret house a long time ago. I went there
18 in 1995.

19 It -- I am aware very well the location of Pol Pot's house. I
20 went there to see him. Sometimes I <accompanied commanders of
21 army to attend the> meetings at that location. And that house was
22 located <at Kbal Tonsaong along Cambodia-Thailand border> on
23 Dangrek Mountain.

24 Q. Before I continue regarding the possession<s> and what you did
25 with these possession<s>, I'd like to revisit a document that was

40

1 quoted by the Co-Prosecutor and that corresponds to the notebooks
2 you provided to the Court, document D108/3/15.2<.>
3 And I would like to focus in particular -- well, first of all, I
4 would like to ask you, well, did you leave with this notebook
5 when you fled S-21?

6 A. When I went there, I retrieved only a small book <and
7 (unintelligible)> that I could carry with me. And <that's my
8 techniques notebook that I have>kept until now. <There was
9 nothing else> besides that <notebook> that I could carry at the
10 time.

11 [10.43.15]

12 Q. So this was in 1979. We agree, yes?

13 MR. PRESIDENT:

14 Please observe the microphone.

15 MR. NHEM EN:

16 A. Yes, that is true.

17 BY MS. GUISSÉ:

18 Q. In your book, E3/9753 [E3/10577], on page 28, you describe
19 your training in China. And you say, and I will quote it in
20 English:

21 "I started my mapping and photography class in January 1976 at
22 age 14 with 13 different children from other socialist countries.
23 In the class, the teacher taught us about photography skills,
24 including landscape and portrait photography, cinematography and
25 video projecting, and map drawing." End of quote.

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1 So you went to study in China, and you say that there were 13
2 different children coming from different socialist countries. So
3 my question is: You studied in which language?

4 [10.44.56]

5 MR. NHEM EN:

6 A. That -- the language Khmer was used at the time, and there was
7 interpretation <from> Chinese <to Khmer>, so the training course
8 was conducted in Khmer.

9 Q. But if there were 13 students coming from different socialist
10 countries other than Cambodia, why, then, was the training
11 conducted in Khmer?

12 A. The 13 children had their own <class> rooms. <However,> I
13 <only knew a "Thai> Kraham" and <members of Vietnamese> FULRO
14 <movement in the middle part of Vietnam. I do not know which>
15 languages < their training courses were conducted in>, but <for
16 me,> I learned it in Khmer. And those 13 different children were
17 from different <countries>, but from the Communist bloc, <the
18 communist countries in Europe>.

19 Q. So therefore, I must understand that each had an individual
20 teacher in a different room. Is that the case?

21 A. Yes, that is the case.

22 [10.46.50]

23 Q. Now, with the President's leave, I would like to provide page
24 00162978 of the notebook, <D108/3/15.2> that was given to the
25 Court <by the witness>, and I would like to put a question

1 regarding this page to the witness.

2 MR. PRESIDENT:

3 Yes, you can proceed now.

4 BY MS. GUISSÉ:

5 Q. First I'd like to tell you that -- I have no knowledge of
6 Khmer or of the Chinese language, but members of my team said
7 that there's a note in Thai on this notebook, so neither Khmer
8 nor Chinese.

9 So can you tell us why, on this notebook, which you say dates
10 back to the period, there is a note in Thai?

11 [10.48.12]

12 MR. PRESIDENT:

13 Please hold on, Mr. Witness?

14 You have the floor first, International Deputy Co-Prosecutor.

15 MR. LYSAK:

16 My apologies; Counsel, can you repeat the ERN page that you're
17 referring to?

18 BY MS. GUISSÉ:

19 No problem. It is 00162978.

20 And I'm told that there might have been a mistake in the
21 translation, so I'm going to repeat my question.

22 Q. So can you explain why there is a note in the Thai language in
23 -- on this document, which you say dates back to the DK period?

24 Can you please tell us why?

25 MR. NHEM EN:

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1 A. As I told you a little bit -- a little while ago, there were
2 Thai Kraham, or Red Thai, and during the training, they were also
3 there. <I wrote down "Photography and Video filming Techniques",
4 and regarding the Thai letters, that's my name, "Nhem En",
5 written by a Thai student who studied next to my classroom. That
6 was> in 1976.

7 [10.49.26]

8 Q. But I thought that you had said that each one had an
9 individual professor based on each person's individual original
10 country. So you must have been alone in the classroom when you
11 were taking notes, or not?

12 A. Let me tell you that there are two words: "Nhem En, Khon En
13 (phonetic)", meaning that it is -- it belongs to En. And the name
14 of that individual who wrote on the notebook is Thilak (phonetic)
15 -- was Thilak (phonetic). I do not know whether that person is
16 deceased. <We have not seen each other for over 30 years.>
17 And Thai words, there were two -- there were two Thai words:
18 "Khon En" (phonetic), meaning belong to En.

19 [10.50.32]

20 Q. Are you sure, witness, that this kind of notebook -- and here
21 I'm referring to the first page of the document 00162977 existed
22 before 1979?

23 A. Yes, this <notebook> existed before 1979, <and I have kept
24 that one notebook only>. And there were -- there are techniques,
25 skills written in this <notebook>.

1 Q. My question was maybe not very clear. What I meant was the
2 kind of notebook on which you took notes; are you sure that this
3 kind of notebook, this brand <of notebook>, existed in the DK
4 period?

5 A. This <notebook> existed before 1979, and in fact, <at the
6 time, I took> 10 notebooks <with me, but> I <wrote in> only one
7 notebook, and it is pretty old or tattered.

8 [10.52.15]

9 Q. Now I would like to get back to the possessions you retrieved
10 from Pol Pot's house.

11 On the case file, we have a document that was admitted recently
12 by the Chamber, which was annexed to the Nuon Chea team
13 submission. And it's document <E398.1.3>, which is an article
14 from the "Phnom Penh Post", dated 18 June 2010, which describes
15 your attempt in 2009 to sell some of your cameras as well as Pol
16 Pot's shoes.

17 So can you confirm that, at one point in time, you wanted to sell
18 your cameras and Pol Pot's shoes? And to get back to the content
19 of the article that we quoted in English, it's only one single
20 page:

21 "Nhem En made a splash in April 2009 when he announced plans to
22 sell Pol Pot's shoes and some of the cameras used at Tuol Sleng
23 for 500,000 dollars. After no buyers emerged, he said in May that
24 he would sell all of his Khmer Rouge memorabilia for one million.
25 That, too, was unsuccessful." End of quote.

1 [10.54.15]

2 So do you confirm that you, indeed, attempted to sell Pol Pot's
3 shoes as well as your -- as the rest of the memorabilia for a sum
4 of one million dollars?

5 A. That is true. After <the> financial crisis and economic
6 crisis, I lost a lot of money, <I lost almost two million
7 dollars. At the time, I was in Anlong Veaeng. That's why I
8 announced I would sell those things. I would sell a pair of Pol
9 Pot's shoes for 50,000 dollars>. And <I attempted to sell> the
10 shoes, together with <all those things, for> the price of one
11 million <dollars>.

12 Q. We also have here on the case file a document with two indexes
13 which is annexed to the Nuon Chea defence team's submission. It's
14 E398.1.1 <(sic)> but there's also another index, which is
15 E319/42.3.5 <(sic)>. And in this document, we learn, and this is
16 at English ERN -- and I don't think there's an ERN in French or
17 in Khmer - <00987285>.

18 And we learn that you're reticent -- let me please read it in
19 English so I don't distort the reality here:

20 "Mr. Nhem was reluctant with the idea of being interviewed by the
21 ECCC if no financial compensation would be given to him for the
22 information he could provide. He said that as the memory of Case
23 001 when he testified in Court and that no value was given by the
24 Judges to his testimony." End of quote.

25 Apparently, you said this in May 2014. Do you confirm having said

1 such things?

2 A. That is true. I have -- I had different positions before -- at
3 the time, as I used to be the deputy governor, so I asked for
4 compensation for the time that I spent as well.

5 [10.57.20]

6 Q. I understood from your testimony when you answered the
7 President regarding your current occupation that you resigned
8 from your job as an official, and today your sole occupation --
9 or in any case, this is what I understood from your testimony is
10 to create a business in order to sell your book, which you
11 provided to us yesterday, E3/9753 [E3/10577].

12 So did I understand you correctly when you said that this is your
13 core occupation <to earn a living> today?

14 A. It is true that I established a company named Nhem En Company
15 Number 2: I have a plan not only selling the books. I have a plan
16 in my mind to have a business.

17 I registered and signed an agreement with a Korean company with
18 the capital of 5 million dollars, and I signed a contract with
19 that Korean company to have a plot of land in Siem Reap to open a
20 museum showing photographs.

21 And in relation to the business that I am doing, it has something
22 to do only with the Khmer Rouge time, meaning selling Khmer Rouge
23 <songs>, books from <the> Khmer Rouge time and other things.

24 [10.59.24]

25 Q. And lastly, is it true that you decided to make of your

1 personal story and of what you <say you> experienced under the DK
2 regime -- to make of this experience your new career and your way
3 of earning a living?

4 A. Okay, counsel. I am now 56 years old. Number 2, I want to
5 document the history for the next generation, <national> and
6 <international scholars>, and particularly for those who want to
7 study about the Democratic Kampuchea.

8 I am not -- I did not <plan to> publish <only> this book, I am
9 planning to have <another book> published. And that book <has
10 been> in collaboration with Australian citizens, <and 1,600
11 questions were put to interview me>. It <will be published> in
12 <late 2016 or early 2017. Around 1 million books will be on sale
13 in Sydney and Melbourne>.

14 I want to document Khmer Rouge history, but I <do not exalt the>
15 Khmer Rouge regime, but I want to document the Khmer Rouge
16 history for late -- for younger <generations>.

17 [11.01.10]

18 Q. And this is my last question, witness.

19 Is your change of attitude towards the Tribunal and your
20 acceptance to appear before this Chamber related to the fact that
21 you think the Tribunal will help publicize your <work and your>
22 business?

23 A. Yes, that is also correct. However, I also provide the truth
24 and the facts to the Court.

25 I've been waiting for a long time to testify before this Court,

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1 but only now that I have been summoned, and I'm here on <a>
2 voluntary basis to express what I knew. So your question is good
3 and, of course, this is also a very good opportunity for me to
4 advertise my book or publication.

5 MS. GUISSÉ:

6 Mr. President, I have no further questions.

7 MR. PRESIDENT:

8 Thank you.

9 I'd like to hand the floor now to Counsel Koppe.

10 [11.02.37]

11 QUESTIONING BY MR. KOPPE RESUMES:

12 Yes. Thank you, Mr. President. I'll be brief.

13 Q. Mr. Witness, I would like to follow up some of the questions
14 that Judge Fenz asked you this morning.

15 She asked you -- one of the questions she asked you was whether
16 you had prints of photos of the period between '75 and '79,
17 printouts of the photos. You said yes, you have prints of photos
18 from that period.

19 I would like to specify on that question. Do you have what is
20 called vintage prints, prints that were taken from the negative
21 in the period '75-'79?

22 So not prints of photos from that period, but prints taken from
23 the negatives in that period; vintage prints, in other words.

24 MR. NHEM EN:

25 A. Yes, there were prints that were made <during the period>

1 between '75 to '79.

2 [11.04.12]

3 Q. And you have those in your possession. Is that what you're
4 saying?

5 A. No, none <are left>.

6 Q. Well, that's not correct. I believe we saw original vintage
7 photos yesterday shown by the Prosecution, photos which were
8 printed in that time.

9 But you don't have them, correct? Does it mean you also do not
10 have a printed photo of Ros Nhim, a photo printed at that time?

11 Remember yesterday, I asked you whether you had a photo of Ros
12 Nhim. You don't have his photo printed between '75 and '79?

13 A. I have one photo. That is the only one photo <left>. However,
14 it is now in Siem Reap. It's not with me.

15 [11.05.32]

16 Q. As I told you yesterday, we have been searching for years and
17 years for a photo of Ros Nhim. <What does this photo you say you
18 have of Ros Nhim depict?>

19 A. The good -- positive <thing> about the photo is that I took
20 his photo while he <was> attending a meeting <at> Le Royal Hotel.
21 He was sitting with the other two sector members.

22 I have been asked about this photo <by> several journalists, but
23 I do not give it to any of them, since that is the only copy in
24 the world. And today, I am talking about this before Your Honours
25 and counsel.

1 [11.06.36]

2 JUDGE FENZ:

3 If I could just shortly intervene.

4 When was this photo taken? When did you take this photo? Because

5 I understand it is a photo you took.

6 MR. NHEM EN:

7 A. It was around late 1976 or it could be around February 1977.

8 BY MR. KOPPE:

9 Q. If it is, indeed, the case, what you're saying, Mr. Witness,

10 I'm sure you have locked up this photo very safely.

11 The ECCC is not the same as journalists. Would you be willing to

12 have anyone of the ECCC look at this photo and, for instance,

13 make photos of this photo so that we, all parties, can verify

14 what you're saying?

15 MR. NHEM EN:

16 A. I will need to consider your proposal whether I should give a

17 copy of this photo to the Court.

18 [11.08.25]

19 Q. You don't even have to give a copy, just make a photo of it

20 and then I'll -- I can have a look at it and I'll be very happy,

21 Mr. Witness.

22 I'll -- I'll move on because of time. Following up a few

23 questions -- questions that were asked to you by the Prosecution;

24 it's a very simple question and a yes or no will suffice. Have

25 you, yourself, ever witnessed, with your own eyes, an execution?

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1 A. No, I never witness any execution; however, I <witnessed> acts
2 of torture <during the interrogation. I would like to tell you
3 that at that time -->

4 MR. PRESIDENT:

5 Mr. Nhem En, you have been asked to respond precisely to the
6 question whether you witness any execution, yes or no, and then
7 you will be asked <follow-up> questions; otherwise, it will <be>
8 a waste of time. Not everything that you say will be considered
9 by the Bench, maybe because it's not necessary or relevant to the
10 questions put to you by counsel.

11 [11.09.52]

12 BY MR. KOPPE:

13 Q. Moving to my next question, Mr. Witness, in your -- your book,
14 you said that you took photos of 60 children inside S-21;
15 however, I would like to confront you with Kim Sreang's
16 testimony, who was the head of the photography unit, we believe.
17 And he said in E3/7639; Khmer, ERN 00162712; English, 00162735;
18 and French, 00338078; that he, himself, never photographed any
19 children, nor did he ever encounter mothers with children. And he
20 later says, in that same WRI, he never saw any children.
21 Can you please give a reaction to that?

22 MR. NHEM EN:

23 A. Please repeat your question.

24 [11.11.11]

25 Q. Kim Sreang, the chief of the photography unit said he never

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1 photographed any children, nor did he see any children in S-21;

2 can you give a reaction to that?

3 A. Are you referring -- you are using the word "he"; does "he"
4 refer to Sreang or "he" refers to me? When you use the word "he",
5 it could means that "he" refers to himself.

6 Q. No, "he" refers to himself. "He" refers to Sreang. Sreang says
7 that he, himself, never saw any children, nor did he take any
8 photos of children.

9 JUDGE FENZ:

10 Just for the record, give us the reference please.

11 MR. KOPPE:

12 I just gave it, but I'm happy to do it again. It's E3/7639;
13 Khmer, 00162712; English, 00162735; and French, 00338078.

14 [11.12.28]

15 BY MR. KOPPE:

16 Q. So please react to his statement.

17 MR. NHEM EN:

18 A. So I now understand your question that he refers to himself.
19 It is very difficult for me to say because there were six of us
20 -- that is, six photographers, and we rotated <ourselves> and I
21 did not know whether he ever took photos of children. As for me,
22 as I said, I took several photos of children. <That's his right
23 to say so.>

24 Q. Let me now move on to my last subject, Mr. Witness. Yesterday
25 we spoke about the very last day of your -- of you being present

1 in S-21, the 7th of January 1979. You said that you, with Duch
2 and others, escaped hastily in order to avoid the Vietnamese
3 troops coming in. You also said that, in your recollection, no
4 material was taken with you from S-21; is that correct?

5 A. Yes, that is correct.

6 [11.14.01]

7 Q. Do you know whether personnel from S-21 were busy destroying
8 evidence, were busy putting buildings in fire, or was there
9 simply no time to do this?

10 A. This is also an interesting topic; in particular, it is in
11 relation to 7 January. From 6 o'clock in the morning, the
12 situation at Tuol Sleng was chaotic and nobody actually had a
13 chance to do anything to the document or to bring the document
14 with them. And I was the only one who had an idea of digging and
15 of hiding those cameras <, and I started doing it at 4 a.m. Even
16 Duch himself did not have a chance to take those documents>. I
17 did not know if anyone actually had a chance to destroy any
18 documents. But in my personal opinion, <no one> had <the idea> to
19 <destroy the stuff at Tuol Sleng prison>.

20 Q. Do you remember what the reason for the sudden panic was on
21 the 7th of January; why, all of a sudden, did everybody have to
22 run?

23 A. You <have> to understand about the war situation, counsel.
24 <When you lose, you panic.> At that time, we were defeated and
25 the liberation forces <of the Front>, together with the

1 Vietnamese <troops>, <which were> actually attacking us <from>
2 Kbal Thnal area, <and they spread throughout Phnom Penh city,
3 including the Chinese Embassy, Bokor and Phsar Thmei>.
4 And actually, at <12 p.m, at 12 a.m>, they shot a -- a rocket --
5 a light rocket into the air and it actually lit up the entire
6 <Phnom Penh> city and everybody was in a panic.

7 [11.16.12]

8 Q. I'm asking you this question because the Vietnamese troops
9 invaded or started the invasion already on the 25th of December
10 1978, so I -- I was wondering whether you heard, at that time or
11 on that day, why, all of a sudden, everyone working within S-21
12 had to flee in panic.

13 A. I know a lot about this matter, but I don't want to speak too
14 much <><and go beyond the question>. I went along the Chinese
15 Embassy and, in fact, at that time, <there were> armoured
16 vehicles and Jeeps vehicle, <they saw us running past the road>
17 but we were not fired upon. For some reason, we could pass
18 through. Maybe it was the <government> who actually forgave us.
19 However, <on the night of 7 January,> the situation became
20 intensified when we reached Baek Chan area and <some> of us were
21 separated. But as I said, <we were panicked when we fled from
22 Tuol Sleng, and their> convoy of armoured vehicles and Jeeps
23 <did> not <fire at us> when we <were walking> through the Chinese
24 Embassy area. <If they fired at us, we would not survive because
25 we did not even have a gun.>

1 [11.17.39]

2 Q. Thank you. Mr. Witness, my last question is actually the same
3 last question of yesterday. This time I have all the ERN numbers,
4 so it's going to be a bit of a long introduction to the question,
5 but the Chamber and the parties want me to first present you my
6 sources and then ask the question.

7 The question will be to give a reaction to what I am putting
8 before you. So, Mr. Witness, please listen carefully.

9 In total, 6 -- 6,000 negatives or photos were found by two
10 American photographers in 1994 -- that is E3/1684; English, ERN
11 00192676; no Khmer, no French.

12 In another document, E3/98.1.2, a "Phnom Penh Post" article, it
13 speaks about 6,000 negatives and 12,000 negatives missing.

14 E3/8639 talks about 5,186 photos of S-21.

15 [11.19.17]

16 The historian, David Chandler, in his book, speaks about roughly
17 40 -- 4,300 confessions that have come to light so far. That is
18 -- his book, E3/1684; English, 00192685; Khmer, 001981835;
19 French, 00357268. He repeats this in his book talks -- talking
20 about over 4,000 confessions. He does add that later in '95,
21 newly discovered materials, including dozens of confessions, were
22 added, but that will definitely not go over 5,000 confessions.

23 Yesterday I also referred to the new prisoner list made up by the
24 International Co-Investigating Judge -- There's no E3 number yet;
25 it is E393.2 -- in which it says that of 5,512 individuals, there

1 seem to be an execution date available -- 5,512.

2 Yesterday I referred to a very important Chinese document. It was
3 a report from the Chinese Communist Standing Committee made by
4 Geng Biao, who was the Secretary General of the Communist Party
5 of China's Military Commission. That is document E3/7325;
6 English, ERN 01001622; and Khmer, 01063797.

7 [11.21.37]

8 He talks about the factions within the CPK and says, on the next
9 page, the following -- and I quote: "When dealing with the cases
10 of the pro-Vietnamese, pro-Vietnam officers, and men, they, the
11 CPK, did not distinguish whether it was a question of stand or a
12 question of ideology. In a short time, they arrested more than
13 4,000 people who, if not put to death, were imprisoned. Such a
14 measure made everyone feel insecure and forced some to rebel
15 openly. This greatly influenced the morale of the troops who were
16 faithful to the CPK." End of quote.

17 And to remind the Chamber, Elizabeth Becker was heard in Court.

18 She gave her testimony as to what she thinks the sources were for
19 this Chinese information. She seems to say, in the transcript of
20 11 February 2015 at around 9.40 -- 9.42 in the morning, that this
21 information -- the general content of that report, must have come
22 directly from the CPK.

23 And to conclude, Mr. President, with a document that we sent
24 around this morning, which I didn't mention yesterday, a very
25 recent article in the "Cambodia Daily" speaks about forensic

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1 investigations going on at Choeung Ek in which apparently,
2 according to the chief investigator who's having an extensive
3 forensic background, so it seems, 6,426 skulls were investigated
4 at Choeung Ek.

5 [11.23.53]

6 JUDGE FENZ:

7 Counsel, why don't you refrain from using a statement which
8 hasn't been admitted yet? We'll have the debate in--

9 MR. KOPPE:

10 It is.

11 JUDGE FENZ:

12 --in half an hour.

13 MR. KOPPE:

14 The reason that I was doing it; nevertheless, it is public
15 information.

16 [11.24.06]

17 BY MR. KOPPE:

18 Q. But, Mr. Witness, don't pay any attention to what I said about
19 this forensic report.

20 Now, I'm going to ask you the same question. All those numbers,
21 around 5,000, seem to suggest -- 5,000 negatives, 5,000 photos
22 seem to suggest that around this number of people were imprisoned
23 in S-21. Of those people, the photos were taken and possibly that
24 number of people were executed. Could you give a reaction to
25 this?

1 MR. PRESIDENT:

2 Witness, please hold on and Deputy Co-Prosecutor, you have the
3 floor.

4 MR. LYSAK:

5 Thank you, Mr. President. This is a question for an expert
6 witness. This is not a question for a lay witness and, moreover,
7 counsel is completely cherry picking in characterizing this
8 evidence.

9 The -- the prisoner list that he was telling the Court he
10 considered highly reliable has 15,000 prisoners on it. He -- he
11 omits that. I don't know where he gets this 5,500 number, whether
12 that's another attempt by his team to use Excel spreadsheets
13 which we saw the other day were -- resulted in forged dates.
14 I -- I just don't think this is a witness -- a question to put to
15 anyone other than an expert witness.

16 [11.25.45]

17 MR. KOPPE:

18 If I may react, Mr. President, the Prosecution didn't have a
19 problem when this witness was offering all kinds of evidence
20 yesterday in relation to executions, in relation to the torture
21 at S-21, in relation to basically everything that happened in DK.
22 So now to say that this is an expert question, I don't think that
23 is a correct objection.

24 MR. PRESIDENT:

25 Judge Lavergne, you have the floor.

1 JUDGE LAVERGNE:

2 <Yes, I must admit that I don't...>

3 [11.26.24]

4 MR. PRESIDENT:

5 And allow me to clarify the proceedings. We will have another
6 debate speaking about the upcoming witness. For that reason,
7 counsel for Khieu Samphan, can you check with your client whether
8 Khieu Samphan will be available to be here for the next 10
9 minutes or so because we actually <passed> the morning session;
10 however, it seems that the time spent on this witness takes
11 longer than expected and, for that reason, Judge Lavergne will
12 have the floor to clarify this matter.

13 MS. GUISSÉ:

14 I understand that you're asking whether my client's health will
15 allow him to stay for 10 more minutes. It wasn't clear in French.
16 I can see him nodding in acquiescence<, so if you need it, we can
17 do that.>

18 [11.27.50]

19 JUDGE LAVERGNE:

20 Thank you, Mr. President.

21 We have heard lengthy explanations <and presentations> by Counsel
22 Koppe and I admit <to> not understanding his objective. Is Mr.
23 Koppe saying that he has, himself, analyzed the <different>
24 documents <on the case file> and he would like to suggest that
25 there were not more than 5,000 people who were detained and

1 executed at S-21?.

2 I honestly do not understand you. What is the question you are
3 putting to the witness? Are you asking him to give us the number
4 of persons who were detained <at S-21, or the total number of
5 persons> executed at S-21? What is your objective?

6 [11.28.43]

7 MR. KOPPE:

8 Indeed, he's offering all kinds of numbers in his own WRI. He's
9 offering numbers in his book. He claims to be very knowledgeable
10 of whatever happened in S-21 and afterwards, so yesterday I
11 wanted to ask that question, but you instructed me to give ERNs
12 for my sources. So my question, again, is if -- if he could react
13 to -- to this and whether he can say anything intelligently
14 about, especially, the 5,000 negatives that were found and the
15 4,300 confessions.

16 And our preliminary conclusions that are not, as ruled in the
17 Duch Judgment, 15 -- or 12,000 people were executed, but possibly
18 much -- a much lower number.

19 JUDGE FENZ:

20 Sorry, counsel, if you want him really to react to each of the
21 excerpts you now read, we'll probably sit here until midnight.

22 My understanding is what you actually want to know is -- you have
23 given a couple of number and sources; having heard that, do you
24 stick with -- or what's your final word on how many people died
25 in S-21; is this correct or do you really want his -- his

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1 reaction to each of those?

2 Then I would suggest we go through them step by step.

3 [11.30.10]

4 MR. KOPPE:

5 Well, I don't -- again, I don't have the time for this. Yesterday

6 I wanted to do it in one sweep; now I'm doing it deconstructed,

7 so my question was: Can you give a reaction; can you give a

8 reaction to what seems to be a possible conclusion from these

9 sources that the number of people detained, photographed, and

10 possibly executed were much lower than what he says in his book;

11 10,000 or 15,000 or even 20,000?

12 MR. LYSAK:

13 Again, that's his characterization. The -- the people who put

14 this evidence together do not have that view.

15 MR. PRESIDENT:

16 Deputy Co-Prosecutor, are you objecting -- objecting to that

17 question and if so, please make it clear? It is unclear to me

18 whether it is your observation or an objection.

19 [11.31.19]

20 MR. LYSAK:

21 Yes, Mr. President, I stated my objection. He's asking for expert

22 analysis from this witness.

23 MR. PRESIDENT:

24 Because in the Khmer interpretation, I do not hear the word

25 "objection" and, for that reason, I cannot rule on this matter.

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1 And now the Deputy Co-Prosecutor objects to your question and
2 Counsel Koppe, do you have any response to that?

3 MR. KOPPE:

4 I'm happy to rephrase the question, Mr. President.

5 [11.31.45]

6 BY MR. KOPPE:

7 Q. Mr. Witness, I'm putting it to you that around 5 or 6,000
8 people were detained and photographed in S-21 and that roughly
9 that number were subsequently, most likely executed at Choeung
10 Ek; is that correct or is that false?

11 MR. NHEM EN:

12 A. No, that is not correct because there were many, many
13 prisoners and they were not only executed at Tuol Sleng, but they
14 were also executed elsewhere <but I do not know whether those
15 places could be found or not. There were a lot more, not only
16 5,000 people. There were many people whose photographs> were not
17 taken.

18 MR. KOPPE:

19 Thank you, Mr. President.

20 [11.32.45]

21 MR. PRESIDENT:

22 Mr. Nhem En, the Chamber would like to thank you for your
23 testimony and it may contribute to ascertaining the truth in this
24 case. You're no longer required to be present in the courtroom.
25 You may return to your residence or wherever you wish to go. And

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1 the Chamber wishes you all the very best.

2 Court officer, please work with WESU to make the transport
3 arrangement for Mr. Nhem En to return to his <residence> or
4 wherever he wishes to go to.

5 You may now leave the Court.

6 (Witness exits the Court)

7 [11.33.38]

8 MR. PRESIDENT:

9 Before we proceed this afternoon to hear testimony of witness
10 2-TCW-865 in relation to S-21 Security Centre, the Chamber wishes
11 to hear oral submissions and responses to the request by Nuon
12 Chea's defence to admit an article from "Phnom Penh Post," 6 --
13 published on the 6th of February 2016 in English and that the
14 document be admitted and can be used to question 2-TCW-865.
15 This request was made according to Rule 87.4 and the request was
16 made to the Chamber through email to the Senior Legal Officer
17 this morning. And in order for the Chamber to have <a> basis to
18 form our decision, I'd like to give the floor to the defence team
19 for Nuon Chea to briefly reiterate your request. You may proceed.

20 [11.34.55]

21 MR. KOPPE:

22 Thank you, Mr. President. Indeed, it is an article from "The
23 Phnom Penh Post". I apologize. It tells the story of, what seems
24 to be, a very extensive forensic investigation that had been --
25 that has been going on at Choeung Ek, led by Archaeologist Voeun

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1 Vuthy, who is, we believe, currently the Director of the
2 Department of Archaeology and Prehistory -- Prehistory at
3 Cambodia's Ministry of Culture and Fine Arts and he is also,
4 apparently, the Osteology and Conservation Lab Director at
5 Choeung Ek Genocidal Centre in Phnom Penh.

6 [11.35.46]

7 In this article, he is talking about, as I said, intensive
8 investigation or -- or long investigation about possible methods
9 of killing employed at Choeung Ek. He says that his team has
10 identified over 6,000 instances of certain methods of killing. We
11 believe that -- of course, the -- the complete forensic
12 investigation will be very interesting, I believe, to not only
13 the Chamber, but to all parties.

14 We just saw this article only yesterday. We have followed up with
15 him or -- or with Voeun Vuthy to see if we were able to get a
16 copy of that forensic report he seems to be referring to.

17 The reason why we do now only have an oral request in relation to
18 this "Phnom Penh Post" article is because of the upcoming witness
19 this afternoon. The upcoming witness is one of the very few
20 witnesses who was stationed at Choeung Ek and what is described
21 in this Phnom Penh -- "Phnom Penh Post" article might be of
22 relevance in relation to this witness.

23 So we believe that the article but, subsequently, also the
24 forensic report that the article refers to is a contribution to
25 the ascertainment of the truth.

1 [11.37.38]

2 JUDGE FENZ:

3 Counsel, may I ask you -- I remember -- I seem to remember this
4 article was actually covered by the press clippings, which
5 everybody gets in the Court at this time, two months ago. Why do
6 we get it half an hour before the witness for whom you want to
7 use it?

8 MR. KOPPE:

9 We -- we haven't seen it.

10 JUDGE FENZ:

11 Get your team to Google earlier. We want timely decisions.

12 MR. KOPPE:

13 Well, maybe if you can instruct chief of the defence office to
14 give us some more resources, Judge Fenz, then maybe we'll be able
15 to Google faster.

16 [11.38.16]

17 JUDGE FENZ:

18 But you told us resources are -- are okay. I asked you last time.

19 MR. KOPPE:

20 Yes, when it comes to Cases 003 and 004 disclosures, but if you
21 -- if you would only know how my team -- how hard it works, you
22 would not be making this remark, Judge Fenz.

23 MR. PRESIDENT:

24 I'd like now to hand the floor to the Co-Prosecutors to respond
25 to the submission made by Nuon Chea defence.

1 MR. FARR:

2 Thank you, Mr. President.

3 I think the first point I'd like to make is just to reiterate
4 Judge Fenz' observation that the timing is unfortunate. This is
5 something that counsel concede they were aware of at least since
6 yesterday and it would have been far more helpful for us to have
7 notice that they were thinking of using it yesterday than 10
8 minutes before this morning's session.

9 That said, it's a relatively short document. We've been able to
10 digest it and we do agree that it's -- that it's very relevant to
11 these proceedings.

12 [11.39.37]

13 With respect to the discussion occurred with the last witness, I
14 would just observe that the first line of the article indicates
15 that there were just shy of 9,000 bodies found at Choeung Ek and
16 not the 6,000, as mentioned by counsel, but -- but that's a --
17 that's a point for the debate about the significance of the
18 evidence.

19 So we don't object to it being put before the Chamber. We don't
20 object to it being used today and we strongly agree with the
21 Defence that the complete forensic report ought to be obtained
22 and -- and put into evidence, so we would -- we would join their
23 -- their application, if -- if that was an application, to have
24 the report obtained and put before the Chamber and if not, then
25 we make an oral application now for the report to be obtained.

1 Thank you.

2 [11.40.43]

3 MR. PRESIDENT:

4 Counsel Koppe, you wish to add anything?

5 MR. KOPPE:

6 Yes, briefly two points, Mr. President. The number of 8,985, we
7 believe, seems to refer to the Vietnamese exhumations done in
8 1981 because that is the number that you see in media reports in
9 1981. We're not entirely sure, but that's how we interpret that
10 number.

11 I'm very happy to hear that Prosecution finds the article, but
12 even more importantly, the underlying report very relevant. I
13 just note that Prosecution also doesn't Google that fast.

14 MR. PRESIDENT:

15 I hand the floor now to the Lead Co-Lawyers for civil parties to
16 respond or to make observation to this application.

17 [11.41.55]

18 MS. GUIRAUD:

19 Thank you, Mr. President. We will rely on the Chamber's
20 <discretion> regarding the admission of this document and we have
21 no objections to <the Chamber obtaining> the report when this
22 report will be available.

23 MR. PRESIDENT:

24 Lastly, the floor is given to the defence team for Khieu Samphan.

25 MR. KONG SAM ONN:

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1 Thank you, Mr. President. The defence team for Khieu Samphan do
2 not have any objection to the application made by the defence
3 team for Nuon Chea.

4 MR. PRESIDENT:

5 And Counsel Koppe, do you wish to add anything else to your
6 application?

7 [11.42.48]

8 MR. KOPPE:

9 No, but I -- I am reminded -- and that is interesting -- that the
10 forensic study also seems to indicate another forensic study that
11 might take place at Krang Ta Chan. I do not know what the status
12 of that is but, in the future, that might be also very
13 interesting.

14 MR. PRESIDENT:

15 Thank you. And let <us> now conclude the session on the responses
16 and observations to the application made by the defence team for
17 Nuon Chea on this <issue>. This will form the basis for the Bench
18 to deliberate and issue our decision and the decision will be
19 issued in due course.

20 [11.43.43]

21 And the Chamber would also like to inform the parties that this
22 afternoon, the Chamber will hear testimony of witness 2-TCW-865;
23 however, due to the request for protective measures by this
24 witness, a of protective measure <mechanism> will be put in place
25 this afternoon and after such a mechanism is put in place, then

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1 the witness shall be returned to -- shall be invited into the
2 <courtroom> and the curtain <will> be drawn be -- just a little
3 bit before the Judges enter the courtroom. And that will be the
4 process for this afternoon's proceedings.

5 We will have a lunch break now and we will resume at 1.30 this
6 afternoon so that we -- we can resume our proceedings.

7 And Deputy Co-Prosecutor, what's on your mind?

8 [11.44.52]

9 MR. FARR:

10 Just a quick enquiry, from the Chamber's ruling yesterday, I -- I
11 understood the -- the protective measures regarding not referring
12 to the witness's location, any of his family members. I didn't
13 hear a specific ruling about using the witness' name; are we
14 permitted to use the witness' name?

15 MR. PRESIDENT:

16 Yes, that is correct and the protective measures to be put in
17 place <are> for another purpose -- that is, to avoid the -- the
18 journalist and the public view. Yesterday our decision was a
19 separate matter on not to use certain information related to this
20 witness and his name can be used. There is no such prohibition on
21 the use of his name.

22 Please refer to our oral ruling yesterday and all parties should
23 adhere to that. In fact, we deliberated at length regarding this
24 matter yesterday.

25 <MR. FARR:>

1 <Thank you, Mr. President>

2 <MR. PRESIDENT:>

3 And security personnel, you are instructed to take Khieu Samphan
4 to the waiting room downstairs and have him returned to attend
5 the proceedings this afternoon before 1.30.

6 The Court is now in recess.

7 (Court recesses from 1146H to 1335H)

8 MR. PRESIDENT:

9 Please be seated. The Court is now in session. This afternoon the
10 Chamber will start to hear 2-TCW-865.

11 Before proceeding to hear 2-TCW-865, the Chamber wishes to issue
12 an oral decision on Nuon Chea defence request to admit "Phnom
13 Penh Post" article.

14 The Chamber is seized of an oral request by the Nuon Chea defence
15 to admit an article published in "The Phnom Penh Post" on 6
16 February 2016.<>

17 Having heard the submission of the parties, none of whom object
18 to the request, the Chamber admits the document pursuant to -- to
19 Internal Rule 87.4.

20 [13.36.44]

21 The Co-Prosecutors and the Nuon Chea defence also request the
22 Chamber to obtain a forensic report described in the same
23 newspaper article. The Chamber grants this request and will
24 inform the parties, in due course, of the result of its efforts
25 to obtain the report. The Chamber defers a decision on the

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1 admissibility of the report until it is obtained.

2 The full reasons for this decision will follow in due course.

3 In the proceedings to hear 2-TCW-865, the Chamber will adhere to
4 the oral decision in relation to protective measures granted to
5 TT -- 2-TCW-865. That ruling or decision was issued on 20th April
6 2016, in which the Chamber decided and ordered that the face and
7 voice of the witness not <be> published in public; therefore, the
8 Chamber instructs the AV Unit to distort the voice and face of
9 this witness <during his testimony before the Chamber>.

10 [13.38.26]

11 And also information in relation to contact details, family
12 <details>, including names of <spouses> and children as well as
13 residential and work addresses shall not be made public.

14 And the Chamber would like to inform the <civil> parties <> in
15 this courtroom not to publicly disclose the information in
16 relation to this witness to the public.

17 Now, the Chamber has several questions to put to this witness.

18 QUESTIONING BY THE PRESIDENT:

19 Q. Mr. Witness, what is your name?

20 MR. TAY TENG:

21 A. Mr. President, Your Honours, everyone and in and around the
22 courtroom, uncle, aunts, who are present today, my name is Tay
23 Teng.

24 [13.39.42]

25 MR. PRESIDENT:

1 Greffier, please bring a piece of document to the witness so that
2 the witness can have an examination.

3 (Short pause)

4 [13.40.57]

5 MR. PRESIDENT:

6 Here is the document, Greffier.

7 The document is -- which is provided to the witness for the
8 examination is document E3/7663; ERN in Khmer, 00163775; English,
9 00401838 (sic) up to 35; and French, 00401840 to 41.

10 Mr. Witness, I have several questions to put to you in relation
11 to your background.

12 First, please look at the date of birth, the place of birth, your
13 current residence and address, your current occupation, your
14 father's and mother's names and please also read the part in
15 relation to your wife's name and children that you have now
16 today.

17 So please read the highlighted phrases and sentences and please
18 tell the Chamber whether the information relevant to the part
19 that I instructed you to read is correct and if <any> part is not
20 correct, please let me know.

21 Have you already reviewed the relevant parts of the sentences?

22 And duty counsel, please do not turn on and off the microphone by
23 yourself. The microphone will be operated by the technician.

24 Again, Mr. Witness, please read the <highlighted> parts of the
25 sentences that I instructed you to read; are they correct?

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1 [13.43.42]

2 MR. TAY TENG:

3 A. The information is correct, Mr. President, in relation to
4 names, names of my parents, and also name of my wife.

5 Q. Thank you. Mr. Witness, based on the report of the greffier,
6 you are not related to the two accused, Nuon Chea and Khieu
7 Samphan, and to any parties to today's proceeding; is that report
8 correct?

9 A. Yes, that is correct. I <am not related to> them.

10 Q. And based on the report, you have already taken an oath before
11 your appearance in this courtroom; is that report also correct?

12 A. That is correct also, Mr. President; I have already taken an
13 oath.

14 [13.44.54]

15 BY MR. PRESIDENT:

16 I am now telling you of your rights and obligations as a witness
17 before the Chamber. As a witness in these proceedings, you may
18 refuse to answer any question or comments that you were asked to
19 do so which may lead to self-incrimination.

20 And as for your obligations, as a witness before the Chamber, you
21 have to respond to the questions that <are> put to you by the
22 Bench or parties except the questions or comments which may
23 incriminate you as a witness before the Chamber<,> and I have
24 already told you about your rights.

25 You must tell the truth that you have known, heard, seen,

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1 remembered, experienced, or observed directly about any event or
2 occurrence relevant to the questions that the Bench or parties
3 pose to you.

4 Q. Mr. Witness, have you ever provided interviews or have you
5 ever been interviewed by the OCIJ of the ECCC so far?

6 MR. TAY TENG:

7 A. I was interviewed by those individuals (unintelligible).

8 (Short pause)

9 [13.46.51]

10 BY THE PRESIDENT:

11 I think the issue here and the problem here <is that> I cannot
12 hear the witness very well and clearly. Court officer, please
13 move the microphone a bit -- a little bit closer to the witness.
14 Rather, Duty Counsel, please move the microphone a little bit
15 closer to the witness.

16 And I <am a little confused> in relation to the operation of the
17 microphone. Actually the microphone cannot be operated by the
18 technician from within the AV booth, so <the microphone can only
19 be operated by a person next to it and> will be facilitated by
20 the duty counsel for the witness.

21 And duty counsel, please be reminded that you give a little bit
22 pause or wait a little bit before you turn on the microphone for
23 the witness, to leave time for interpretation. Otherwise, there
24 is no full interpretation for the source language.

25 Q. Have you ever provided interview or have you ever interviewed

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1 by the Office of the Co-Investigating Judges of the ECCC? So far
2 how many times did they take place?

3 [13.48.34]

4 MR. TAY TENG:

5 A. I gave interviews two times.

6 Q. Thank you. Before <coming> here <before> the Chamber <did> you
7 review and read the written records of the interviews to refresh
8 your memory?

9 A. I have examined and read those written records of the
10 interview already, Mr. President.

11 Q. Thank you. And after your perusal and examination of those
12 documents, could you recall whether or not the written records of
13 the interview that you provided previously or you have just read
14 and examined are consistent with what you told the investigators?

15 A. The written records of the interview or WRI that I have read
16 and examined are correct and <there is> no fabrication in these
17 documents.

18 [13.49.59]

19 MR. PRESIDENT:

20 Thank you. During the proceedings to hear this witness the
21 Chamber has provided Duty Counsel Mam Rithea to assist this
22 witness during the time that he is testifying.

23 The Chamber would like to remind parties that in case there are
24 questions which may have -- incriminate the witness, the witness
25 can have the chance to consult with the duty counsel in a

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1 confidential manner, not in public.

2 However, Mr. Witness -- the witness will have the right not to
3 answer those questions, the questions that may lead to
4 self-incrimination of the witness. It does not mean that the
5 Chamber will prevent the witness from answering the questions
6 which may possibly self-incriminate the witness.

7 And duty counsel, please also be aware of this issue not to cause
8 any issue or impacts on the proceedings.

9 And based on the Internal Rule 91bis of the ECCC the floor is
10 first given to the Co-Prosecutors to put questions.

11 Co-Prosecutors together with the Lead Co-Lawyers for civil
12 parties will have two sessions to put the questions to this
13 witness. You may proceed now.

14 [13.51.49]

15 QUESTIONING BY MR. SENG LEANG:

16 First of all, good morning. Good afternoon, rather; Mr.
17 President, Your Honours, everyone in and around the courtroom. My
18 name is Seng Leang, the National Deputy Co-Prosecutor.

19 Q. Today I have several questions to put to you, Mr. Witness.

20 Good afternoon, Mr. Witness.

21 My first set of questions to put to you is to ask for your
22 clarification and confirmation <of> your background and
23 experience before 17 April 1975. Where did you live and what did
24 you do?

25 MR. TAY TENG:

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1 A. Before 17 April 1975, I worked in Division 12 and I was
2 assigned to <farm> work in the field in a location named <Praek
3 Samrong> (phonetic), that <Praek Samrong> (phonetic) was located
4 at Kbal Thnal (phonetic).

5 Q. My question has something to do with the period prior to 17
6 April 1975. What about the period after that time? Where did you
7 -- where were you and what did you do?

8 [13.53.46]

9 A. Prior to 1975, I was part of Division 12. I have told you
10 earlier.

11 Q. What about after 17 April 1975? What did you do?

12 A. Following 17 April 1975, I <farmed rice> under the management
13 of Division 12 and the fields were located along the irrigation
14 system. <I cannot recall those locations well>.

15 Q. Do you recall which specific unit <under Division 12>, whether
16 it be a battalion or <unit>, were you part of? <Did you hold any
17 position?>

18 A. I was simply a combatant <in the unit>. I had no specific
19 rank. Actually, I was within Unit 133.

20 [13.55.48]

21 Q. In <your OCIJ statement> E3/7663; ERN in Khmer, 00163776; ERN
22 in English, 00401836; and French is, 00401841; you stated that
23 after 17 April 1975, you were <assigned to do rice farming> at Ou
24 Baek K'am and you were in battalion -- you were in battalion
25 <31>, Division 12. Is that correct?

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1 A. The information in the document is correct. I cannot recall
2 well what happened in the past. My memory is not good but I said
3 that the information there is correct.

4 Q. Thank you, Mr. Witness. Now, do you know <> the name of the
5 commander of your division?

6 A. Yes, I know his name. His name was Nat <alias> Pin<>.

7 Q. Do you recall where exactly your Division <12> was posted and
8 <to whom> in the upper level did your Division 12 report?

9 A. I do not know about that. In relation to the reporting system
10 whom Division 12 reported to, I was simply a combatant and I do
11 not know <where it was>.

12 Q. Thank you, Mr. Witness. Now, I am turning to a series of
13 questions in relation to S-21. Was there any time when you were
14 assigned to work in S-21?

15 [13.58.40]

16 A. I cannot recall <the day,> the month and the year when I was
17 assigned to work in S-21.

18 Q. Do you know who assigned you to work in S-21, what was the
19 reason?

20 A. Yes, Bong Phal (phonetic) was the one who assigned me to work
21 in S-21, <he was> the head of a 50 member-unit and he did not
22 specify the specific location where I had to work in S-21.

23 Q. Do you know whether there were other <combatants> within
24 Division 12 that were sent to work <with you> in S-21 <Security
25 Centre>?

1 A. I do not recall it. I forget it. I do not know who else was
2 assigned to work in S-21.

3 Q. Thank you, Mr. Witness. Now, I am asking you about some
4 locations, about some locations within S-21, particularly about
5 the geography. Can you <describe> the buildings within S-21 and
6 the fence structure of S-21?

7 [14.00.50]

8 A. I never went into <any of> the buildings within S-21 since I
9 had no duties and tasks <where I had to> go inside. <I was not
10 allowed to go inside>. I was simply stationed outside.

11 Q. What about the fence surrounding S-21? What was it like?

12 A. It was a barbed wire fence with corrugated iron surrounding
13 S-21.

14 Q. Upon your first arrival at S-21, which section were you
15 assigned to work and who was your direct supervisor?

16 A. After my arrival I was under the direct supervision of Him
17 Huy.

18 Q. And what were the duties for those who worked under Him Huy?

19 A. Him Huy's group was assigned to guard the outside perimeter
20 and to grow vegetables. These were the duties that I knew when I
21 arrived.

22 Q. And did you know who was chief of S-21 and <do> you know who
23 the deputy was? <Do you recall the hierarchical structure?>

24 A. I heard people speaking about that. The first person was Duch
25 and the second person was Hor.

1 Q. You said that you were assigned to guard. Can you tell us the
2 locations where you were assigned to guard and how many people in
3 your group or squad?

4 [14.04.06]

5 A. We were assigned to guard outside the buildings. That is about
6 200-300 metres <away from> the buildings.

7 Q. Did you stand guard outside the building within the perimeter
8 of the compound or outside the perimeter of the compound?

9 A. We stood guard outside the fence of the compound.

10 Q. Maybe you don't get my question correctly. I knew that you
11 stood guard outside the fence. However, did you stand guard
12 outside but next to the fence of the compound or did you <stand>
13 guard <in some other houses> outside the compound?

14 A. We stood guard at <a house> outside the compound.

15 [14.05.47]

16 Q. You said that you stood guard at <a house> outside the
17 compound. Is that correct?

18 A. Yes, that is correct. We stood guard outside.

19 Q. <The house> outside the compound of the centre, <> why were
20 you assigned to <stand> guard <at that place>?

21 A. The place where I stood guard <was> the residential <house>
22 and <it was> located along the main road that is the main entry
23 road to the compound.

24 Q. I will return to this topic later. Let me return to the time
25 that you arrived at the centre and you were assigned to stand

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1 guard. Can you tell the Chamber how many people were in your
2 group and where were your sleeping quarters?

3 A. There were eight people in my group and we resided in a house
4 outside the compound near the sewage canal. It was about 200
5 metres from the centre. It was <to the east of the centre,> next
6 to the <paved> road.

7 Q. And where did your group have meals? Did your group go and
8 have meals inside the S-21 centre and did you only have meals
9 among the members of your group or did you have meals with other
10 members from other groups?

11 [14.08.08]

12 A. We all had meals together. <The eating hall was> outside the
13 compound to the southern direction.

14 Q. When you said together did you refer to members of your own
15 group or other groups who were also under the assignment of S-21?

16 A. Mainly we ate among ourselves within the group and not -- we
17 did not mix with other members from other groups.

18 Q. Let me talk about your guarding duty. You said that there were
19 eight members in your group. Who was in charge of that group?

20 [14.09.14]

21 A. As I said from the beginning, Him Huy was the chief.

22 Q. I will read an excerpt to you. It is a written record of
23 interview of Him Huy, whom you said <was> your chief. <He gave
24 the statement> on 18 <January 2008, document> E3/5158. Khmer is
25 <00164448>. The English is at 00164451; and French, <00164455>.

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1 The question that was asked to Him Huy is the following, "Did you
2 know Tay Teng at S-21 and what was his position?"

3 And Him Huy said, and allow me to quote:

4 "At S-21, Teng was a group chief of guards at the special prison
5 where important prisoners were detained in those houses located
6 outside the <southern> fence of the compound. At that time he was
7 under my supervision."

8 Does that jog your memory, Mr. Witness?

9 [14.11.10]

10 A. I reject this statement. His statement is incorrect. I did not
11 have any specific position. I was simply a member of the group
12 <or a subordinate,> and I did not have any other positions other
13 than that. However, I <would agree if it was in Choeung Ek
14 because> I was assigned to guard at Choeung Ek. But <when it's
15 put like that,> I reject this statement.

16 Q. You said you reject this statement because you said you were
17 not chief of the eight-member group or which part of the
18 statement you reject?

19 A. I reject the statement that I was chief of the eight-member
20 group and that I guarded prisoners <near that place>.

21 Q. And to your knowledge, outside the perimeters of S-21, were
22 there houses where prisoners were detained?

23 [14.12.52]

24 A. I did not know or see that when I was working there. <I did
25 not know whether they hid that information.>

1 Q. Can you tell the Chamber, that is, outside the perimeter of
2 compound of S-21<, > was there any interrogation <place>?

3 A. I only <saw it> within the centre but I did not know whether
4 such a facility existed outside the compound since I was not
5 allowed to walk freely.

6 Q. I would like to read an excerpt to you which is your statement
7 E3/7663, ERN in Khmer is at 00163777; and English is at 00401837
8 to 38; French is at 00401843. When you were asked <whether or
9 not> you ever heard about torturing of prisoners and how the
10 prisoners were tortured, you said, "I heard prisoners scream with
11 pain when they were interrogated outside the compound when I went
12 to water the plants there."

13 Does the excerpt that I read out to you jog your memory?

14 A. The statement that I made is correct.

15 Q. Do you confirm that there was an interrogation facility
16 located outside the compound of S-21?

17 A. I cannot recall that clearly. When I was walking <near that
18 place>, I <could hear> but I <did not pay attention to whether it
19 happened inside or outside>.

20 [14.16.15]

21 Q. And the location where you heard the scream, can you tell the
22 Chamber in which direction <of S-21> that you heard that scream
23 and what did you actually hear?

24 A. <The building> was toward the southern direction near the
25 fence.

1 Q. And what did you hear at the time?

2 A. I heard the screams from people who were being tortured
3 although I did not know how they were tortured.

4 Q. Did you ever see prisoners being walked for interrogation or
5 that they were walked to the <detention place> after they had
6 been tortured or interrogated?

7 A. I saw prisoners being walked for interrogation, <and they were
8 taken back to the detention place>.

9 [14.17.54]

10 Q. Can you describe a bit further, that is, the building where
11 the prisoners were walked to for interrogation purpose, what kind
12 of building was it and from where those prisoners were being
13 walked?

14 A. I cannot recall the building. I cannot recall to which
15 direction the building faced.

16 Q. And can you recall who actually walked those prisoners and who
17 walked them back and when those prisoners were walked back what
18 condition were they in?

19 A. I cannot recall who actually walked them. As for the
20 prisoners, they could walk by themselves.

21 Q. When you said you saw prisoners being walked, how far were you
22 from them and what were you doing at the time that you happened
23 to see prisoners being walked?

24 A. I simply happened to see prisoners being walked when I was
25 walking to where we grew vegetables.

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1 Q. Were you by yourself when you saw what happened or were there
2 other people with you at the time?

3 A. Other people who were working with me also saw what happened.

4 Q. And can you recall the names of those who were working with
5 you and who were there with you at the time?

6 [14.20.39]

7 A. Srim was there.

8 Q. How far were you and Srim from where the prisoners were being
9 walked?

10 A. I cannot recall the distance. I could say that we were about
11 50 to 60 metres away.

12 Q. Thank you. Now, I will return to your guarding duty. Can you
13 tell the Chamber the time of your guarding duty, that is, from
14 what time to what time and what were the instructions from Huy to
15 you regarding this guarding duty?

16 A. Sometimes we started in late afternoon and the shift was two
17 hours. We were instructed to be vigilant in case prisoners tried
18 to escape, <and to be vigilant when we stood guard outside.>

19 [14.22.25]

20 Q. And were you armed when you were on guarding duty?

21 A. Yes, we were given a weapon.

22 Q. Did you have in your possession that gun or any of your group
23 members?

24 A. For example, when it was my guarding duty that gun would be
25 given to me and I would return at the end of my shift.

1 Q. I will move on to another topic. During your guarding duty at
2 S-21, did you <ever> see any vehicle transporting prisoners to
3 S-21?

4 A. At the location where I stood guard I saw vehicles
5 transporting prisoners in.

6 Q. Were prisoners transported actually into the compound or did
7 cadres from the compound go out to receive those prisoners?

8 A. Prisoners were brought in and there were people from inside
9 <to> come to receive them.

10 Q. Did they come to receive them at the gate or where?

11 A. Actually they were brought inside the compound near the
12 building.

13 Q. Did you ever see prisoners who were brought in by vehicle into
14 the compound? If so, what was the condition of those prisoners?

15 [14.24.14]

16 A. No, I did not see the condition those prisoners were in or
17 from where they were brought. I only saw them being transported
18 into the compound.

19 Q. Can you recall the type of vehicle that was used to transport
20 those prisoners and how frequent was the trip?

21 A. They were military -- Chinese made military trucks and <they>
22 only <arrived> occasionally. It was not that frequent.

23 Q. Did you know the number of prisoners in each truck? And you
24 said that the truck did not arrive frequently, if that is the
25 case what was the frequency per month?

1 [14.26.43]

2 A. I did not know the number of prisoners for each truck. Also, I
3 cannot recall the frequency of the trucks per month, although it
4 was not that frequent, maybe one or two trips per month.

5 Q. What about prisoners who were transported out? Did you ever
6 see that?

7 A. For prisoners who were transported out of S-21, yes, I saw
8 that because <at the time> Huy assigned me to work at Choeung Ek.

9 Q. Here I refer to the time that you were not yet transferred to
10 work at Choeung Ek and that would be asked later. While you were
11 at S-21, did you ever see prisoners being transported out?

12 A. Yes, I saw that. I saw prisoners being transported out.

13 Q. And where were they transported out to?

14 A. They were transported out of the compound though I did not
15 know where were they -- where they were transported to.

16 Q. Thank you. And in the interests of time, I move on to another
17 topic. That is in relation to the arrest of S-21 cadres. Were you
18 aware of that?

19 A. No, I was not. I was not aware of the arrest of anyone <>.

20 [14.29.21]

21 Q. In your written record of interview, that is E3/7663, ERN in
22 Khmer is, 00163777; and English is at 00401838 -- 1837, rather;
23 and in French 00401843; you were asked whether at S-21 cadres or
24 staff were arrested and you said that you were aware of the
25 arrest of people working there but you cannot recall their names

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1 and none of your group members was arrested.

2 Do you recall that statement that you made?

3 A. Yes, I <just> <recalled> that. However, I cannot recall the
4 names of those in <the> leadership who were arrested.

5 Q. That is all right, witness, since this happened many years
6 ago. Did you have any of relatives who were arrested and brought
7 in and detained at S-21?

8 [14.30.57]

9 A. I had three relatives; that is, three cousins and one uncle
10 who were arrested; <Uk> Tem <was the chief of> Division 12, Uk
11 Saroeun, Uk Savan from hospital P-98 and another uncle who was
12 being treated in that hospital. They were all arrested.

13 Q. I will conclude my session soon. This is my last question.
14 How did you know that your relatives were arrested and detained
15 at S-21?

16 A. I did not see the arrest of my relatives or cousins. However,
17 I was told about their arrests and they -- this matter was also
18 raised, that is, the names were mentioned during a political
19 meeting.

20 Q. Who addressed the political meeting at the time and what
21 subject did he discuss?

22 A. It was the Chief of S-21, that is, Duch, and I cannot recall
23 the subject of his discussion. Names were mentioned. I mean names
24 of those who were arrested as I told you a little while ago.

25 MR. SENG LEANG:

1 Mr. President, because of the time I am now seeking the floor for
2 the International Deputy Co-Prosecutor.

3 [14.33.27]

4 QUESTIONING BY MR. FARR:

5 Q. Good afternoon, Mr. Witness. My name is Travis Farr and I am
6 the International Counsel for the Prosecution.

7 You've mentioned your experience at Choeung Ek a couple of times
8 and one of the things you said was that you were given a position
9 when you were assigned to guard at Choeung Ek. Can you tell us
10 what position that was?

11 MR. TAY TENG:

12 A. In relation to my duties and tasks, at first I did not know
13 for sure what I was required to do. A little bit later on, Huy
14 told me that I was assigned to Choeung Ek to guard the prisoners
15 who were transported inside that location and my duty was to
16 stand guard at that location.

17 [14.34.49]

18 Q. How many people were stationed with you at Choeung Ek?

19 A. Perhaps there were six, seven or eight of us.

20 Q. And who was the leader of that group of six, seven or eight
21 people?

22 A. The group chief at the location was me. I was in charge of
23 that group.

24 Q. And you have mentioned guarding the prisoners transported to
25 Choeung Ek as one of your tasks. Did you have any other tasks

1 there at Choeung Ek?

2 A. I was asked to dig pits and also to stand guard.

3 Q. And who was it who asked you to dig those pits?

4 A. It was Him Huy.

5 Q. And other than asking you to dig the pits at Choeung Ek, did

6 Him Huy have any other roles at Choeung Ek? Did he ever go to

7 Choeung Ek and, if so, what did he do?

8 A. He went there to <inspect> the location and he was also with

9 the prisoners who were being transported inside the location.

10 Q. Okay. I want to ask you now about how you felt about your

11 transfer to Choeung Ek and how you felt about the things you were

12 asked to do there. And my specific question is, well, generally,

13 how did you feel but, more specifically did you feel like you had

14 any choice as to whether to do what you were asked to do there?

15 [14.37.24]

16 A. The assignment was made. I was assigned to go there and I, in

17 the first place, did not know their plan. And later on, I was so

18 <afraid> after I learned about their plan. With <a> human heart,

19 I had never done any such acts but because of the duties that I

20 had to -- I had to perform, I had to do it anyway.

21 Q. You said that you had never done such acts before you arrived

22 at Choeung Ek. Can you tell us what acts you are referring to?

23 A. At Choeung Ek people were executed very easily. That is why I

24 was so <afraid> but I could not avoid the duties or tasks I had

25 to perform.

1 [14.38.50]

2 Q. I want to ask you about something that you said in one of your
3 interviews with the investigators from the ECCC, and this is
4 E3/7617; English is 00401879; Khmer is 00164403 to 04; and French
5 is page 00401885 to 86.

6 And you were asked what your feelings were while you lived at
7 Choeung Ek and this is what you said. You said, quote:

8 "While I was there I had the feeling that I was seriously worried
9 for myself. I did not understand what would happen to me in the
10 future. At that time it was impossible not to obey them. It could
11 be compared to living with tigers." Unquote.

12 Can you tell us a bit more about what you meant when you said
13 this that it was impossible not to obey and that it was like
14 living with tigers?

15 A. I clearly understood the situation <at the time>. I had <a>
16 background which had something to do with my family members. And
17 at the time I was not sure whether <my time had come> or it was
18 the time for others. I was so worried for myself and I was
19 thinking to myself that there was a time when the time would come
20 <for> an incident <to> happen on me and there was a time when
21 that incident would happen <to others> as well.

22 [14.41.05]

23 MR. PRESIDENT:

24 It is now time for the break. The Court will take a short break
25 from now until 3 p.m.

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1 Court officer and the support staff, please draw the curtains
2 closed before the witness leaves the courtroom.

3 And please, court officer, invite the witness together with the
4 duty counsel back to the witness stand before the curtain draws
5 open and also before the Judges on the Bench appear in the
6 courtroom.

7 The Court is now in recess.

8 (Court recesses from 1441H to 1459H)

9 MR. PRESIDENT:

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

11 Again, the floor is given to the Deputy Co-Prosecutor to put
12 further questions to the witness. You may proceed.

13 BY MR. FARR:

14 Thank you, Mr. President.

15 Q. Mr. Witness, during your time either at S-21 or later at
16 Choeung Ek , do you remember anyone ever telling you that you
17 were required to be absolute or determined?

18 A. I received instructions from Him Huy to be vigilant and to
19 have an absolute stance.

20 Q. Can you tell me what you understood it to mean when you were
21 told you had to have an absolute stance?

22 A. An absolute stance means that we should not have any emotional
23 attachment to any of our relatives.

24 [15.01.43]

25 Q. I want to ask you about something that Him Huy said to the

1 investigators in this regard. This is one of his statements to
2 the investigators here. It's E3/5155. The English ERN is
3 00161594; Khmer is 00146642; and French is 00148087 to 88.
4 So, in this statement Him Huy was talking about the killings at
5 Choeung Ek and the investigator asked Him Huy about situations in
6 which Him Huy's team had been involved in killings. And in his
7 answer, he describes a particular event that I want to ask you
8 about.

9 This is what he says. He says, quote:

10 "Duch took one of those remaining and Duch called to me and asked
11 me, 'Comrade, are you absolute or not?' I said I was absolute. If
12 I had not said that I would have been afraid that he would say I
13 opposed him. He told me to kill and so I just took the iron bar
14 and killed." Unquote.

15 So what I am interested in here is the connection between being
16 told to be absolute and being instructed to kill. Did you ever
17 face a situation in which the concepts of being absolute and
18 killing were linked?

19 [15.03.39]

20 MR. KOPPE:

21 Mr. President --

22 MR. PRESIDENT:

23 Witness, please hold on.

24 Counsel Koppe, you have the floor.

25 MR. KOPPE:

1 Thank you, Mr. President.

2 In all fairness, I believe it is -- would be appropriate for the
3 Prosecution also to say in this respect that Duch vehemently
4 denied that this ever happened that he ever asked Him Huy to do
5 this. He was confronted with this during the re-enactment in
6 which this witness was also present and on the various occasions
7 he strongly denied that that ever happened.

8 [15.04.14]

9 BY MR. FARR:

10 Mr. President, I am happy to do that for completeness.

11 Q. So Witness, what I just read to you was a statement of Him Huy
12 in which Duch asked him if he was absolute and then told him to
13 kill a prisoner. Now, Duch himself says that this never happened
14 and that Him Huy is lying about it.

15 But my question to you is does this remind you of any situations
16 in which you -- where the concept of being absolute was linked to
17 a duty to kill or a responsibility to kill?

18 A. I did not know about having an absolute stance <meaning
19 killing> people. I did not know about the communication between
20 these two, since I stood guard outside.

21 [15.05.22]

22 Q. Okay. Thank you for that.

23 I want to ask you now about your transfer to Choeung Ek. Can you
24 tell us who it was that gave the order for you to be transferred
25 to Choeung Ek and approximately when that happened?

1 A. I was transferred to Choeung Ek and I cannot recall when. Huy,
2 himself, actually took me there.

3 Q. And regarding the date I just want to ask you about something;
4 again, that Him Huy said about the date. But first I will ask you
5 this.

6 This statement that I am about to read comes from a crime scene
7 re-enactment that was conducted at Choeung Ek in February of
8 2008, that you attended along with Him Huy, the accused Duch, and
9 several other witnesses. Do you recall that event? Do you recall
10 that crime scene re-enactment?

11 A. Yes, I recall it.

12 Q. Okay. So I want to read you something from the record of that
13 event that has to do with the date that you may have arrived at
14 Choeung Ek. And this is the quote. It's:

15 "Him Huy stated that Hor instructed him to appoint a group to be
16 in charge of Choeung Ek. He said that he did not receive his
17 instructions from Duch but, rather, from Hor and that he would in
18 turn pass the instructions onto Teng Tay. The group led by Teng
19 Tay which comprised eight people was put in charge of Choeung Ek
20 from 1977 until the liberation."

21 Does that help you at all in remembering when it was that you
22 were transferred to Choeung Ek?

23 [15.08.10]

24 A. I cannot recall clearly the date that I was transferred to
25 work at Choeung Ek. I <forgot> about it.

1 Q. Okay. In that case, I'd like to move on to the reason that
2 Choeung Ek was established. Did anyone ever tell you the reason
3 that operations <had begun> at Choeung Ek?

4 A. I did not know about that. I did not know about this nature of
5 the work. It involved senior people.

6 Q. I want to read you something that Duch said about this, just
7 to see whether that triggers your memory in this regard.

8 This is from a confrontation that occurred two days after the
9 crime-scene reconstruction at Choeung Ek, and this document is
10 E3/5766. The ERNs here are English, 00165437; Khmer, 00165428;
11 and French, 00165455.

12 [15.09.56]

13 So this is something that Duch says about the reason that Choeung
14 Ek was established. He says, quote:

15 "Transferring executions to Choeung Ek had already been decided
16 in 1976. As I have already explained, there was a risk of
17 epidemics around S-21 because of the far too great number of
18 corpses."

19 So does this refresh your memory in any way? Do you recall ever
20 hearing from either Him Huy or from Hor that the reason that
21 Choeung Ek had to be established was that there were too many
22 corpses around the S-21 compound and there was a risk of
23 epidemics?

24 A. I did not know about that. As I said, I did not know about
25 this initial task and I did not hear about it.

1 [15.11.04]

2 Q. And I know you told us that you were never stationed in the
3 S-21 compound itself, but during the time you were in the house
4 that you said was within a few hundred yards, did you ever smell
5 decomposing corpses or something that smelled like something
6 dead, decomposing?

7 A. At the location that I stood guard, I did not have -- I did
8 not smell anything bad.

9 Q. Okay. I'd like to return now to Choeung Ek and to your group
10 of six, seven or eight people that were there with you. Can you
11 just tell us a bit about your daily routine; where did you sleep,
12 where did you eat, how did you spend your time during the days?

13 A. Regarding the living <conditions> there, to me <they were>
14 typical. We worked in the nearby rice fields.

15 [15.12.48]

16 Q. And where would you sleep? Would you -- was your
17 accommodation, was it close to the pits where the prisoners were
18 killed or was it some distance away from that?

19 A. I slept in a wooden house.

20 Q. There's a reference in your statement and some other
21 statements to a wooden house where prisoners were held briefly,
22 immediately before being executed. Was that that same house or
23 was that a different house?

24 A. Yes, I slept in that house.

25 Q. And I asked you whether there was an unpleasant smell at the

1 S-21 compound in Tuol Sleng.

2 What about Choeung Ek? Was there a smell of decomposing bodies
3 there?

4 A. Sometimes, yes, there was bad smells since the pit was not
5 fully covered with dirt.

6 Q. And not thinking about yourself but the other six or seven
7 people that were there with you, did they object to staying so
8 close to the pits where the prisoners were executed or did they
9 not complain about that?

10 [15.14.52]

11 A. Even if we did not want it, we had to do it. It <was> our
12 assignment and I did not hear anyone saying anything about that
13 anyway.

14 Q. Okay. I want to move now to your task of digging pits, which I
15 think you mentioned earlier.

16 Can you just describe for us in general these pits; how big were
17 they, how did you dig them, how long did they take to dig?

18 A. When Huy instructed <me> to dig the <pits>, <I did it.> The
19 pit size was usually 3 by 2 <metres> and the depth was about 2
20 metres.

21 Q. And do you know how many bodies a pit of that size could
22 contain, on average?

23 A. In a pit of that dimension, usually it could fit 10 to 20
24 bodies.

25 [15.16.30]

1 Q. And you said that you would begin digging these pits when you
2 received an instruction from Him Huy. Would he tell you you need
3 to prepare pits for -- would he tell you you need to dig three
4 pits or would he tell you you need to dig enough pits for 60
5 prisoners or 80 prisoners? How was the instruction given?

6 A. We were told, for example, to dig two pits or three pits and
7 we would follow that instruction and our group would dig those
8 pits.

9 Q. And how long would it take your group to dig two pits or three
10 pits, for example?

11 A. It took us about two days to complete it. However, that
12 depends on the solidity of the area that we dug.

13 Q. And how long before a group of prisoners would arrive for
14 execution would you receive this instruction? Would you finish
15 the pits and the prisoners would arrive that night or would you
16 finish the pits and then it would be a few days or did it vary?

17 A. Before they brought in prisoners, Huy actually had told us two
18 days in advance to prepare those pits, that on this particular
19 day prisoners would be brought in and, for that reason, our group
20 had to be ready with those pits.

21 [15.18.42]

22 Q. Going back to the number of bodies that would go into each
23 pit, I just want to read you something that Him Huy said about
24 this. This is his statement, E3/5155; English, 00161592; Khmer,
25 00146640; and French, 00148085.

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1 So at this point in his statement, he's describing the killing
2 process and he said, "There were about 30 people in each pit.
3 After the killings, the people there covered it."

4 So what's your reaction to that? Does that refresh your memory
5 that the number of people in the pit could have been as high as
6 30?

7 [15.19.51]

8 A. I did not know well about that or maybe I forgot about it
9 since my main duty was to stand guard outside. And after they
10 finished their work then I would be assigned to cover the pits
11 with dirt and I did not know how many were in each pit.

12 Q. Okay. I want to go through the process of what happened when
13 prisoners would arrive at Choeung Ek. And can you tell us first
14 approximately what time of day would a group of prisoners usually
15 arrive at Choeung Ek?

16 A. Prisoners were brought in at around 7 p.m. and prisoners were
17 ordered to get off the vehicle and they were instructed to enter
18 the wooden house where there were cells or small rooms within
19 that house.

20 Q. And would you -- you've told us that you would be told a
21 couple of days in advance to dig the pits. When the prisoners
22 were actually on their way from S-21, would you also be notified
23 again in some other way?

24 A. I did not know the exact times prisoners were brought in;
25 however, we were told that on this specific day prisoners would

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1 be brought in and that the pits had to be ready by then.

2 Q. And was that Him Huy who informed you of that or was it
3 someone else?

4 A. It was Him Huy who told me in advance about that.

5 Q. Would he tell you in person or by messenger or telephone call?

6 A. Sometimes his messenger came to tell me and sometimes he,
7 himself, came.

8 [15.22.43]

9 Q. Okay. Can you tell us what kinds of vehicles the prisoners
10 were transported in; what was used to bring them to Choeung Ek?

11 A. Prisoners were brought in in a Chinese truck.

12 Q. And do you recall how many trucks, on average, would usually
13 come when a group of prisoners arrived; was it one, two, three?

14 A. Sometimes two trucks would bring those prisoners to my
15 location; however, typically only one truck arrived.

16 Q. And how many prisoners were in each truck that came?

17 A. Sometimes there were 20 or over 20 prisoners.

18 [15.24.19]

19 Q. I just want to read you something <from> Him Huy's memory on
20 this point.

21 Again, this is E3/5155. It's the English page ending in 1592;

22 French page ending in 8084; Khmer page ending in 6639.

23 And he's discussing the transportation of the prisoners and he

24 says, "In general, there were 30 to 40 prisoners in each vehicle

25 and each time there were two vehicles."

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1 So does that refresh your memory? Was it, in fact, more common
2 for there to be two vehicles and could they carry 30 to 40
3 prisoners each?

4 A. I cannot recall that clearly. As I said, sometimes there were
5 two vehicles, but mostly I only saw one truck arrive at a time,
6 and it did not come every day. And if he recalls that clearly,
7 that is his own business.

8 Q. When the prisoners arrived, were they handcuffed or
9 blindfolded or both?

10 A. Prisoners who got off the vehicle had their hands cuffed and
11 they were blindfolded, and they were brought into those rooms on
12 the ground floor.

13 Q. Given that they were handcuffed and blindfolded, did they need
14 any assistance getting off the truck or finding their way into
15 the house and, if so, who was taking them?

16 [15.26.53]

17 A. It was those who actually escorted the prisoners and they
18 would guide the prisoners into the room. We were on our guard
19 duty <outside>.

20 Q. And how many guards would come along with a group of
21 prisoners? In other words, how many guards would come from the
22 Tuol Sleng compound with the group of prisoners?

23 A. There were two or three of them who would come with the
24 prisoners on the truck.

25 Q. Would Him Huy come as well?

1 A. Him Huy came on every trip.

2 [15.28.03]

3 Q. You mentioned the prisoners being put in a house. Was there
4 any electric lighting in the house and, if so, how was it
5 provided?

6 A. Yes, there was light powered by a generator every night.

7 Q. And other than the lights in the house, did this generator
8 power any other lights elsewhere at the Choeung Ek site?

9 A. Lights were used to light up the house; however, the lights
10 were not used outside.

11 Q. I just want to ask you again about something that Him Huy said
12 in this regard.

13 This is the same statement, E3/5155, English page ending in 1592;
14 Khmer page ending in 6639; French page ending in 8084.

15 Now, he said that the generator turned on light bulbs at the
16 house, along the fence, and the killing pits. Does that refresh
17 your memory? Were there actually lights in those locations as
18 well; that is, the fence and the killing pits?

19 A. To my recollections, there were no light bulbs along the fence
20 because I was there. There were light bulbs in the house and <in>
21 the room. There was also a shed where the generator was kept but
22 to my recollection although I may not recall it, there were no
23 light bulbs along the fence.

24 [15.30.24]

25 Q. And can you tell us how loud was the generator in the house?

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1 Was it easy to hear what was happening outside when the generator
2 was on?

3 A. The generator was a common gasoline-powered generator, so it
4 did not produce loud noise.

5 Q. Do you know whether sounds of the killings taking place at the
6 pits were audible in the house when the generator was on?

7 A. No, there was no sound from the killing site. I stood guard
8 about 100 metres or 200 metres from the <fence>. I could hardly
9 hear any sound coming from that direction, or sometimes when I
10 heard the sound, it was so faint.

11 [15.31.56]

12 Q. And when the prisoners were put in the house, were their
13 handcuffs and blindfolds removed or did they remain handcuffed
14 and blindfolded?

15 A. They remained in handcuffs and only when they had to be let
16 out to be killed at the execution site, then the handcuffs were
17 removed.

18 Q. Okay, I want to ask you now about lists of prisoners and the
19 counting of prisoners.

20 When the prisoners arrived at Choeng Ek, did anyone bring a list
21 along with them?

22 A. Those who brought the prisoners in did not bring along any
23 list of <names>. For instance, those people would bring prisoners
24 to the location in a group of 20 or 30 <or 50> prisoners at a
25 time. <We counted them accordingly.>

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1 Q. Can you tell us now about how the prisoners were moved from
2 the house to the pits where they were executed?

3 A. When the prisoners were brought away to be killed, each of
4 them were taken out one at a time until <they> were <all> killed.

5 Q. And who was it that led them out of the house to the killing
6 location?

7 A. They were <a group of two of three people> from the office.
8 <They> brought those prisoners to be killed.

9 [15.34.39]

10 Q. And at the time that they were taken out of the house and
11 taken toward the pit, do you know whether they were told anything
12 about where they were going?

13 A. I observed that nothing was said and the prisoners themselves
14 would know that that would be the end of their lives.

15 Q. I just want to make sure you understand -- that I understood
16 you correctly.

17 Did you say that the prisoners knew at that point that they were
18 going to be killed?

19 A. Some prisoners knew when they were being walked out. They were
20 crying as well while they were sent out and they put their palms
21 together to implore to spare their lives, perhaps they knew.

22 [15.36.04]

23 Q. And you said that they were taken one at a time from the house
24 to the pits, were they also killed one at a time, each as they
25 arrived at the pits?

1 A. Most of the prisoners were told to sit down at the rim of the
2 pits, one at a time.

3 Q. And once they had been told to sit at the rim of the pit, what
4 happened then?

5 A. Each of them was told to sit at the rim of the pit and then
6 that individual was smashed. <They were hit from the back.>

7 Q. And when you use the word "smashed", can you tell us what you
8 mean by the word "smashed"?

9 A. They said they did not want anyone to remain, so when they dig
10 the grass, they had to dig the root as well, that what they said.

11 Q. And I guess, my question was perhaps more basic. How were they
12 smashed? How were these prisoners smashed when they were brought
13 to the edge of the pit? What happened to them physically?

14 A. The process of execution, I am not so familiar with the
15 process of execution. They were brought away and they were told
16 to sit at the rim of the pit and then they were hit from the back
17 or they were <stabbed in the back>.

18 Q. And when you say they were hit from their back, what part of
19 their body was hit and what was used to hit them?

20 [15.39.10]

21 A. I do not know about the process of execution, how those people
22 were killed exactly. They had their own methods to use when they
23 killed people and I myself I am not familiar of the kind of
24 process or methods that they used to kill people. <I did not go
25 near them.>

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1 Q. I just want to ask you about something that you said in your
2 second interview with the OCIJ. This is E3/7617; the English is
3 00401877; the French is 00401883; and Khmer is 00164401 through
4 02.

5 So this is what you told the investigators according to this
6 document. You said:

7 "First, they sat about one <metre from the edge of the pit. They
8 had two or three sit beside one another and they used a water
9 pipe to strike the base of their necks. When the prisoners fell
10 over, they removed the handcuffs, then they used the knives to
11 finish killing them but I don't know if they cut open their
12 bellies or cut their throats. I just saw that after the killing,
13 they took away palm knives stained with blood to wash clean."
14 Does that refresh your memory, that the prisoners were struck at
15 the base of the neck with some kind of metal bar and then -- or
16 somehow a knife was used to finish killing them?

17 [15.41.30]

18 A. That's what I could recall at the time, and that was the usual
19 process of execution of people. I do not know whether that kind
20 of method was used to kill two or three people at a time or
21 <not>.

22 MR. FARR:

23 Mr. President, with the Chamber's leave, I'd like to play a short
24 video clip. This is from E3/536R, also identified as D299.1.46R,
25 and the time code I believe is from approximately 25 minutes and

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1 it's a short clip.

2 So with the Chamber's leave, the AV booth has it all ready.

3 MR. PRESIDENT:

4 Yes, you can. And AV Unit, please show the video on the screens
5 as requested by the International Deputy Co-Prosecutor.

6 [15.43.01]

7 (Audiovisual presentation)

8 (Translated from Khmer to English)

9 "I wrote down the names of the prisoners and sent them one after
10 another to the killing place. The prisoners were blindfolded and
11 handcuffed when they were walked there. We told them that we were
12 taking them somewhere else. When they reached the pit, we told
13 the prisoners to sit and then they were hit with a cart axle from
14 behind. Then their throats were cut, the handcuffs were removed
15 and they were kicked into the pit, all of them."

16 [15.43.50]

17 BY MR. FARR:

18 Q. So in that video we've just watched, the speaker is identified
19 in English as Him Huy. Do you recognize that as the Him Huy who
20 was your supervisor or commander at S-21?

21 MR. TAY TENG:

22 A. That is correct.

23 Q. And we've also just heard them describe a method of killing
24 that is similar to what you described in your statement to the
25 investigators, that is, people being hit on the back of the heads

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1 with a stick and then the killing being completed with a knife.

2 Does that refresh your memory, that that's in fact what was done
3 to the victims at Choeung Ek?

4 A. My answer previously is consistent with what Him Huy said.

5 Q. I just want to make sure I understand what you're saying.

6 Is it correct that that is the way that the victims were killed
7 at Choeung Ek, the way that you described to the investigators
8 and the way that Him Huy described in the video?

9 [15.45.34]

10 A. My description and that of Him Huy is true, is what happened,
11 and the description -- the two descriptions are consistent and
12 are correct.

13 MR. FARR:

14 Mr. President, the civil party Lead Co-Lawyers have indicated
15 that they'll need about 20 minutes.

16 I still have a number of additional questions. I think that we
17 started about 10 minutes late today, so I would ask if I could
18 just have 'til the end of the day today and then the civil party
19 lawyers could have the first 20 minutes on Monday?

20 MR. PRESIDENT:

21 Your request is granted.

22 [15.46.33]

23 BY MR. FARR:

24 Thank you, Mr. President.

25 Q. So we've talked about the way in which the prisoners were

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1 killed. You said something earlier about that being the usual way
2 or the customary way of people being killed. What did you mean by
3 that?

4 MR. TAY TENG:

5 A. In relation to the method of killing, as a matter of fact I
6 cannot recall it well, but usually the killing was the guideline
7 <from the leaders. I, myself, was a subordinate, I could not set
8 up any guideline>.

9 Q. And when you say "the killing was the guideline of them", who
10 are you referring to; who was this killing method the guideline
11 of?

12 A. <I could only say what I knew>. <I knew that my superior, for
13 instance Huy,> gave instructions, so I usually implemented the
14 instruction from Huy, and I do not know how the instruction <was>
15 relayed or delivered from the upper level.

16 Q. I want to ask you about something that Him Huy said in this
17 regard, and this is E3/5155, at the English page ending 1592;
18 Khmer page ending 6640; and French page ending 8085.

19 And he was asked how was the method of killing taught and his
20 answer was:

21 "Duch and Hor taught it at the meeting, saying have them kneel,
22 then strike at the base of the neck, then cut the throat."

23 So did you ever have this experience? Did you ever attend a
24 meeting at which either Duch or Hor or someone else instructed
25 that this was the proper method of killing?

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1 [15.49.24]

2 A. I was not taught on this kind of method, so I do not know
3 about that.

4 Q. Okay. I want to ask you a little bit more about, right now,
5 who physically carried out these killings.

6 You've mentioned that the people who came from S-21 were
7 involved. Were you personally and your group of six, seven or
8 eight people also involved in the killings? Did you also execute
9 prisoners at Choeung Ek?

10 A. I was not engaged in that kind of killing <with> them. My main
11 tasks were to dig pits, bury the dead bodies, and stand guard.
12 And those people from the office did the job.

13 [15.50.40]

14 Q. I'd like to go back now to the record of the crime scene
15 reconstruction that we discussed; the occasion when you went back
16 to Choeung Ek with Him Huy, with Duch, with some other witnesses.
17 The document is E3/5764; English, 00197996; Khmer, 00181321; and
18 French, 00181326.

19 And I just want to read you something that the Investigative
20 Judge wrote down on that occasion.

21 He said:

22 "Witness Teng Tay confirmed that he was assigned to Choeung Ek by
23 Him Huy and that he received his orders from the latter, and that
24 his duties consisted in receiving arriving prisoners, digging
25 graves, and filling them after the executions. After having

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1 asserted that when prisoners were sent to the mass grave, he was
2 only on duty at the house and did not know what happened, he had
3 knowledge that members of his group were in charge of the
4 executions and that he, personally, carried out some of the
5 executions. However, he explained that this was not a habitual
6 task."

7 So do you remember saying this during the crime scene
8 reconstruction at Choeung Ek and is that, in fact, the truth?

9 [15.52.42]

10 A. That is the correct statement in that document.

11 Q. So, just so I understand you correctly, is it correct that
12 your men and you personally carried out some of the killings at
13 Choeung Ek?

14 A. To the extent of engagement in the task, I was involved in
15 very minimal tasks of that under the order of Him Huy and I was
16 forced to do that task. And what I said in the document is
17 correct.

18 Q. Okay. Thank you for that.

19 I now want to turn to the question of the total number of
20 prisoners who were executed at Choeung Ek. Do you have any way of
21 estimating how many prisoners were executed there?

22 [15.54.20]

23 A. <As far as> the estimates of the prisoners who were taken to
24 Choeung Ek to be killed, there were many of them killed and the
25 number of prisoners killed could not reach up to 1,000 but I,

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1 myself, did not take note and list down the numbers of prisoners
2 killed at that site but I can say that there were many of them
3 killed.

4 Q. I just want to make sure I'm understanding you correctly. Did
5 you say that it was not as many as 1,000 or it was more than
6 1,000?

7 A. It is difficult for me to give the estimate. I cannot say <>
8 that <there were> more than 1,000 <because there might be fewer>
9 than <that>, but I can say many of them were killed. <There could
10 be 600 or 700 people according to my estimation, but> I cannot
11 recall <exactly> how many prisoners were killed at the time.

12 Q. Okay. And tell me, tell me if this is something that you can't
13 do, but we have -- we've just received an article from "The Phnom
14 Penh Post", that is talking about an effort to examine the human
15 remains at Choeung Ek.

16 And the article says a couple of things and I just want to see if
17 this helps you with your estimate in any way. The first thing it
18 says is:

19 "There were approximately 8,985 bodies found at the killing
20 fields of Choeung Ek."

21 And then the other thing it says is that the exhumation -- sorry
22 that the forensic team examined 6,426 skulls.

23 Does that help you estimate the number of victims in any way or
24 is it just beyond your capacity to do given your lack of notes
25 from the time?

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1 [15.56.54]

2 A. I cannot say for sure since I, myself, do not know the
3 specific numbers <> and <although I was at that location,> I do
4 not know <whether they did that before>.

5 MR. FARR:

6 Okay. Thank you for that. The last thing I'd like to do is show
7 the witness two documents. These are not on the interface, they
8 arise in part from answers he gave in the first session this
9 afternoon, but they're prisoner lists from S-21 that I think may
10 contain the names of his relatives who he indicated were detained
11 there.

12 So I just want him to have a quick look at the name and at the
13 position and see if he can confirm whether these are his
14 relatives. And the first one is E3/2274. The second is E3/2026.

15 MR. PRESIDENT:

16 You can proceed.

17 MR. FARR:

18 Okay. And I'll go one at a time to keep it simple.

19 BY MR. FARR:

20 Q. So this is E3/2274. I'm sorry, if you could just take a look
21 at the highlighted number there which is Number 37 on this list.

22 The name is Uk Saroeun. The position is given as member of
23 hospital P-98 and the date of arrest of 25 September 1977.

24 Are you able to say whether this is your relative that you
25 identified earlier today as having been arrested?

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1 [15.58.59]

2 MR. TAY TENG:

3 A. Uk Saroeun. I cannot recall his personal <details>. <I recall
4 that he was killed, but other than that,> I cannot recall<>.

5 Q. Do you remember him being associated with Hospital P-98?

6 A. Whether he was associated with Hospital P-98, I, at the time
7 did not know what happened in the hospital. He held a position in
8 the hospital and his younger sibling <by the name Uk Tem> was in
9 the military <unit>, and the two of them were taken away but I
10 cannot tell you which one was taken first.

11 Q. Okay. Thank you for that.

12 MR. FARR:

13 And if that document could be recovered from the witness and this
14 one, E3/2026, provided to him?

15 [16.00.30]

16 MR. PRESIDENT:

17 Yes, you can proceed.

18 BY MR. FARR:

19 Q. This document is entitled "List of Prisoners from General
20 Staff" and at Item Number 17, which is highlighted on your copy,
21 we see the name Uk Tem, 30 years-old, a male, who is the Chairman
22 of Office Vor-66 and arrested on the same date as the previous
23 person, Uk Saroeun, 25 September of 1977.

24 Do those -- the name and personal details, does that match your
25 relative that you told us about earlier today?

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1 A. Uk Tem and Uk Saroeun, the two were siblings.

2 Q. And is it correct that -- are you able to say whether Uk Tem
3 had the position of Chairman of Office Vor-66?

4 A. <As far as> Uk Tem, that is true.

5 [16.02.27]

6 MR. FARR:

7 Okay. Mr. Witness, thank you very much for answering my questions
8 today and, Mr. President, thank you for the additional time.

9 MR. PRESIDENT:

10 Thank you. It is now time for the adjournment and the hearing --
11 the Chamber will resume its hearing on Monday at 9 a.m. And on
12 Monday, the Chamber will continue hearing the witness Tay Teng to
13 its conclusion and then start to hear 2-TCW-898. Please be
14 informed and please be on time as scheduled.

15 [16.03.13]

16 Thank you, Mr. Witness, the hearing of your testimony as a
17 witness has not come to an end yet. You are therefore invited to
18 come here once again to testify on Monday next week.

19 I am grateful to you as well, Mr. Mam Rithea, the duty counsel.

20 You are also invited to assist the witness on Monday 25 April,
21 next week, as well.

22 Court Officer and the support staff and those who are involved in
23 the process, draw the curtain closed before the witness is
24 leaving the courtroom and also please assist -- please work with
25 WESU to send this witness back to the place where he is staying

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1 at the moment and please invite him back to testify on Monday
2 next week, 25 April 2016.

3 On Monday, 25 April 2016, court officer please collaborate with
4 the relevant staff to implement and adhere to the order on
5 protective <measures> as the Chamber already applied this kind of
6 protective measure today at 13.30.

7 Security personnel are instructed to bring the accused back to
8 the detention facility of the ECCC and please have them returned
9 on Monday, 25 April 2016, at 9 a.m.

10 The Court is now adjourned.

11 (Court adjourns at 1605H)

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Corrected transcript: Text occurring between less than (<) and greater than (>) signs has been corrected to ensure consistency among the three language versions of the transcript. The corrections are based on the audio recordings in the source language and may differ from verbatim interpretation in the relay and target languages.